

A regular meeting of the City Council of the City of Newburgh was held on Tuesday, May 28, 2013 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Pastor Dextro Tiller followed by the Pledge of Allegiance.

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

ANNOUNCEMENTS

Mayor Kennedy announced that the Newburgh Illuminated Festival is looking for more volunteers. Anyone can get in touch with her if they are interested in helping.

She also announced that she was called to a meeting by the Governor's Office to attend a Press Conference today where the Governor announced that there is an opportunity for cities across the State that have a SUNY Orange Campus to participate in a Tax Free Zone. The goal is to bring new business into those cities with tax incentives and get them to stay. She said that she will be presenting information on this soon as this is an opportunity for new jobs and new businesses in our community.

COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the May 9, 2013 Work Session and the May 13, 2013 City Council Meeting be approved.

Councilman Brown said that residents asked about the Work Session Minutes at the last meeting and he asked if they came to a conclusion on what they are going to do about posting them on the website so that they can be viewed or looked at.

Mayor Kennedy said that the only Minutes they have is to enter and exit Executive Session. That is all they would have as far as written Minutes. The discussion they need to have is if they are they going to take full Minutes at Work Sessions and how are they going to pay for that? She suggested they put this on a Work Session discussion.

City Manager, Richard Herbek said that it probably should be a Work Session discussion because they can do anything they want but there will have to be a Budget allocation for the personnel that will be required to be there to take the Minutes. He doesn't believe that the City has ever required the attendance of the City Clerk at Work Sessions specifically for the purpose of taking Minutes. If the Council would like to discuss it further, they can put it on the Agenda for a future Work Session and talk about it some more. He added that there is a recording of the meeting also.

Mayor Kennedy said that someone could transcribe that recording and post it.

City Manager, Richard Herbek, noted that it is also more work. If you have a three to four hour Work Session, that is an enormous amount of work. The State does not require or suggest that Minutes be a verbatim transcript. Minutes are meant to record actions that are taken at City Council meetings and those are the only elements of what needs to be in the Minutes. He knows that we have gone above and beyond that here and we do try to give some legislative history but it is not a verbatim transcript.

Mayor Kennedy said that they have to have an item on the Work Session with a price tag. What would the cost be and what would it take to get it done so that they can have an intelligent financial discussion about what they want to do.

Councilman Brown said that he doesn't see any additional cost involved. Can't they just post the recording on the Website?

Mayor Kennedy said that perhaps they could do that.

City Manager, Richard Herbek, asked Glen Kurcon, Information Tech, if that is something we could do and he indicated that it is not that easy. Instead of making this a lengthy discussion tonight, this will be put on the Agenda for the next Work Session.

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

Councilwoman Angelo moved and Councilwoman Lee seconded that the City Clerk's Report and the Registrar of Vital Statistics Report for the month of April be received, filed and made available to the Press.

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

Councilwoman Angelo moved and Councilwoman Lee seconded that the Civil Service Administrator's Report for the month of April be received and filed only.

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

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Janet Gianlopolous, City of Newburgh, said that there has been some confusion regarding Work Session Minutes. It was never brought up that it should be Executive Session Minutes. It is stated that the Council provides proposals at the Work Sessions and then the Council votes to approve those Minutes so that vote means that they are approving something and they are not providing it to the public. Resolution #114-2013 is a request for a paid Intern and she referred to Best Practices. Interns in the Town of Newburgh are not paid but they receive hands on experience. The City of Newburgh should do the same thing regarding visionary services. In regard to Ordinance #6-2013, many people seem to have concerns. The language of the proposal does not seem to reflect a partnership between the City Council and the Citizen Boards. She asked if the Council intends to bypass the Citizen Boards or work in partnership. If a partnership, then it needs to go back for a bit more articulation.

Kippy Boyle, Grand Street, said in regard to Resolution #109-2013 that the Memorandum of Understanding that is presented here was done in 2010 and mapping and tourism information has been updated and streamlined since then. She doesn't understand why it will take this company four months to produce something when the City of Newburgh Planning Department has already assembled a list of small businesses in the City. This company is just going to provide a draft of a template letter to edit which should only take two days and then they will have to go around to all of the businesses. We already have a list so she doesn't know why they just don't contact that department or someone from this City could be paid for a week to solicit businesses. We do need a map but the last one made in 2006 was too big. She is disappointed that the Council doesn't ask people in the community who have expertise in marketing and tourism to give some guidance. On the licensing agreement for the Bluff, she would like to have the scope of their cleanup defined because there is a lot of shrubbery there that is keeping the Bluff from falling. There are erosion issues and there may be some trees that need to be cleaned out. In regard to the special permitting on the Mid-Broadway site, she noticed that there is a lot of special permitting language for the Waterfront and that is something we should all be paying attention to.

