

**A regular meeting of the City Council of the City of Newburgh was held on Monday, May 10, 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 Bell moved and Councilwoman Angelo seconded that the minutes of the regular meeting of April 26, 2010 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 be referred to Corporation Counsel with power to act.**

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

**CARRIED**

**PROPOSED PUBLIC HEARING**

**RESOLUTION NO.: 100 - 2010**

**OF**

**MAY 10, 2010**

**RESOLUTION SCHEDULING A PUBLIC HEARING  
FOR MAY 24, 2010 TO HEAR PUBLIC COMMENT  
CONCERNING A LOCAL LAW AMENDING  
ARTICLE VIII OF THE CITY CHARTER ENTITLED "FINANCIAL  
PROCEDURES" SECTION C8.85, "WATER RENTS" WITHIN THE CODE OF  
THE CITY OF NEWBURGH**

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.85, "Water Rents" within the Code of the City of Newburgh; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:30 p.m. on the 24<sup>th</sup> day of May, 2010, in the 3<sup>rd</sup> Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

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

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

**ADOPTED**

LOCAL LAW NO.: \_\_\_\_\_ - 2010

OF

MAY 24, 2010

**A LOCAL LAW AMENDING ARTICLE VIII OF THE CITY CHARTER  
ENTITLED "FINANCIAL PROCEDURES" SECTION C8.85, "WATER  
RENTS" WITHIN THE CODE OF THE CITY OF NEWBURGH**

**BE IT ENACTED** by the City Council of the City of Newburgh as follows:

**SECTION 1 - TITLE**

This Local Law shall be referred to as "A Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.85, "Water Rents" within the Code of the City of Newburgh.

**SECTION 2 - AMENDMENT**

Article VIII, Section C8.85, "Water Rents" shall be amended to read as follows:

B. After such roll of water rents has been completed, it shall be filed in the office of the City Clerk ~~and the City Clerk shall deliver the same to the Council of the City of Newburgh at its next regular meeting for confirmation, and the Council shall then confirm the same and deliver the roll of water rents~~ and delivered to the Collector of Taxes ~~[of said city with a warrant, under the Seal of the city annexed thereto, commanding him to]~~ who shall collect from the several persons named in said roll of water rents the several sums mentioned in the last column of such roll opposite their respective names, together with the fees for collecting, ~~[to be]~~ fixed by ~~[said]~~ the Council of the City of Newburgh, and pay over the same to the Comptroller of said city. Said water rents so charged shall be collected in the same manner as is or may be prescribed by law for the collection of taxes for city purposes of the City of Newburgh; the like notices shall be given by the Collector of Taxes of said city, like fees and penalties shall be fixed by the Council, and in all respects like proceedings shall be had by said Collector, as is or may be provided by law for the collection of taxes for city purposes. If said Collector shall be unable to collect any of such water rents, he shall make return thereof, under oath, to the Council, and thereupon and

thereafter the city shall have power to sue for and collect such rents, together with all fees, penalties and interest and the costs and disbursements of the action. Said water rents shall be liens upon the property in respect to which they are assessed and may be collected by a sale of such property in the manner hereinbefore provided for the collection by sale of taxes and assessments for city purposes.

### **SECTION 3 - VALIDITY**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

### **SECTION 4 - EFFECTIVE DATE**

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Underlining denotes additions

| ~~{Brackets and strike through}~~ denote deletions

**PROPOSED PUBLIC HEARING**

**RESOLUTION NO.: 101 - 2010**

**OF**

**MAY 10, 2010**

**RESOLUTION SCHEDULING A PUBLIC HEARING  
FOR MAY 24, 2010 TO HEAR PUBLIC COMMENT  
CONCERNING A LOCAL LAW AMENDING  
ARTICLE VIII OF THE CITY CHARTER ENTITLED "FINANCIAL  
PROCEDURES" SECTION C8.00, "ANNUAL ASSESSMENT ROLLS"  
WITHIN THE CODE OF THE CITY OF NEWBURGH**

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.00, "Annual Assessment rolls" within the Code of the City of Newburgh; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:30 p.m. on the 24<sup>th</sup> day of May, 2010, in the 3<sup>rd</sup> Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

**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**

LOCAL LAW NO.: \_\_\_\_\_ - 2010

OF

MAY 24, 2010

**A LOCAL LAW AMENDING ARTICLE VIII OF THE CITY CHARTER  
ENTITLED "FINANCIAL PROCEDURES" SECTION C8.00, "ANNUAL  
ASSESSMENT ROLLS" WITHIN THE CODE OF THE CITY OF NEWBURGH**

BE IT ENACTED, by the Council of the City of Newburgh, New York as follows:

**SECTION 1 - TITLE**

This Local Law shall be referred to as "A Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.00, "Annual assessment rolls" within the Code of the City of Newburgh.

**SECTION 2 - AMENDMENT**

Article VIII, Section C8.00, "Annual assessment rolls" shall be amended to read as follows:

A. All real property subject to taxation shall be valued as of the preceding first day of ~~January~~ July. The taxable status date of real property in the city shall be determined annually as of the first day of March.

B. All real property shall be assessed in the city according to its condition and ownership as of such date. The annual assessment rolls of the city shall be completed by the City Assessor on or before the first day of May in each year and shall be filed immediately with the Assessor's office. The Assessor shall cause a notice to be published in the official newspaper of the City of Newburgh to the effect that the said annual assessment rolls have been completed, are on file in his office and are open for inspection by any interested person during office hours until a day specified in such notice, such day being not less than fifteen (15) calendar days after the publication of the said notice. During such inspection period, any taxpayer feeling himself aggrieved by the valuation placed on his property by the Assessor may file a written appeal from such assessments with the Assessor. At the close of the inspection period, the Assessor shall present the assessment rolls, together with all written appeals received by him as aforesaid,

to the Chairperson of the Board of Review for transmission to the members of the Board of Review, said Board of Review created by appointment and confirmed by the Mayor and City Council, Said Board of Review shall cause a notice to be published in all official newspapers designated in § 20-8 of the Code of Ordinances of the City of Newburgh to the effect that the assessment rolls are in the hands of the Board of Review and that the said Board of Review will meet in regular session on the ~~third~~ fourth Tuesday in May to consider such rolls and to hear objections thereto. The Board of Review shall, at said regular session on the ~~third~~ fourth Tuesday in May, consider such assessment rolls and all appeals that have been filed in writing with the Assessor or have been presented in person at said meeting. The Board of Review may amend or correct any item on the said rolls and may defer action from time to time, but not later than the first day of July. On or before the first day of July, the Board of Review shall confirm the said annual assessment rolls as prepared by the Assessor or as amended and corrected by the Board of Review. After confirmation by the Board of Review, the annual assessment rolls shall be returned to the Assessor who shall cause a note to be published in all official newspapers designated in § 20-8 of the Code of Ordinances of the City of Newburgh to the effect that the completed assessment rolls have been filed with him as required by law.

### **SECTION 3 - VALIDITY**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

### **SECTION 4 - EFFECTIVE DATE**

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

~~Strikethrough~~ denotes deletions  
Underlining denotes additions

**Councilwoman Bell moved and Councilwoman Bello seconded to enter Executive Session to discuss an item concerning Collective Bargaining.**

**All in favor the Council entered Executive Session at 7:15 p.m.**

**Councilwoman Bell moved and Councilwoman Angelo seconded to exit Executive Session.**

**All in favor the Council exited Executive Session at 7:30 p.m.**

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Barbara Smith, Powell Avenue asked for an explanation on resolution #107-2010 because she doesn't quite understand what we are doing. We already have something on the books that allows the City Manager to authorize parking for anyone in our public parking lots. Why are we doing this?

