

A Special meeting of the City Council of the City of Newburgh was held on Monday, August 16, 2010, at 6:00 P.M. in the City Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

The Pledge of Allegiance was led by Mayor Valentine.

Present: Mayor Valentine presiding; Councilwoman Angelo, Councilwoman Bello - 3

Absent: Councilwoman Bell, Councilman Dillard - 2

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Dr. Blue of Bluestone Developers, Inc. expressed his concerns about the resolutions on the agenda.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Mayor Valentine noted that although there are only three members of the City Council here tonight the two other members, Councilwoman Marge Bell and Councilman Curlie Dillard were apprised of what they were doing tonight. Unfortunately because of schedules and being out of town they could not make it here tonight but he would like it known that this is not a vote taken just by three Council members. On the upcoming resolutions it will be the exact same thing. He as the Mayor and the Council do not like to hold meetings at a bare minimum but because of the time frame they decided to have this meeting tonight with just three members but it is not just the three members that are in favor.

RESOLUTION NO.: 182 - 2010

OF

AUGUST 16, 2010

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CHANGE ORDER WITH RITTER & PARATORE CONTRACTING
INC. FOR THE DEMOLITION OF A BUILDING ON THE PROVAN SITE
AND AMENDING RESOLUTION NO.: 185-2009, THE BUDGET
OF THE CITY OF NEWBURGH**

WHEREAS, by Resolution No.: 106 - 2010 of May 10, 2010, the City Council authorized 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 for the base bid amount of \$116,235.00; and

WHEREAS, the project costs are exceeding the contract amount due to the finding and removal of additional asbestos; and

WHEREAS, it is now necessary to authorize the City Manger to execute a change order with Ritter & Paraotre Contracting, Inc. to cover the cost of such additional asbestos work;

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 change order for Ritter & Paratore Contracting, Inc., to provide for the additional asbestos removal for the building on the Provan Site at a cost not to exceed \$75,000.00; and

BE IT FURTHER RESOLVED, that Resolution 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended as set forth on the spreadsheet attached hereto.

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

**Ayes-Councilwoman Angelo, Councilwoman Bello, Mayor Valentine-3
ADOPTED**

182-10

ENVIRONMENTAL 5400-5499	Original Budget	Adjustments	Modified Budget	Accounts
Provan Proj#5400				
Expenditures				
Env. Eng. On Site Remediation	2,250,000.00	-75,000.00	2,175,000.00	H1 1440 0215 5400 2010
Env. Eng. Off Site Remediation	150,000.00	0.00	150,000.00	H1 1440 0216 5400 2010
Demolition	116,235.00	75,000.00	191,235.00	H1 3650 0208 5400 2010
Total Expenditures	2,516,235.00	0.00	2,516,235.00	
Revenue				
NYSDEC Environmental Restoration Program (ERP)	2,225,000.00	0.00	2,225,000.00	H1 0000 3989 5400 2010
City Match	291,235.00	0.00	291,235.00	H1 0000 5731 5400 2010
Total Revenue	2,516,235.00	0.00	2,516,235.00	

RESOLUTION NO.: 192 - 2010

OF

AUGUST 16, 2010

RESOLUTION RESCINDING RESOLUTION NO: 144-2010 REGARDING CERTAIN AMENDMENTS TO THE LAND PURCHASE AGREEMENT FOR SALE AND REDEVELOPMENT OF THE CITY-OWNED PROPERTIES LOCATED AT 1 LIBERTY STREET KNOWN AS THE LIBERTY STREET SCHOOL (SECTION 45, BLOCK 5, LOT 18), 5 JOHNES STREET (SECTION 46, BLOCK 1, LOT 15), AND 9 JOHNES STREET (SECTION 46, BLOCK 1, LOT 14), TO BLUESTONE DEVELOPERS, INC.

WHEREAS, the City of Newburgh ("City") and Bluestone Developers, Inc. ("Bluestone") executed a Land Purchase Agreement dated June 19, 2008 ("LPA") for sale and redevelopment of the City-owned properties located at 1 Liberty Street (Section 45, Block 5, Lot 18 or "Liberty Street School"), and 5 Johnes Street (Section 46, Block 1, Lot 15) and 9 Johnes Street (Section 46, Block 1, Lot 14) (collectively the "Johnes Street Properties"); and

WHEREAS, this Council by Resolution No: 144-2010 adopted on July 12, 2010 authorized certain amendments to the LPA; and

WHEREAS, Bluestone has refused to agree to the terms and conditions of such certain amendments to the LPA, including but not limited to the Purchase Price for the Liberty Street School as set forth therein; and

WHEREAS, ownership of the Project Properties is still in the City; and

WHEREAS, this Council believes that it is in the best interests of the City not to proceed with the certain amendments to the LPA as authorized by Resolution No: 144-2010;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No: 144-2010 adopted on July 12, 2010 is hereby rescinded in its entirety.