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

RESOLUTION NO.: 109 - 2013

OF

MAY 28, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH
TARGET COMMUNICATIONS TO COOPERATE IN THE PRODUCTION
OF STREET MAPS PROMOTING THE CITY OF NEWBURGH AND
ADVERTISED LOCAL BUSINESSES AT NO COST TO THE CITY**

WHEREAS, by Resolution No. 121-2006 of May 22, 2006, the City Council of the City of Newburgh authorized the City Manager to execute a Memo of Understanding" ("MOU") with Map Group Inc. in which the City of Newburgh authorized and cooperated in the production of a 4-color street map with ads placed by local businesses at no cost to the City; and

WHEREAS, Target Communications has proposed that the City of Newburgh enter into a new MOU by which the City will authorize and cooperate in the production of a 4-color street map with ads placed by local businesses; and

WHEREAS, such maps will include photos; information on municipal services; locations of parks, schools, places of worship and other features and attractions in the City; and will be an attractive and useful and effective way of promoting the City of Newburgh among our residents and visitors; and

WHEREAS, Target Communications has offered to create the map and offer a print run of more than ten thousand (10,000) copies to be distributed throughout the City at no charge to the City; and

WHEREAS, a copy of said MOU is attached hereto; and it is deemed to be in the best interest of the City of Newburgh to authorize the execution of same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached MOU with Target Communications to provide for the production of the street map as described therein.

Councilwoman Angelo said that this is a very good program. It's a good way to promote tourism for the City and the businesses will make out too. She feels that this will work out well for us.

Mayor Kennedy said that they do need to discuss the size of the map. It is huge and very hard to fold or post.

City Manager, Richard Herbek, said that they can do that, however, many people like it that size. You can certainly talk to them about it but you probably won't make it a size that is going to meet everyone's needs.

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

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

ADOPTED



541 Buttermilk Pike Suite #100 + Crescent Springs, KY 41017
p 800.933.3909 ext. 1035 + f 800.488.3101 + chambermapproject.com

MEMO OF UNDERSTANDING

With your consent & agreement, Target Communications will begin a

"City Map" For City of Newburgh

This Memo outlines our Program, Map Product, and Plan of Action.

PROGRAM: At no cost to the City of Newburgh
Target Communications Will:

1. Provide the City with a letter stating the City's announcement of the project.
We will provide a suggested draft of the letter's content in a "Word" document.
The City may make changes to the content of the letter, with mutual approval.
The City will print the letter on City letterhead, signed by the Supervisor.
We will print and mail the announcement letter in a City Envelope, or an envelope with a City return address to businesses within the Map's coverage at our expense
2. Contact the businesses receiving the letter offering them an opportunity to purchase an ad. We will seek sponsorship for the map from the businesses by mail & phone for up to the first 120 sponsoring advertisers.
3. Produce 10,000+ complimentary, 4-color street maps of the City & immediate surrounding area.
4. Ship 25-50 complimentary maps to each sponsoring advertiser.
5. Ship to City Hall a minimum of 5,000+ complimentary maps for distribution at City facilities.

MAP PRODUCT: The new Newburgh Map will include:

1. A front cover designed exclusively for the City, including City logo & photos or illustration to be provided by the City.
2. Panel spaces on the map to feature promotional material on municipal services and centennial events.

3. A detailed street map & street index using the highest quality cartographic materials available through accessible information resources.
4. Sponsors will be listed alphabetically by category.

PLAN OF ACTION:

1. Four months shall be allowed for the sponsorship sales campaign and production of the printed maps.
2. We will assume complete financial and production responsibility for development and distribution of the map.
3. We will offer sponsorships as low as \$ 349.00.
4. The staff and sales team of the "Target Communications". will always identify Themselves as representatives of the "City Map ".
The staff and sales team of the "City Map" fully understand they are not employees or contractors of the City Of Newburgh.
5. We will provide a link to our web service called "MapLocator", which enables participating advertisers to list & pinpoint their location on-line, with their home page linked to the maplocator home page.