Jane Johnston, City of Newburgh said that with the end of the NCDA she is wondering if it is possible if the NCDA could be rehabilitated and used as a land bank. It was mentioned that other communities do this and she feels that could be a way to use NCDA.

Denise Ribble, Montgomery Street asked in regard to resolution #105-2010 what protection will the citizens have? The concern is to make sure that the protection is there and that we follow processes because our track record has not been great. She would like some clarification about the licensing agreement. She thought there was discussion about parking permits and Councilwoman Bell had commented that we should be looking at parking pay stations to generate some revenue.

Kippy Boyle, 400 Grand Street said in regard to resolution #107-2010 that she would like to know what the fee is and is it a monthly or annual fee. She would also like to know what precedent this is setting for the other municipal lots in the City. Does this allow other developers to come to us for license agreements? This seems like a land use or transportation and parking issue because we will be diminishing the availability for public benefit. On the Ann Street lot she would like to know the current breakdown of how many spaces there are and who is using the spaces.

MaryAnn Prokosch, City of Newburgh said that she believes when buildings were taken down because of Urban Renewal that that was when we had to have NCDA because the City couldn't hold the property. If they couldn't hold it then, why are we now able to hold it? She questioned the consulting service for the First Street Project. She thinks this was discussed a while ago but would like a reminder of what that is all about.

Michael Gabor, Grand Street said in regard to resolution #107-10 that he has a business here and many of his customers are from out of town and there is an issue with parking as it is. As of next spring, the College will be open and when it is fully operational they are expecting thirty-five hundred students. This needs to be addressed. We have limited parking right now and it is going to get worse. Unless we have some parking restrictions for

residents or businesses we will have impossible parking situations and traffic jams with people double parking. Unless we build a parking garage on Ann Street, which he thinks would be ideal, he thinks trying to license parking spaces takes away from the future development of the area.

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

**RESOLUTION NO.: 102 - 2010**

**OF**

**MAY 10, 2010**

**A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ISSUE A  
WARRANT TO THE CITY COLLECTOR FOR THE COLLECTION OF  
SANITATION FEES**

**WHEREAS**, the Finance Department has prepared bills for the quarter ending April 30, 2010 and a roll of the same has been filed with the City Clerk.

**NOW, THEREFORE, BE IT RESOLVED** that the said roll be and the same is hereby confirmed by the City Manager and he is authorized and directed to issue a warrant to the City Collector of the City of Newburgh bearing the date May 1, 2010, and directing said City Collector to receive payments on the first day of May and to collect up to and including the 31<sup>st</sup> day of May 2010, without fees, and to add five percent (5%) on all sums paid to him on and after the 1<sup>st</sup> day of June 2010, up to and including the 31<sup>st</sup> day of July, 2010, after which date two and one half percent (2 1/2%) is added for each quarter thereafter, and

**BE IT FURTHER RESOLVED** that the sums of money collected be transmitted daily to and deposited with the Acting City Comptroller to be credited by her and to be applied to the General Fund Account.

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

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

**ADOPTED**

**Resolution #103-2010 is being held for now.**

ORDINANCE NO.: 5 - 2010

OF

MAY 10, 2010

AN ORDINANCE AMENDING CHAPTER 220, "PARKS AND RECREATION AREAS" ARTICLE I, ENTITLED "DOWNING PARK" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH TO ADD FEE SCHEDULE FOR USE OF PARK

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 220, "Parks and Recreation Areas", Article I "Downing Park" be and is hereby amended to read as follows:

**Section 1.** Chapter 220: "PARKS AND RECREATION AREAS"

ARTICLE I. DOWNING PARK

§ 220-12. [Gatherings and meetings] Scheduling Use of Downing Park.

[Permission must be obtained from the City Council to hold meetings, gatherings or other events in the park.]

A. Written requests for use; fees.

- (1) All requests to use Downing Park, except by City departments, boards or agencies, shall be submitted in writing to the City Manager or the City Manager's designee no less than 30 days prior to the date requested and shall be accompanied by:
  - (a) A nonrefundable permit application fee of \$50.00;
  - (b) Usage fees.
    - [1] A usage fee of \$80.00 per hour/per event for events with 40 participants or less;
    - [2] A usage fee of \$150.00 per hour/per event for events with 41 to 100 participants;
    - [3] A usage fee of \$250.00 per hour/per event for events with 101 to 300 participants; or
    - [4] A usage fee of \$400.00 per hour/per event for events with 301 participants or more.
  - (c) A refundable damage fee of \$500.00 to be used for any necessary replacement and/or repair costs of Downing Park and its facilities beyond normal wear and tear. Within a reasonable time

after completion of an event and/or program, the City Manager or the City Manager's designee shall provide to the applicant an invoice of hours, supplies and equipment expended in the cleaning and repair of Downing Park necessitated by such event and/or program. In the event such invoice demonstrates costs in excess of the security deposit paid, the applicant shall pay the total cost of such excess within 30 days of the presentment of the invoice. In the event such invoice demonstrates costs less than the security deposit paid, the City shall refund the overage within 30 days of the presentment of the invoice.

- (2) The fees listed in Subsections A(1)(b) and (c) above shall be refunded if the request for use is denied.
- B. All groups requesting use of Downing Park, except City departments, boards or agencies, shall agree to indemnify the City for any liability to persons or property or damage to Downing Park resulting from the group's use of the Park.
- C. Any group or organization applying to use Downing Park must present to the City before the application is approved a certificate of insurance with an insurance company which is authorized to do business in the State of New York written on an occurrence basis and approval of the City Manager. The certificate must indicate that the City of Newburgh is named on the policy as a named insured. The certificate must also indicate that the policy may not be canceled without at least 10 days notice to the City Manager who shall be specified as the representative of the city. The required insurance coverage shall be in the form of a general liability insurance policy for bodily injury and property damage in the amount of at least \$500,000 for each occurrence and \$1,000,000 aggregate for bodily injury and \$50,000 each occurrence \$100,000 aggregate for property damage.
- D. In the event that several groups request the use of Downing Park on the same date, the City Manager shall decide which group's request shall have priority.

**Section 2:** THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

[Brackets] denotes deletions

Underlining denotes additions

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

**Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 4**

**Nays - Councilwoman Bell - 1**

**ADOPTED**

**ORDINANCE NO.: 6 - 2010**

**OF**

**MAY 10, 2010**

**AN ORDINANCE CREATING CHAPTER 249 ENTITLED "SIDEWALK CAFES" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

**BE IT ORDAINED** by the City Council of the City of Newburgh as follows:

**Section 1.** Chapter 249: "SIDEWALK CAFES"

**§ 249-1. Permit required.**

Notwithstanding any inconsistent provision contained in Chapter 263, Streets and Sidewalks, sidewalk cafes for the sale to the public of food and beverages, and for no other purpose, shall be permitted, provided that a permit is obtained therefor from the Fire Chief.

**§ 249-2. Application for permit.**

Any person, firm or corporation desiring a permit shall make application to the Fire Chief on forms provided therefor.