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

**Ayes -Councilwoman Angelo, Councilwoman Bello, Mayor Valentine-3
ADOPTED**

RESOLUTION NO.: 193 - 2010

OF

AUGUST 16, 2010

RESOLUTION DIRECTING THE CITY MANAGER TO SERVE A NOTICE TO CURE ON BLUESTONE DEVELOPERS, INC. REGARDING THE SALE AND REDEVELOPMENT OF THE CITY-OWNED PROPERTIES LOCATED AT 1 LIBERTY STREET KNOWN AS THE LIBERTY STREET SCHOOL (SECTION 45, BLOCK 5, LOT 18), 5 JHONES STREET (SECTION 46, BLOCK 1, LOT 15), AND 9 JHONES STREET (SECTION 46, BLOCK 1, LOT 14)

WHEREAS, the City of Newburgh ("City") and Bluestone Developers, Inc. ("Bluestone") executed a Land Purchase Agreement dated June 19, 2008 ("LPA") for sale and redevelopment of the City-owned properties located at 1 Liberty Street (Section 45, Block 5, Lot 18) ("Liberty Street School"), and 5 Johnes Street (Section 46, Block 1, Lot 15) and 9 Johnes Street (Section 46, Block 1, Lot 14) (collectively the "Johnes Street Properties") (all collectively the "Project"); and

WHEREAS, the City and Bluestone executed an associated Option to Purchase Agreement dated November 6, 2009 (OPA") regarding the sale and redevelopment of the Johnes Street Properties to be used as accessory parking lots for the Liberty Street School; and

WHEREAS, Bluestone has failed to diligently undertake the securing and clean-up and improvement of the Liberty Street School, as required under Section 5.a. of the LPA, including but not limited to:

1. having failed to commence the rehabilitation of the Liberty Street School by June 19, 2009 being within twelve (12) months of execution of the LPA, as required under Section 4.b.ii. of the LPA;

2. having failed to commence the rehabilitation of the Liberty Street School by June 19, 2009, thereby being unable to complete such rehabilitation by December 19, 2010 being within thirty (30) months of execution of the LPA, as required under Section 4.b.iii. of the LPA;

3. having failed to establish that it has secured seventy (70%) percent of the total estimated costs for rehabilitation and construction of the Project, as required under Section 7 of the LPA; and

4. having failed to secure the Liberty Street School from further deterioration, as required under Section 9.a. of the LPA;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that the City Manager is hereby directed to serve a fourteen (14) day Notice to Cure on Bluestone Developers, Inc. regarding the sale and redevelopment of the Liberty Street School and the Johnes Street Properties, under the LPA and the OPA, in the general form attached hereto, together with such other terms and conditions as are satisfactory to the Corporation Counsel, all in accordance with Section 5 of the LPA and Section 15 of the associated OPA.

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

**Ayes- Councilwoman Angelo, Councilwoman Bello, Mayor Valentine-3
ADOPTED**

NOTICE TO CURE

DATE: AUGUST 16, 2010

TO: JEROME H. BLUE, PRESIDENT
BLUESTONE DEVELOPERS, INC.
1461 FRANKLIN AVENUE
GARDEN CITY, NEW YORK 11530

RE: SALE AND REDEVELOPMENT OF THE CITY-OWNED PROPERTIES
LOCATED AT 1 LIBERTY STREET KNOWN AS THE LIBERTY
STREET SCHOOL (45 - 5 - 18), 5 JOHNES STREET (46 - 1 - 15) AND
9 JOHNES STREET (46 - 1 - 14)

PLEASE BE ADVISED, pursuant to Section 5 of that Land Purchase Agreement by and between the City of Newburgh ("City") and Bluestone Developers, Inc. ("Bluestone") dated June 19, 2008 ("LPA") and that associated Option to Purchase Agreement by and between the City and Bluestone dated November 9, 2009 ("OPA") regarding sale and redevelopment of the above-referenced properties; that

YOU ARE HEREBY NOTIFIED that you are in default of the LPA and the associated OPA by having failed to diligently undertake the securing and clean-up and improvement of the Liberty Street School, as required under Section 5.a. of the LPA, including but not limited to:

1. having failed to commence the rehabilitation of the Liberty Street School by June 19, 2009 being within twelve (12) months of execution of the LPA, as required under Section 4.b.ii. of the LPA;

2. having failed to commence the rehabilitation of the Liberty Street School by June 19, 2009, thereby being unable to complete such rehabilitation by December 19, 2010 being within thirty (30) months of execution of the LPA, as required under Section 4.b.iii. of the LPA;

3. having failed to establish that it has secured seventy (70%) percent of the total estimated costs for rehabilitation and construction of the Project, as required under Section 7 of the LPA; and

4. having failed to secure the Liberty Street School from further deterioration, as required under Section 9.a. of the LPA; and

THE CITY HEREBY DEMANDS that you fully and satisfactorily cure such default within fourteen (14) days of receipt of this Notice of Cure; and

PLEASE BE FURTHER ADVISED that if you do not fully and satisfactorily cure such default, the City shall have the right to notify you of the City's cancellation of the LPA and associated OPA, and all further rights and obligations of the City and Bluestone shall cease and terminate, and the City shall pursue what remedies it has under the LPA and OPA agreements, including those under Section 17 of the LPA and Section 15 of the OPA.

CITY OF NEWBURGH

By _____

Richard F. Herbek
Acting City Manager

cc: Frank Rubino, Esq., Counsel to Bluestone Developers, Inc.
Mayor Nicholas Valentine
Councilmember Regina Angelo
Councilmember Marge Bell
Councilmember Christine Bello
Councilmember Curlie Dillard
Lorene Vitek, City Clerk
Bernis Nelson, Corporation Counsel
Edward Lynch, Director of Planning and Development
Craig Marti, City Engineer
Christine Mitchell, Director of Finance/Comptroller
Michael Ferrara, Acting Police Chief
Michael Vatter, Fire Chief
Steven Hunter, Building Inspector
Mary Crabb, Chair, Architectural Review Commission
Lisa Daily, Chair, Planning Board
Ariyike Diggs, Chair, Newburgh Heights Association
Joanne Lugo, Chair, Zoning Board of Appeals
Thomas Lane, Director, Orange County Office of Community
Development
Ruth Pierpont, Director, New York State Historic Preservation Office
Pete Grannis, Commissioner, New York State Dept. Environmental
Conservation

RESOLUTION NO.: 194- 2010
OF
AUGUST 16, 2010

RESOLUTION REQUESTING THAT A STOP WORK ORDER BE CAUSED BY THE CITY MANAGER AND THE BUILDING INSPECTOR TO BE ISSUED TO BLUESTONE DEVELOPERS, INC., AND DIRECTING THAT THE CITY MANAGER TAKE SUCH STEPS AS ARE NECESSARY TO SECURE THE BUILDING AND GROUNDS LOCATED AT 1 LIBERTY STREET KNOWN AS THE LIBERTY STREET SCHOOL (SECTION 45, BLOCK 5, LOT 18)

WHEREAS, the New York State Department of Labor ("Department of Labor") has issued a Notice of Violation and Order to Comply ("Violation Notice") to the City of Newburgh ("City"), as a result of certain actions by Bluestone Developers, Inc. ("Bluestone") leading to the release of certain asbestos-containing materials from the City-owned property located at 1 Liberty Street (Section 45, Block 5, Lot 18) also known as the Liberty Street School; and

WHEREAS, this Council wishes that Bluestone immediately stop all work at the Liberty Street School; and

WHEREAS, this Council wishes to take such steps as are necessary, in consultation with and under the direction of the Department of Labor and the United States Environmental Protection Agency ("EPA"), to comply with the Violation Notice;

NOW, THEREFORE, BE IT RESOLVED, that this Council hereby requests that a stop work order be caused by the City Manager and the Building Inspector to be issued to Bluestone to immediately stop all work at the Liberty Street School; and

BE IT FURTHER RESOLVED, that this Council hereby further directs the City Manager to take such steps as are necessary to comply with the Violation Notice, in consultation with and under the direction of the Department of Labor and the EPA, including but not limited to securing the building and grounds of the Liberty Street School; and retaining a consulting engineer, contractor, and testing monitor, all on an emergency basis without the need for competitive bidding therefor.

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

**Ayes-Councilwoman Angelo, Councilwoman Bell, Mayor Valentine-3
ADOPTED**

There being no further business to come before the Council the meeting adjourned at 6:15 pm.

**LISETTE ACOSTA-RAMIREZ
DEPUTY CITY CLERK**