For The Target Communications Cotton Smith, Vice President January 14, 2010

RESOLUTION NO.: 110 - 2013

OF

MAY 28, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH THE GREATER NEWBURGH
PARTNERSHIP, INC. TO ALLOW CLEANING AND GREENING
ACTIVITIES ON CITY-OWNED PROPERTIES KNOWN AS 50 WILLIAM
STREET (SECTION 38, BLOCK 2, LOT 36)
241 WASHINGTON STREET (SECTION 38, BLOCK 2, LOT 12) AND
CITY-OWNED PARCELS ALONG BAY VIEW TERRACE
(SECTION 49, BLOCK 2, LOT 1 AND SECTION 49, BLOCK 1, LOT 18.12)**

WHEREAS, The Greater Newburgh Partnership, Inc. (“GNP”) is a non-profit organization created for the improvement of the City of Newburgh, the greater Newburgh area and its many stakeholders; and

WHEREAS, the City of Newburgh is the owner of real properties located at 50 William Street, 241 Washington Street, and several lots along Bay View Terrace, and more accurately described on the official tax map of the City of Newburgh as Section 36, Block 2, Lot 36; Section 36, Block 2, Lot 12; Section 49, Block 1, Lot 1 and Section 49, Block 1, Lot 18.12, respectively, City of Newburgh, New York; and

WHEREAS, the GNP has offered to provide services to the City by performing cleaning and greening activities for the beautification of the aforementioned properties and has requested access to the properties to conduct these activities; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to

enter into the attached license agreement with The Greater Newburgh Partnership to allow access to City-owned properties known as 50 William Street, 241 Washington Street and two City-owned parcels along Bay View Terrace for the purpose of performing cleaning and greening activities.

Councilwoman Lee asked who will be used to help clean and green.

Mayor Kennedy said that they usually ask for volunteers and her guess is that the residents on Bay View Terrace will be part of that project.

Councilwoman Lee asked City Engineer, Craig Marti, if he sees any problems with this.

City Engineer, Craig Marti said that he hasn't seen any details on this yet.

Mayor Kennedy said that they generally engage the citizens in the area that they are cleaning up. The residents of Bay View Terrace have asked for this clean up and support. She feels that based on past performance they have done a good job.

City Manager, Richard Herbek said that this is a clean up program. It is not a foliage removal project. He is sure that whoever is involved is not going to clear the slope and create an erosion condition or anything along those lines. The residents of Bay View Terrace have been involved in the discussions and will probably be involved in the clean up.

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

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

ADOPTED

LICENSE AGREEMENT

This Agreement, made this ____ day of _____, two thousand and twelve, by and between the GREATER NEWBURGH PARTNERSHIP, INC., with offices at _____ as "LICENSEE"; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following title:

SCHEDULE "A"

50 William Street, 241 Washington Street and two City-owned parcels along Bay View Terrace, and more accurately described on the official tax map of the City of Newburgh as Section 38, Block 2, Lot 36; Section 38, Block 2, Lot 12; Section 49, Block 1, Lot 1 and Section 49, Block 1, Lot 18.12, respectively, City of Newburgh, New York

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties located at 50 William Street, 241 Washington Street and City-owned lots on Bay View Terrace, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform "greening" improvements on property owned by Licensor. No improvements other than planting beds, walkways and the installation of a fence surrounding the perimeter of the property may be erected on the premises. The erection of a fence must be in conformance with Chapter 166 of the City Code.

Second: Licensee agrees to do such work and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby. If, in the course of performing such work, Licensee, or any employees, agents, contractors and consultants engaged by Licensee to perform the subject work, find, uncover, identify or otherwise locate asbestos or other hazardous material, Licensee, or employees, agents, contractors and consultants of Licensee, shall immediately cease and desist from the performance of the subject work and report said findings to the City Manager.

Third: Licensor acknowledges that the use of the subject properties shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor due to the negligence of Licensee, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fifth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall name Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Sixth: This Agreement and the license or privilege term is from ____, 20__ to ____, 20__ and will be subject to renewal on mutual agreement of both parties for additional one (1) year terms each.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Richard F. Herbek, City Manager

GREATER NEWBURGH
PARTNERSHIP, INC.