**§ 249-3. Conditions for issuance of permit.**

A permit for a sidewalk cafe may only be issued to the owner or the tenant of a building occupied and used for the sale of cooked and prepared food, excepting fast-food restaurants, in a zoned district permitting such use and abutting the public sidewalk adjacent thereto, provided that the following requirements are met:

- A. The sidewalk abutting the property, from property line to the curbline, must not be less than 10 feet in width;
- B. The area to be used for the sidewalk cafe must not encroach onto the sidewalk more than 10 feet from the property line abutting the sidewalk and must not extend beyond the extension of the side property lines onto the sidewalk;

- C. No permanent structures may be affixed to the sidewalk area used for the cafe or affixed to the building abutting the area for purposes of the cafe, and the area may be occupied only by chairs, tables, benches, umbrellas, movable railings, and planters for the convenience of the patrons to be served in such area. Movable railings or planters shall be so arranged as to enclose the dining area, and the sidewalk shall be inconspicuously marked to delineate the approved position of such barriers;
- D. A clear unoccupied space must be provided, not less than three feet in width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk;
- E. Neither outdoor lighting nor live or mechanical music may be used on or for the cafe area, except that in such cases where street lighting is insufficient to so illuminate the dining area so that a hazard to those traveling the sidewalk may be created, the Fire Chief shall direct and the applicant shall provide such lighting for nighttime hours as the Fire Chief shall require;
- F. General comprehensive liability insurance naming the applicant and the City of Newburgh, its officers, agents and employees as named insured must be provided, with limits of \$25,000/\$50,000 for property damage and \$1,000,000/\$2,000,000 for personal injury, effective for the duration of the permit;
- G. Permits may be issued only during the period from May 1 to October 31 and shall be for such duration, within the time provided herein, as the applicant may request; and
- H. There shall be a minimum clear distance of five feet, exclusive of the area occupied by the sidewalk cafe, free of all obstructions, such as trees, parking meters, utility poles, streetlights, benches, planters, and movable railings in order to allow for adequate and safe pedestrian movement.

**§ 249-4. Operating restrictions.**

- A. All sidewalk cafes shall cease operations by 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday;
- B. All alcoholic beverages to be served at sidewalk cafes shall be prepared within the existing restaurant and shall only be served to patrons while seated at tables. The drinking of alcoholic beverages by a member of the public while a patron of the sidewalk cafe within the confines of the sidewalk cafe area shall not be construed a violation of any local law prohibiting the consumption of

alcoholic beverages in a public place or area. The operator of a sidewalk cafe should be in full compliance with the licensing requirements of the State Liquor Authority, as the same may exist, and shall comply with all other law and regulations concerning the sale of alcoholic beverages in the state. In the event that said sidewalk cafe is not in full compliance with the State Liquor Authority laws, rules and regulations concerning the sale of alcoholic beverages, then serving alcoholic beverages in the sidewalk cafe area shall be prohibited;

- C. The restaurant shall not serve food or beverages to a patron at a sidewalk cafe unless that patron is seated at a table; and
- D. Sidewalk cafes and the public property on which they are located shall be kept neat and clean at all times and free from any substance which might damage the sidewalk or cause injury to pedestrians.

**§ 249-5. Fees and deposits.**

- A. The fee for each permit shall be as set forth in Chapter 163, Fees, payable upon the issuance of the permit.
- B. The sum of \$100 shall be deposited, upon the issuance of the permit, to guarantee compliance with the terms of this chapter and the removal of such items as may be placed upon the public sidewalk, upon the expiration date of the permit. In the event that the permittee should violate any of the provisions of this chapter, the Fire Chief may terminate the permit, after five days' notice in writing by certified mail return receipt mailed to the address shown in the application, effective on the date of mailing, with an opportunity to the permittee for a hearing and upon a finding by the Commissioner of such violation, or upon the default of the permittee to appear for the hearing at the time and date specified in such notice.

**§ 249-6. Failure of permittee to comply.**

In the event that the permittee should fail to remove all items placed upon the public sidewalk, upon the expiration of the permit by lapse of time, or for violation of this chapter, the Fire Chief may have such items removed, forfeit the deposit for the cost and charge the permittee for any excess cost above the deposit, together with the cost for storage of such items until removed by the permittee from storage. In the event that the permittee should fail to pay the cost of storage and any excess cost of removal within 90 days after storage, the Fire Chief may sell the items at public auction, reimburse the City for all costs and if any surplus moneys remain, pay them over to the permittee.

**§ 267-7. Additional contents of permit.**

The application provided in § 249-2 above shall contain the provisions of §§ 249-5 and 249-6 and shall require the consent of the permittee to its provisions.

**§ 249-8. Penalties for offenses.**

An offense against the provisions of this chapter shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

**Section 2:** THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Councilwoman Angelo asked for a clarification on this. Will they get the deposit money back?

Corporation Counsel, Bernis Nelson said that these permits are to be issued on an annual basis and this is basically a security deposit. If there is a violation of the regulations, then the fee would be forfeited.

Mayor Valentine asked if the fee would be returned at the end of the season as long as everything is back to normal on their sidewalk.

Corporation Counsel, Bernis Nelson responded that he was correct.

Councilwoman Bell asked what the point of this is.

Mayor Valentine said that right now we have no rules whatsoever concerning Sidewalk Cafés. People can just open a café anyplace they want and there are no checks and balances.

Corporation Counsel, Bernis Nelson said that there is a section in our sidewalk ordinance that prohibits the use of a sidewalk and this will be a regulation of this particular activity. The main thing is the width of the sidewalk and that pedestrian traffic is left open.

Councilwoman Bell asked if this is restricted to restaurants. Could she put some tables and chairs outside her shop and have tea?

Corporation Counsel, Bernis Nelson said that this is for businesses that are serving beverages and food with all of the proper permits in place for that activity inside the premises. This would be an extension of the premises onto the sidewalk.

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

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

**ADOPTED**

ORDINANCE NO.: 7 - 2010

OF

MAY 10, 2010

**AN ORDINANCE AMENDING CHAPTER 155, "ELECTRICAL STANDARDS" ARTICLE I ENTITLED "ELECTRICAL INSPECTIONS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

**BE IT ORDAINED**, by the Council of the City of Newburgh, New York that Chapter 155, "Electrical Standards", Article I, "Electrical Inspections" be and is hereby amended to read as follows:

**Section 1.** Chapter 155, ELECTRICAL STANDARDS

ARTICLE I, Electrical Inspections

§ 155-2. Electrical Code.

The National Electrical Code [(NFPA 70, 1993 Edition)] most recent edition, as published by the National Fire Protection Association, shall constitute the Electrical Code of the City. A copy of this code shall be placed on file in the office of the City Clerk.

**Section 2.** THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

[Brackets] denote deletions

Underlining denotes additions

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

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

**ADOPTED**

ORDINANCE NO.: 8 - 2010

OF

MAY 10, 2010

AN ORDINANCE AMENDING CHAPTER 288, "VEHICLES AND TRAFFIC"  
ARTICLE VIII ENTITLED "SCHEDULES"  
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 288, "Vehicles and Traffic", Article VIII, "Schedules" be and is hereby amended to read as follows:

**Section 1.** Chapter 288, VEHICLES AND TRAFFIC

§ 288-71.1. Schedule XIII A: Parking Prohibited at All Times: Private Property; Fire Lanes.

In accordance with the provisions of § 288-21.1, no person shall park a vehicle at any time upon any of the following described areas or parts thereof:

- A. St. Luke's Hospital: All driveways and private roadways now or in the future designated as "fire lanes" by the Fire Department of the City of Newburgh, New York.
- B. No person shall park a vehicle at any time upon the roadways designated as "fire lane" by the Fire Department of the City of Newburgh, New York, as set forth below:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Dubois Street	East	From First Street to Third Street
<u>Front Street</u>	<u>East</u>	<u>From First Street to South Street</u>

§ 288-72. Schedule XIV: No Stopping.