LICENSEE

By: _____
Name:
President

SCHEDULE "A"

50 William Street	Section 36, Block 2, Lot 36
241 Washington Street	Section 36, Block 2, Lot 12
Bay View Terrace (2 acres south side of bluff)	Section 49, Block 1, Lot 1
Bay View Terrace (1 acre)	Section 49, Block 1, Lot 18.12

RESOLUTION NO.: 111 - 2013

OF

MAY 28, 2013

A RESOLUTION AUTHORIZING A TWO-YEAR AGREEMENT BETWEEN THE CITY OF NEWBURGH AND BPA HARBRIDGE FOR ACTUARIAL SERVICES IN CONNECTION WITH THE CITY'S COMPLIANCE WITH GASB-45 IN THE AMOUNT OF \$9,400.00 FOR THE YEARS 2014 AND \$2,000.00 FOR THE YEAR 2015, FOR A TOTAL AMOUNT OF \$11,400.00 FOR BOTH YEARS

WHEREAS, the City had previously issued a Request for Proposals in 2007 to retain professional actuary services to comply with the standards and requirements of GASB-45 in connection with the annual audit of the City's financial statements and in particular with respect to the City's obligations to provide post-retirement benefits; and

WHEREAS, BPA Harbridge had been selected as the preferred provider on the basis on their qualifications and experience and the lowest proposed price to perform such services for the years 2008 and 2009 and continued to use such services for the years 2010 and 2011; and

WHEREAS, the City Council deems it to be in the best interests of the City to enter into a new agreement with BPA Harbridge to continue such services for the years 2014 and 2015;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into an agreement with BPA HARBRIDGE for actuarial services in compliance with the requirements of GASB-45, in the amount of \$9,400.00 for 2014 and \$2,000.00 for 2015, for a total amount of \$11,400.00.

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

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

ADOPTED

SERVICE AGREEMENT

Agreement

This Service Agreement ("Agreement") is between City of Newburgh (the "Sponsor") and Harbridge Consulting Group, LLC ("Harbridge").

Purpose

Harbridge is to provide actuarial consulting services related to the following benefit plan of the Sponsor.

- City of Newburgh Postretirement Health Care Benefits Plan

Our work will be performed based on actuarial standards of practice and applicable laws, regulations and/or accounting standards. With regard to our services the following generally apply.

- The Sponsor will provide Harbridge, as requested in a specified format and timely manner, information regarding the Plan(s) (i.e. plan provisions, plan participants, benefit payments, etc.) in order to complete the services outlined herein. The Sponsor will take full responsibility for ensuring that the data provided is reasonable and appropriate. While Harbridge will take all necessary steps in compliance with Actuarial Standards of Practice to ensure the reasonableness of the information provided, we will not perform an audit or independent verification of the information.
- Economic and demographic assumptions and methods must be determined in order to complete the services outlined herein. The Sponsor will determine all assumptions and methods necessary to complete the actuarial valuation, and assume all responsibility for ensuring those assumptions and methods are reasonable and appropriate. Harbridge will provide the Sponsor with guidance and information necessary to assist in the determination of all assumptions and methods required.
- The information contained in our report(s) will be prepared for the internal use of the Sponsor and its auditors in connection with our actuarial valuation(s). It is not intended, nor necessarily suitable, for other purposes. Harbridge has no responsibility to update the report(s) for events and circumstances occurring after the date of the report(s).

SERVICE AGREEMENT

Fees

The specific services and associated professional service fees for each of the benefit plan(s) are outlined in Appendix A of this Agreement. Harbridge reserves the right to amend the fee schedule from time to time. The Sponsor will receive prior notification of such changes.

The fees noted in Appendix A for the services outlined are based on the time required to perform the services. With regard to the expected time and our fee, we assume the following:

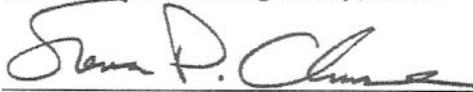
- Receipt of complete and accurate data in format requested by the due date required, in order to staff the engagement appropriately and complete the work in the mutually agreed upon timeframe. Please refer to Appendix B for detail regarding your Harbridge engagement team.
- Other professional service providers, such as plan and company auditors, may require assistance from Harbridge in order to perform their related services. We have assumed 2 hours of support in our fee. Additional time will be billed separately based on the hourly rates outlined in Appendix A.
- There will be no changes in any areas, including current law, regulations, accounting standards or plan provisions that would impact our deliverables. If however there are changes that would impact the scope of our services, we will notify you and get approval for the revised fee before proceeding.

By signing below you are authorizing Harbridge to perform the professional services outlined in Appendix A and you are agreeing to the associated fee outlined in Appendix A. In addition by signing below you are agreeing to the conditions outlined in this agreement, including those outlined in the attached "Terms of Engagement". Finally, unless noted otherwise below, you are authorizing Harbridge to use the "The Sponsor" as a reference (either written or verbal) with respect to the professional services provided.