In accordance with the provisions of § 288-22, no person shall stop a vehicle upon any of the following described streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Carpenter Street	Both	From Water Street to Front Street
Fourth Street	Both	From Water Street to Front Street
Second Street	Both	From Water Street to Front Street
Third Street	Both	From Water Street to Front Street

§ 288-73. Schedule XV: No Standing.

In accordance with the provisions of § 288-23, no person shall stand a vehicle upon any of the following described streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
[Front Street] 25 feet]	[Both]	[From Carpenter Street, north and south for
[Front Street ] for 25 feet]	[Both]	[From Second Street, north and south
[Front Street ] south for 25 feet]	[Both]	[From Third Street, north and
[Front Street ] and south for	[Both]	[From Fourth Street north for 40 feet 25 feet]

**Section 2.** THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Underlining denotes additions  
[Brackets] denote deletions

**Councilwoman Bell asked for an explanation.**

**Mayor Valentine explained that this is for certain streets in the City where parking will be prohibited. One is on Dubois Street on the east side from First Street to Third Street which is in front St. Luke’s Hospital. He**

believes right now that this already exists but this is enforcement of it. The second one is on Front Street on the east side from First Street to South Street. These signs have been up but have never been enforced. It was brought to our attention by the Fire Chief that if we had to get a fire truck down there we couldn't. Luckily we haven't had any emergencies down there but those streets are narrow and parking was not meant to be on both sides.

Councilwoman Bell said that one of the things we are talking about also is that we are always trying to decrease the deficit and increase revenue and the only way that we seem to do that is by raising taxes on the overburdened taxpayers. We have people that come from all over to visit our restaurants and they have been able to park for free. We must do better in terms of increasing revenue and we need to immediately find out what we have to do to get those pay parking stations.

Mayor Valentine said that Councilwoman Bell is absolutely correct and we talked about this on Thursday. The pay station would be there and it is stationary so there would be no meters. Just like at the Beacon Train Station you would get a number and you park in that space. There is no one that goes down to the waterfront that is going to say they aren't going to go because they have to pay a couple dollars to park. This has been overlooked for years and we need to act on it because this is a revenue generator that could be put into effect in a matter of months. He thinks that we should also be doing this in our other parking lots. This should be in any parking lot that is ours and eventually it should be for the Ferry parking as well. Ferry parking was not supposed to be free forever. It was free for the initial agreement to get people to use it but people will pay.

Councilwoman Bell said that people are already saving money by not having to cross the bridge.

Mayor Valentine said that there was an article in the paper on the walkway across the Hudson where it will cost \$5.00 to park your car to walk across. This is the time to act on this.

Councilwoman Bell said that we are so quick to increase the fees and they go into effect right away but we have talked about this over and over again and nothing has happened.

Acting City Manager, Richard Herbek said that they are doing a lot of different things with a certain amount of staff. The pay stations will cost something to install but we will staff it and make it a priority to bring something back to the Council shortly.

Councilwoman Bell said that bids for these parking stations already went out last year. It is a priority to come up with revenue other than taxes.

Councilwoman Angelo said that no one has had to pay to park in the Ferry parking lot and Mr. Risio owns that.

Mayor Valentine said that there is a lease agreement and as it stands right now there was no charge for parking in the initial stage of setting up the lease in order to get the Ferry running.

Acting City Manager, Richard Herbek said that the lease is being worked on right now

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

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

**ADOPTED**

**RESOLUTION NO.: 104 - 2010**

**OF**

**MAY 10, 2010**

**RESOLUTION ESTABLISHING CAPITAL PROJECT BUDGET LINES  
FOR ONGOING CAPITAL PROJECTS IN THE CITY OF NEWBURGH  
FOR INCLUSION IN THE CITY'S CAPITAL FUND**

**WHEREAS**, this City Council needs to establish capital project expenditure and revenue budget lines for certain ongoing capital projects in the City;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh hereby establishes capital project expenditure and revenue budget lines for certain ongoing capital projects in the City ("Capital Project Budget Lines") for inclusion in the City's Capital Fund, as set forth on the attached "Capital Project Budgets" spreadsheet.

**Councilwoman Bell asked for an explanation.**

**Comptroller, Christine Mitchell explained that they are asking the Council to approve projects that are being reimbursed through Federal and State dollars.**

**Mayor Valentine said that this separates and organizes several of our Capital Projects into their own separate entities from the General Fund.**

**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.: 105 - 2010**

**OF**

**MAY 10, 2010**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ACCEPTING AND ASSUMING ALL THE ASSETS AND LIABILITIES OF THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY, ALL WITHOUT CONSIDERATION, PURSUANT TO SUB-SECTION 554(19) OF THE GENERAL MUNICIPAL LAW, AND REQUESTING THE GOVERNOR AND STATE LEGISLATURE TO INTRODUCE AND ADOPT LEGISLATION DISSOLVING THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY BY THE REPEAL OF SECTION 601 OF THE GENERAL MUNICIPAL LAW**

**WHEREAS**, in 1964 and again in 1965, the Newburgh Urban Renewal Agency (NURA) was created by the State Legislature; and

**WHEREAS**, in 1976, the State Legislature changed the name of the Newburgh Urban Renewal Agency to the Newburgh Community Development Agency (NCDA); and

**WHEREAS**, pursuant to Section 601 of the General Municipal Law, the NCDA is an urban renewal agency; and

**WHEREAS**, since there are no extant urban renewal plans in the City of Newburgh, there is no public purpose in maintaining the NCDA; and

**WHEREAS**, the NCDA wishes to convey, grant, assign, and otherwise transfer and the City Council of the City of Newburgh (City) wishes to accept and assume all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor entity the NURA, and all of the NCDA's remaining liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

**WHEREAS**, the State Independent Authorities Budget Office (IABO) has advised that the NCDA is listed as an active public authority in the records of the IABO with the full authority to act;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, New York hereby accepts and assumes all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor NURA, and all of the NCDA's liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

**BE IT FURTHER RESOLVED**, that the Corporation Counsel is hereby directed to prepare and record and the City Manager is hereby directed to execute and accept delivery of any and all deeds, assignments, instruments, agreements, and any and all other necessary documents to effect such acceptance and assumption by the City; and

**BE IT FURTHER RESOLVED**, that the Governor and State Legislature are hereby requested to introduce and adopt legislation dissolving the NCDA by the repeal of Section 601 of the General Municipal Law.