Acceptance of Agreement

We agree with the terms set forth in this Agreement; including the use of the Sponsor as a reference for Harbridge unless otherwise noted below:

Harbridge Consulting Group, L.L.C.



Vice President
Title

5/9/2013
Date

Signature

City of Newburgh

SIGN
HERE

Authorized Representative Signature

Title

Date

_____ Initial here if you do NOT want Harbridge to use the Sponsor as a reference for this engagement.

APPENDIX A

FEE SCHEDULE

City of Newburgh Postretirement Health Care Benefits Plan

Actuarial Valuation Services for Fiscal Year 2014 Full Valuation \$9,400

Services for the GASB 45 full actuarial valuation of postretirement health care benefits will include the following:

- Analysis of census data
- Analysis of plan provisions and development of per capita claims costs
- Calculation of the Actuarial Accrued Liability as of the beginning of the fiscal year
- Determination of the Annual OPEB Cost for the fiscal year
- Preparation of the actuarial valuation report detailing the results of the valuation
- Determination of the Net OPEB Obligation at fiscal year end
- Development of Required Supplemental Information and Notes to the Financial Statements for the *prior fiscal year* to be included on the financial statements
- Ten-year projections of Actuarial Accrued Liability and Annual OPEB Cost under GASB 45 for fiscal year

Actuarial Valuation Services for Fiscal Year 2015 Interim Valuation.....\$2,000

Services for the GASB 45 interim actuarial valuation of postretirement health care benefits will be based on the results of the prior year's full valuation and will include the following:

- Calculation of the Actuarial Accrued Liability as of the beginning of the fiscal year
- Determination of the Annual OPEB Cost for the fiscal year
- Determination of the Net OPEB Obligation at fiscal year end
- Development of Required Supplemental Information and Notes to the Financial Statements for the *prior fiscal year* to be included on the financial statements

We will automatically invoice the Sponsor according to the following schedule or in a manner mutually agreed upon.

Data request sent to sponsor	25%
Sponsor returns data request	50%
Valuation results sent to sponsor	25%

For services or additional work that is hourly based, our rates range from \$110 to \$460.

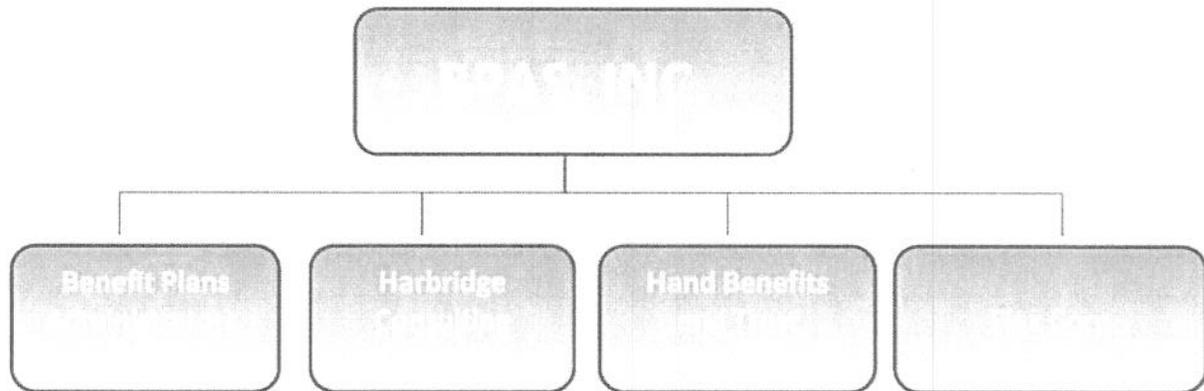
Every attempt will be made to have the work performed at the lowest billing rate possible.

APPENDIX B

Harbridge Consulting Group (Harbridge) is a national actuarial practice that has extensive experience providing pension and healthcare actuarial consulting services, as part of the combined organization Benefit Plan Administrative Services, Inc. (BPAS).

Our combined organization BPAS includes:

- Benefit Plans Administrators (BPA) – DC Plan Administration
- Hand Benefits & Trust (HB&T) – Institutional Trust Company
- Harbridge Consulting Group – National Actuarial Practice
- FlexCorp – Section 125 Practice



Harbridge has over 70 employees, including 7 Fellows and 15 Associates of the Society of Actuaries and 25 Enrolled Actuaries practicing out of Syracuse, NY; Manhattan and East Hanover, NJ offices.