**Councilwoman Bell suggested tabling this at this time.**

**Mayor Valentine asked Corporation Counsel if we don't act on this then where does the NCDA go being that we just abolished it?**

**Corporation Counsel, Bernis Nelson said that the NCDA must have a recipient of its assignments so if the Council does not accept and assume assignments then there is no assignment. She said that there was a question concerning the use of the NCDA as a land bank. Neither the City nor the NCDA are engaging in Urban Renewal at the current time but the powers are there if the City wishes to exercise them. In regard to a land bank, the municipality has the power to do that because it has to do with holding property and disposing of property as it wishes. There was also a question concerning track records and the disposition of waterfront property. A good deal of the property on the waterfront was disposed of by the Community Development Agency and it was not subject to the protections which are in both our City Charter and State Law as to waterfront property because Urban Renewal Law supersedes those laws. There was also a question as to how property was acquired by Urban Renewal and then later the Community Development Agency which she doesn't know but she thinks that most likely it was pursuant to the Urban Renewal Plan. The Urban Renewal Agency and the Community Development Agency were acting in the power of acquisition and undertaking the power of condemnation at that time instead of the City so when it was condemned it was taken in their name.**

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

**Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 4**

**Nays - Councilwoman Bell - 1**

**ADOPTED**

**RESOLUTION NO.: 106 - 2010**

**OF**

**MAY 10, 2010**

**A RESOLUTION TO AUTHORIZE THE AWARD OF A BID AND THE  
EXECUTION OF A CONTRACT WITH RITTER & PARATORE  
CONTRACTING INC. FOR THE DEMOLITION OF A BUILDING ON THE  
PROVAN SITE**

**WHEREAS**, the City of Newburgh has advertised for bids with respect to the demolition of a building located on the Provan site; and

**WHEREAS**, bids have been duly received and opened and Ritter & Paratore Contracting, Inc., is the lowest responsible bidder in the amount of \$116,235.00; and

**WHEREAS**, the City of Newburgh is responsible for Fifty (50%) Percent of the demolition costs which the funding for such project shall be derived from the Capital Project Budget Line A3650.0208;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the bid for the demolition of a building on the Provan Site be and it hereby is awarded to Ritter & Paratore Contracting, Inc., for the base bid amount of \$116,235.00, and that the City Manager be and he is hereby authorized to enter into a contract for such work in this amount.

**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.: 107 - 2010**

**OF**

**MAY 10, 2010**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A LICENSE AGREEMENT  
WITH AJC NOW, LLC TO ALLOW FOR PARKING  
ON CITY OWNED PROPERTY KNOWN AS  
THE ANN STREET PARKING LOT (SECTION 36, BLOCK 4, LOT 3.2)**

**WHEREAS**, AJC is the contract vendee of that vacant property located at 91 Broadway located on the southeasterly corner of Broadway and Liberty Street known as Section 37, Block 1, Lot 1 on the tax assessment maps of the City of Newburgh (the "Property");and

**WHEREAS**, AJC has obtained municipal approvals to construct a mixed-use building on the Property ("Building") comprised of 4,000 square feet of ground floor retail space, nine (9) two-bedroom residential apartments, and six (6) three-bedroom residential apartments (the "Project"). Such approvals include a parking variance from the City of Newburgh Zoning Board ("Zoning Board") with conditions, a copy of which variance is attached hereto. The City's Zoning Code requires sixty-one (61) on-site parking spaces for the Project, whereas only nine (9) on-site parking spaces are included on the Property; and

**WHEREAS**, the City is the owner of that parking lot known as the Ann Street Parking Lot located between South Johnston and Liberty Streets and known as Section 36, Block 4, Lot 3.2 on the tax assessment maps of the City of Newburgh, (the "Parking Lot") which has a sufficient number of available parking spaces to accommodate the unmet parking needs of the Project;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute a License Agreement with AJC NOW, LLC to allow for parking on City owned property known as the Ann Street Parking Lot (Section 36, Block 4, Lot 3.2; and

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect upon AJC NOW, LLC taking title to the property.

Mayor Valentine said that there was a question as to whether the City Manager could do this without the authorization of the City Council as a parking permit. What makes this different?

Acting City Manager, Richard Herbek said that this falls under the issuance of a variance by the Zoning Board so there needs to be a longer term arrangement for the use of spaces.

Councilwoman Bell said the other question she heard is what the dollar fee is.

Acting City Manager, Richard Herbek said that he believes the existing fee is \$20.00 per month per space. These will be increased over the next few years as we review our fees.

Mayor Valentine added that if this particular applicant finds other adequate parking then this could be eventually eliminated.

Councilwoman Bello said that she has some concerns about this. She thinks that this is an incredibly low amount because just for an employee or a tenant to pay the meters on Broadway it is costing \$50.00 per month. She is also concerned about special considerations for individual property owners. She doesn't think that this is right. The agreement also says that they are paying for ten spaces but tying up sixty-one which doesn't seem right. It reads ten parking spaces minimum and a maximum of fifty-one that are non-specified by location. Up to sixty-one spaces will be delegated to that person.

Mayor Valentine said that the City's Zoning Board requires sixty-one and the arrangement through the Zoning Board is that there are nine that will be on site and they wanted a maximum of nineteen so he is applying for ten spaces to make him match what the Zoning Board requires for him to move on. That is where the ten comes from but the sixty-one would be the same as when you are opening a business on Broadway and you go before the ZBA and you tell them that for your business of fifteen hundred square feet you need five spaces and you don't have it because it is open parking and you could never have enough parking for the number of businesses on Broadway. That would make sense because there are nine two-bedroom apartments with retail space on both sides and nobody gets parking for retail space.

Councilwoman Bello said that there are also no businesses on Broadway that have guaranteed parking for their tenants so why the preferential treatment?

Councilwoman Bell said that her understanding is that this is a Zoning Board Requirement for the project to move forward and perhaps everyone doesn't know what project we are talking about and what this is related to. This is the vacant lot on the corner of Liberty and Broadway that is an eyesore and has been for years. This is a beautiful plan and she thinks that it should be an effort on our part to support responsible development to come here. She thinks that this is a good thing and she personally is supportive of it.

Mayor Valentine added that we have done this in the past for other property owners that needed parking in order for them to establish themselves. This will be for a sticker to park and not get a ticket; it is not for a guaranteed spot. If the lot is full, then the lot is full. He thinks that as time goes on we are going to get more and more of these requests and we are going to have to build a parking structure. No matter where you are parking it is going to be a growing problem if you are succeeding. The one complaint he doesn't mind getting is that we are running out of parking because that means that the businesses are doing well. In this particular case, the ZBA acted responsibly by recognizing that this project is valuable enough and they are asking for this so that this project can move on. Otherwise the project is dead and it's a great project. This is the kind of development we want here. This lot has been sitting empty for thirty years so what are we waiting for. He thinks that the time is right and he is certainly in favor of it.

Councilwoman Bello added that this agreement is for an indefinite period of time which is a problem for her. Again, she stressed how low this fee is. Just to get a loading zone in front of her store it would cost \$125.00 and that can only be used for the sole purpose of loading.

Mayor Valentine said to remember that if we change our fees this will be affected. This doesn't even go into effect until the building has a Certificate of Occupancy which will be a year or two away. In the meantime, we will be going over our parking fees and he can't see holding this up and not letting the developer move forward.

Councilwoman Bell said that in Manhattan people ride around for thirty to forty minutes looking for a parking space and they still manage to find one to take care of their business.

Mayor Valentine said that in Manhattan when you have a building project you don't need parking because they are told to use Mass Transit.

Councilwoman Bell said that Mass Transit is her favorite issue.

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

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

**Nays - Councilwoman Bello - 1**

**ADOPTED**

107-10

## PARKING LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of \_\_\_\_\_, 2010, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("City"); and

AJC NOW, LLC, a New York limited liability company having its offices c/o Cannon Heyman & Weiss, LLP, 54 State Street, 5th Floor, Albany, New York 12207 ("AJC").

Whereas, AJC is the owner of that vacant property located at 91 Broadway located on the southeasterly corner of Broadway and Liberty Street known as Section 37, Block 1, Lot 1 on the tax assessment maps of the City of Newburgh (the "Property"), and

Whereas, AJC has obtained municipal approvals to construct a mixed-use building on the Property ("Building") comprised of 4,000 square feet of ground floor retail space, nine (9) two-bedroom residential apartments, and six (6) three-bedroom residential apartments (the "Project"). Such approvals include a parking variance from the City of Newburgh Zoning Board ("Zoning Board") with conditions, a copy of which variance is attached hereto. The City's Zoning Code requires sixty-one (61) on-site parking spaces for the Project, whereas only nine (9) on-site parking spaces are included on the Property, and

Whereas, the City is the owner of that parking lot known as the Ann Street Parking Lot located between South Johnston and Liberty Streets and known as Section 36, Block 4, Lot 3.2 on the tax assessment maps of the City of Newburgh, as more fully bounded and described on Schedule A attached hereto (the "Parking Lot") which has a sufficient number of available parking spaces to accommodate the unmet parking needs of the Project,

Now, therefore, the City and AJC agree as follows:

Section 1. Grant and Term of License. The City hereby represents that it owns the Property and that it has duly authorized this Parking License Agreement. The City hereby grants AJC a revocable license to purchase a minimum of ten (10) parking spaces ("Minimum Spaces") and a maximum of fifty-two (52) parking spaces ("Maximum Spaces") non-specified by location parking spaces in the Parking Lot (collectively the "Parking Spaces") for so long as the Building exists on the Property, commencing on the date of issuance of the first certificate of occupancy for the residential portion of the Project (the "Term").

Section 2. Use of Parking Spaces. The Minimum Spaces may be used only by residents of the Project ("Project Residents") and the Maximum Spaces, not including the Minimum Spaces, may be used only by residential and commercial tenants of the Project ("Project Tenants") and may not be sold or assigned to any other persons or entities.

Section 3. Purchase of Parking Permits for Parking Spaces; License Fee; No Cost to Project Residents. On or before December 31 of each year preceding each calendar year of the Term, AJC shall purchase a block of parking permits from the City in a number not less than the Minimum Spaces and not more than the Maximum Spaces ("Parking Permits"). The annual license fee for the Parking Permits shall be computed as follows: cost of one (1) annual parking permit as normally charged by the City for such calendar year to residents in the vicinity of the Parking Lot multiplied by the actual number of Parking Permits purchased by AJC for that year. AJC shall deliver the Parking Permits for the Minimum Spaces to Project Residents and the balance of the Parking Permits to Project Tenants, all at no cost to them.

Section 4. No Duty of Special Care. The City, by granting this License, makes no representation and assumes no duty of special care for the Project Residents and their vehicles parked in the Parking Lot.

Section 5. Defense and Indemnity. AJC shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the use of the Parking Spaces under this Parking License Agreement, excepting gross negligence or misconduct by the City.

Section 6. Reduction of Available Parking Spaces. It at any time the Parking Spaces in the Parking Lot shall be wholly or partially unavailable due to construction or other event, the City shall use reasonable efforts to provide best efforts to provide Project Residents having Parking Permits with substitute parking spaces at that City-owned parking facility having available space closest to the Project.

Section 7. Assignment of License; No Sub-Licensing. This License may not be assigned to any party other than a subsequent owner of the Property. AJC may not sub-license all or a portion of this License to any other party.

Section 8. Termination of License.

a. Termination by City. The City may terminate this License Agreement prior to the end of the Term, on at least thirty (30) days prior written notice to AJC and the Zoning Board, if AJC fails to cure its default under this License Agreement within sixty (60) days of the City's mailing to AJC, by certified mail return receipt requested, with a copy to the Zoning Board, of notice to cure such default.

b. Termination by AJC. AJC may terminate this License Agreement prior to the end of the Term, on a least sixty (60) days prior written notice to the City and the Zoning Board, only if AJC is able to secure ownership, a lease, or a license, to the satisfaction of the City and the Zoning Board, for the balance of the Term, for at least the number of the Minimum Spaces in another parking lot of equal or lesser distance from the Property than the Parking Lot.

Section 9. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 10. Bind and Enure. This License shall bind and enure to the benefit of the parties' respective successors and assigns.

Section 11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be executed as of the day and year first above written, pursuant to City of Newburgh Resolution No.: \_\_\_\_-2010 of May 10, 2010.

CITY OF NEWBURGH

By: \_\_\_\_\_  
RICHARD F. HERBEK  
Acting City Manager

AJC NOW, LLC

By: \_\_\_\_\_  
ANDREW CAVALUZZI  
Managing Member

Approved as to Funding:

\_\_\_\_\_  
Christine Mitchell,  
City Comptroller

Approved as to Form:

\_\_\_\_\_  
Bernis E. Nelson,  
Corporation Counsel

## CITY OF NEWBURGH ZONING BOARD OF APPEALS AREA VARIANCE DECISION

Applicant:	Andrew Cavaluzzi
Owner:	121-123 Broadway Court
Appeal No.:	2010-05
Project Address:	91 Broadway
Zoning District:	TC-1
Area Variance Sought:	Rear yard setback, building height and parking
Date of Action:	April 27, 2010

The City of Newburgh Zoning Board of Appeals did hear an application on March 23, 2010 and April 27, 2010, from Andrew Cavaluzzi (Applicant), Mary Anne Amodeo, representing 121-123 Broadway Court (Owner) and Anthony J. Coppola, Architect, requesting a variance of Section 300-10 District Regulations (Schedule A Bulk Regulations) of the City of Newburgh Zoning Code to permit a lot area of 40,206 square feet where the Zoning Code requires 10,000 square feet; to permit a rear yard setback of 0 feet where the Zoning Code requires 20 feet; and to permit a building height of 4 stories or 40 feet where the Zoning Code is limited to 3 stories or 45 feet; and requesting a variance of Section 300-45 of the City of Newburgh Zoning Code to permit 9 off-street parking spaces where the Zoning Code requires 60 off-street parking spaces. The City Zoning Board, in making its determination has considered the benefit to the applicant if the variance was granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such variance.

The following documentation was reviewed and analyzed in reviewing this variance application:

1. Application for an area variance;
2. Short Form EAF;
3. Proxy Statement from Mary Anne Amodeo, dated February 25, 2010, permitting Andrew Cavaluzzi to make application to the City of Newburgh Zoning Board of Appeals;
4. Letter from Steven C. Hunter, Code Compliance Supervisor, dated August 28, 2009;
5. Letter from Denise Ribble, Chairperson, City of Newburgh Waterfront Advisory Committee, dated February 4, 2010;
6. Resolution No. 40-2010 of February 8, 2010 of the City Council of the City of Newburgh supporting the application of AJC NOW, LLC to the New York State Division of Housing & Community Renewal for funding to construct a mixed use building on vacant land located at 91 Broadway;

7. Letter from Courtney Kain, Acting Director, City of Newburgh Department of Planning and Development, dated February 8, 2010;
8. Letter from Representative Maurice Hinchey dated February 4, 2010;
9. Letter from Orange County Legislator Harvey Burger dated February 4, 2010;
10. Letter from Nicholas J. Valentine, Mayor of the City of Newburgh, dated December 16, 2009;
11. Letter from Assemblyman Frank Skardatos dated February 8, 2010;
12. Architect's site and floor plans; and
13. Economic statement.

A public hearing was duly convened and completed on March 23, 2010.

At a public meeting of the Board on April 27, 2010, upon all the discussion that preceded it, including the public hearing and a review of the above submissions, the following motion was made to grant the requested variance:

BE IT RESOLVED by the Zoning Board of Appeals of the City of Newburgh, Orange County, New York, as follows:

1. The applicable standard for considering an area variance is set forth in General City Law, Section 81-b, requires the board to take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Section 81-b requires that the Board of Appeals grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. In reviewing this standard the Board has found the following:

- a) The granting of the variances will result in an undesirable change in the character of the neighborhood and a detriment to nearby properties:

The neighborhood is and will remain a mixed use neighborhood. The Applicant's proposal to construct a new four story building with retail space on the first floor and rental apartment on the upper floors is consistent with the use of other properties in the area. The Applicant will provide some parking for the residential tenants on site and will obtain a license agreement from the City of Newburgh for additional off-street parking for

residential tenants in the Ann Street municipal parking lot. Accordingly, the Board finds that the proposed new construction will not cause an undesirable change in the neighborhood or a detriment to nearby properties.

b) The following alternatives were discussed but deemed not feasible for the following reasons:

The lot is pre-existing and pre-dates the current Zoning Code. There is no adjacent property available for sale or lease that would allow the Applicant to expand the lot. However, the Applicant will be able to provide nine parking spaces on site for residential tenants and will obtain a license agreement from the City of Newburgh for additional off-street parking spaces for residential tenants in the Ann Street municipal parking lot.

c) The requested variances are not substantial.

d) The variances will have no significant adverse effect on the physical or environmental conditions in the neighborhood or district.

e) The need for the variance is self-created.

2. Based upon the above findings, and taking into consideration the benefit to the Applicant if the variances were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Board finds that the balance weighs in favor of granting the variances on the following condition:

Applicant must obtain a license agreement from the City of Newburgh for 10 off-street parking spaces in the Ann Street municipal parking lot.

THE ROLL CALL VOTE: APPEAL NO. 2010-06

The question of the foregoing resolution calling for granting the requested variances was put to a vote on roll call on April 27, 2010, the results were as follows:

Motion made by: Victor Mirabelli  
Seconded by: James Kulisek

Joanne Lugo, Chairperson	Voting <u>for</u> granting the variance
Mirta Rivas, Member	Voting _____ granting the variance Absent
Mary Ann Prokosch, Member	Voting _____ granting the variance Absent
David Schwartz, Member	Voting <u>for</u> granting the variance
Barbara Smith, Member	Voting <u>for</u> granting the variance
Victor Mirabelli, Member	Voting <u>for</u> granting the variance
James Kulisek, Member	Voting <u>for</u> granting the variance

**RESOLUTION NO.: 108 - 2010**

**OF**

**MAY 10, 2010**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER  
INTO AN AGREEMENT WITH STANTEC CONSULTING SERVICES, INC.  
TO PROVIDE PROFESSIONAL SERVICES RELATED  
TO THE COMPLETION OF THE FIRST STREET IMPROVEMENT PROJECT**

**WHEREAS**, the City of Newburgh through a competitive process in which proposals for professional services were solicited, reviewed and evaluated to provide professional services related to the completion of the First Street Improvement Project; and

**WHEREAS**, the City has received a proposal from Stantec Consulting Services, Inc. which has been identified as the most qualified and suitable firm to provide said services;

**WHEREAS**, such professional services will cost an estimated Fifty One Thousand Nine Hundred Sixty (\$51,960.00) Dollars and will come from the Capital Project Budget Line: A.1440.0208; and

**WHEREAS**, the City Council has reviewed the annexed proposal and has determined that such work would be in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement with Stantec Consulting Services, Inc. for professional services at an estimated cost of Fifty One Thousand Nine Hundred Sixty (\$51,960.00) Dollars to complete the design of the street improvements to comply with the NYSDOT/FHWA Local Projects requirements in connection with the completion of the First Street Improvement Project, with such other terms and conditions as Corporation Counsel deems appropriate and necessary as required by law, same as being in the best interests of the City of Newburgh; and

**BE IT FURTHER RESOLVED**, that the City Manager be further authorized to enter into any related agreements with the NYSDOT to complete the project design.

Craig Marti, City Engineer said that this is for the consulting services necessary for the design of the roadway portion of the project. The DOT process is the same process we went through with Robinson Avenue with regard to stages of design and approval.

Councilman Dillard asked where the location of this project is.

Craig Marti, City Engineer said that the location is from Front Street to the waterfront along First Street.

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: 109 - 2010**

**OF**

**MAY 10, 2010**

**A RESOLUTION AUTHORIZING AN EXTENSION OF TIME  
TO CLOSE TITLE ON THE PROPERTY LOCATED AT 135 WISNER  
AVENUE (SECTION 13, BLOCK 5, LOT 10) SOLD AT THE OCTOBER 1, 2009  
AUCTION**

**WHEREAS**, this Council, by Resolution No.: 164-2009 of October 26, 2009, confirmed the sale of (Section 13, Block 5, Lot 10) to Millpond Management; and

**WHEREAS**, the City Manager has granted the sixty (60) day allotted extension to close title on said premises on or before February 12, 2010; and

**WHEREAS**, this Council, by Resolution No.: 50-2010 of March 8, 2010 authorized a sixty (60) day extension to close title on said premises on or before May 7, 2010; and

**WHEREAS**, due to unforeseen circumstances, specifically title issues, the purchaser has requested additional time to close title; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 135 Wisner Avenue (Section 13, Block 5, Lot 10) to Millpond Management be and is hereby granted until July 9, 2010, that date being sixty (60) days from the date of this Resolution.

**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**

## GENERAL PUBLIC COMMENTS

Timothy Hayzill, City of Newburgh said that the City is broke and he heard that we are not going to have the Free Lunch Program this year. We need jobs here and no one is taking care of the citizens that live here. He keeps hearing about financing but if you would get the people that live here jobs then we would have financing. Nobody is standing up for the people that want to work in this city.

Denise Ribble, City of Newburgh said that there will be a public information session at OCCC on May 18<sup>th</sup> at 7:00 p.m. to obtain public input on the local and first source hiring ordinance and she invited the City Council to attend. In the past, the Waterfront Advisory Committee saw the plans for the road part of the fishing pier but they would like to see them again. Being that this is for over \$50,000.00, will there be local hiring? She encouraged everyone to go on to the Orange County Website and look at the proposed Orange County Comprehensive Plan which is their version of a Master Plan because there are places that we are in it that are not to our benefit and then there are also places where we should be in it where we are not. We have both a responsibility and the time to comment on Orange County's Plan and make it more inclusive for the City of Newburgh.

Maria Flores, Professional Dog Groomer and Foundry resident said that she was concerned about a newspaper article concerning four pit bulls found fighting on North Miller Street and a puppy found dead in a garbage bag. The Animal Control Officer had to go to a local facility to have these dogs taken care of but the contract had expired in January. She would like to know what the City is doing about this. It is obvious that there is dog fighting going on but she was shocked to find out that it is going on right in her own backyard.

Police Chief, Eric Paolilli said that the dog fighting issue is a problem but they are continuing to investigate and they will act on it.

Acting City Manager, Richard Herbek said that we did have a contract with Flannery Animal Hospital that expired January 31, 2010. We put out an RFP last year with a variety of possible options other than Flannery because they didn't want to continue the arrangement of boarding dogs. We thought that we had an arrangement with one agency that did respond to the RFP and we did a contract through a resolution that hasn't been completed as of yet. We are continuing to explore our options and he hopes that in a relatively short period of time we will have one or two more options for the City to consider.

Councilwoman Bell said that we have voted on something that was to be an agreement for the dogs to be taken care of but the person in the paper said that no one even spoke to them about handling these dogs.

Acting City Manager, Richard Herbek said that that is not correct. You can't believe everything that is in the Press as factual. Unfortunately that is what happens when there is misinformation and miscommunication. Someone from the Executive Office did speak to that particular agency and they indicated that they were interested. They sent the contract back a few times and we were referred to their lawyers weeks ago. He is not sure if he has all of the facts but we need to have an arrangement with an agency to take our dogs which is a requirement of the Agriculture and Markets Law.

Kippy Boyle, 400 Grand Street said that when the Budget situation initially happened there was discussion about analyzing the tax exempt properties and doing a thorough analysis to see if some of those properties could be put back on to the tax rolls. She would like to know what is going on with the City Manager search. She would like the City Engineer or someone to get in touch with DOT concerning turn signals on traffic lights at all of the major intersections because she thinks that it will help with some of the traffic issues we are having. On Marine Drive the street lights are out and she would like to know if someone is in charge of that.

Mayor Valentine said that we are waiting for Central Hudson.

Kippy Boyle asked if they are being called every single day and perhaps the City Manager should make some calls. In the past the Executive Office kept a list of things like this and they called Central Hudson. It seems like tonight the discussions revolved around municipal parking lots, parking meters, ticketing, traffic lights and eliminating parking spaces on Front Street. This all indicates to her that the Transportation and Parking Committee needs to provide reports on their research.

Acting City Manager, Richard Herbek said in regard to the City Manager search that applications are due on Friday and Mr. Mercer would like to meet relatively soon thereafter with the City Council to review the applications that have been submitted.

Jane Johnston, City of Newburgh said that she is sorry that she didn't get information concerning using NCDA as a potential land bank. She noted that May 18<sup>th</sup> is the School Board Election and seven of the eight candidates participated in a Meet the Candidates Forum and the eighth submitted comments. If anyone would like to see the video, it can be accessed on the Website.

Brigidanne Flynn, City of Newburgh said that the City has a number of boards that consist of volunteer members and in regard to the pay parking meters she thinks that the Parking Committee should make this a priority and look into it.

MaryAnn Prokosch, City of Newburgh said that her car was stolen and it was recovered by the police two days later. She received a phone call that she could pick up her car but she would have to pay \$75.00. People go to court with code problems and they only have to pay a \$25.00 fine but if your car is stolen you have to pay \$75.00 to get it back. She doesn't understand this and it makes her angry. At a later date, there was another car stolen but that person didn't have to pay a fee to get their car back and she would like to know why.

Charlotte Mountain, Dubois Street said that the speed limit on Dubois Street by the Hospital is 15 m.p.h. but since we have started the construction on Broadway she has witnessed cars traveling 60 m.p.h. She doesn't know if the police can add some additional patrols or if DPW could put some stop signs in to slow these cars down.

Roxie Royal, City of Newburgh said that due to the construction on Route 9W, there should be more signs to tell people to go down to Marine Drive. At the last Council meeting Pastor Williams talked about a Confederate Flag that was flying down by the river and one of the Council members stated that she didn't see where it was such a big deal and to her that was an insult. That flag is a symbol of hate and it was an insult to her as an African-American and she feels that she personally and the African-American community should receive an apology.

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

## COMMENTS FROM THE COUNCIL

Councilwoman Angelo noted that there are two new openings on the Human Rights Commission. Newburgh National Night Out will be held on August 3, 2010 from 6:00 p.m. to 10:00 p.m. at the Recreation Park. The Police Department is holding an Awards Ceremony at Torches tomorrow night at 5:00 p.m. It is open to the public and everyone is welcome to attend. She wants to discuss with the Council a Business Award that she thinks would be an incentive for the businesses to upgrade the appearances of their buildings and be a part of the community. She thanked everyone for coming tonight.

Councilwoman Bell said that this weekend she was thrilled to see on YNN News what Mo'Betta (Mothers & Others for a Better Newburgh) and Mum (Mothers for Upward Movement) did to clean up that horrible lot on the corner of Johnston Street and Broadway. It was a beautiful example of the change we wish to see as residents take matters into our own hands. She has volunteered to be an active member of the Transportation, Parking and Traffic Committee and they will start to work on some of these significant issues. The other day she went to make a home visit for her work on a particular block in the City of Newburgh and there were about fifty young men on the street in the afternoon with a car parked blaring music. They also had a crap game going and there were people counting money and making deals. She was appalled. All of this was in one concentrated area and the people that live there are afraid to come out of their homes. How dare we allow people to be held under siege like this because it is absolutely outrageous. She proposed to the Council that they immediately enact an Adopt a Block and work with the Police Department and the FBI to take these blocks back one by one. This is something that we need to do right now and lets all be the change that we wish to see.

Councilwoman Bello said that Ms. Royal commented that there was a Councilmember that said that the raising of the Confederate Flag was not a big deal and since she was the only one who spoke, she assumes that she meant her. She said that she never stated that. The reason why she even spoke on it is because there were some comments made that implied that the Council had their heads in the sand while this was happening and she wanted to state that as soon as it came to the attention of Mr. Herbek and the rest of us, that Flag was ordered to be taken down. We took that issue very seriously and she never stated that it was not a big deal. She stated that an employee had made an error in judgment and was reprimanded for it. She added in regard to Ms. Prokosch and the fine to get her stolen car back, that she thinks that is horrendous. Because of our financial condition we don't have enough patrols on the streets to adequately prevent the crime and then when a resident

becomes the victim of a crime we turn around and victimize them twice by charging \$75.00 to pick up a car that was stolen. There is something really wrong with that and her suggestion to the City Manager was to give that money back. The victims of stolen cars should be given the option of picking up their car. She thanked everyone for coming.

Councilman Dillard thanked George Garrison for his participation in the clean up of the lot on Johnston Street and Broadway. He said that we need to see all hands on deck to clean up our City. He added that he sees no reports in terms of dollars and he is very concerned based on the condition that we are in. We should have something to show what is in our General Fund and what has been spent. If we can get this information out to the public it will ease the pain come Budget time.

Acting City Manager, Richard Herbek said that their goal is to provide the City Council with quarterly reports. We are still trying to work out the problems with the systems and set up the proper accounts which need to be done before we can begin issuing quarterly reports. They should be receiving these reports to know where we stand in terms of revenues and expenditures. He has taken every opportunity to keep the issues in the open to speed up the 2011 Budget. We know that there are huge issues and this is not going to be easy. It is almost going to be a repeat of 2010. There are going to have to be a lot of decisions made and they are analyzing every department. They want to have a very transparent process and it is important to work with members of the community concerning the financial dilemma that we are in. One thing we will be doing soon is passing a Home Rule Legislation on deficit financing which will essentially bring us back to zero but we still have a problem with the 2011 Budget.

Councilman Dillard said that he appreciates everyone coming and to stay on top of us.

Mayor Valentine said that the mother's groups that handled the clean up on Broadway is so focused on getting things done the right way. They are actively working within the community and we have never had that in the past. From his personal observation, there is a tremendous amount of energy that they are building up and a presence in the community which is very much appreciated by the Council and everyone that sees it. He thanked them for their continued work because it will make a difference especially as we go into the summer.

There being no further business to come before the Council, the meeting adjourned at 9:10 p.m.

**LORENE VITEK  
CITY CLERK**