OUR LOCATIONS

BPAS - Utica
6 Rhoads Dr
Suite 7
Utica, NY 13502
1-866-401-5272

BPAS - Syracuse
One Lincoln Center
Twelfth Floor
Syracuse, NY 13202
1-866-401-5272

BPAS - Pittsburgh
300 Mt. Lebanon Blvd
Suite 314
Pittsburgh, PA 15234
1-866-401-5272

BPAS - Philadelphia
3501 Masons Mill Road
Suite 505
Huntingdon Valley, PA 19006
1-800-746-4554

BPAS - Houston
820 Gessner
Suite 1250
Houston, TX 77024
1-800-444-1311

BPAS - Chicago
S. Dearborn St.
140 Suite 300
Chicago, IL 60603
1-866-401-5272

BPAS - Manhattan
355 Lexington Ave.
New York, NY 10017-6603
1-212-284-9000

BPAS - New Jersey
120 Eagle Rock Ave.
East Hanover, NJ 07936-3105
1-973-515-0266

YOUR ENGAGEMENT TEAM - SYRACUSE OFFICE

Name	Title	Telephone Number	Email Address
Brian Kling	Senior Consultant	(315) 703-8921	bkling@bpas.com
Melissa Desiderio	Consultant	(315) 703-8926	mdesiderio@bpas.com
Daniel Megelick	Associate	(315) 703-8917	dmegelick@bpas.com

Terms of Engagement

Entire Agreement

These Terms of Engagement and the Service Agreement letter to which they are attached (collectively, the "Agreement") constitute the entire agreement between the client to whom such engagement letter is addressed and any other legal entities referred to therein ("Client" or "you") and Harbridge Consulting Group LLC, a State of New York limited liability corporation ("Harbridge Consulting Group," "we" or "us"), regarding the services described in the engagement letter.

Responsibilities of the Client

In circumstances where the Client is a business entity, the Client agrees to identify those individuals authorized to request services from Harbridge Consulting Group under the terms of this Agreement. Individuals authorized to request services agree to identify the purpose of the services, and identify for whom the services are to be performed (e.g., the corporation, an employee, a director) at the time the services are requested.

A fundamental term of this Agreement is that the Client will provide us with all information relevant to the services to be performed and to provide us with any reasonable assistance as may be required to properly perform the engagement. The Client agrees to bring to our attention any matters that may reasonably be expected to require further consideration to determine the proper treatment of any relevant item. The Client also agrees to bring to our attention any changes in the information as originally presented as soon as such information becomes available. Client acknowledges that it retains all management responsibilities related to judgments and decisions regarding the Client's financial or business matters.

Unless otherwise indicated, any returns, reports, letters, written opinions, memoranda, etc. delivered to the Client as part of the services ("Deliverables") are solely for the Client and are not intended to nor may they be relied upon by any other party ("Third Party").

Responsibilities of Harbridge Consulting Group

We will perform our services on the basis of the information you have provided and in consideration of the applicable federal, foreign, state or local tax laws, regulations and associated interpretations relative to the appropriate jurisdiction as of the date the services are provided. Laws and regulations are subject to change at any time, and such changes may be retroactive in effect and may be applicable to advice given or other services rendered before their effective dates. We do not assume responsibility for such changes occurring after the date we have completed our services. Client acknowledges that Harbridge does not practice law and Harbridge's services do not constitute legal advice.

Some of the matters on which we may be asked to advise the Client may have implications to other persons or entities. However, we have no responsibility to these persons or entities unless we are specifically engaged to address these issues to such persons or entities, and we agree to do so in writing.

We will discuss with Client any issues of which we are aware that we believe may subject the Client to penalties and discuss with Client possible courses of action to avoid the imposition of any penalty. We are not responsible for any penalties imposed for positions that have been discussed with Client where we recommended a course of action to avoid penalties and the Client elected not to pursue such course.

Harbridge Consulting Group is not responsible for any penalties assessed against the Client as the result of the Client's failure to provide us with all the relevant information relative to the issue under consultation. Furthermore, the Client agrees to reimburse Harbridge Consulting Group for any penalties imposed on Harbridge Consulting Group or its staff, as the result of the Client's failure to provide such information.

Electronic Communications

In performing services under this Agreement, Harbridge Consulting Group and/or Client may wish to communicate electronically either via facsimile, electronic mail or similar methods (collectively, "E-mail"). However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Unless you notify us otherwise, your acceptance of this Agreement constitutes your consent to use E-mail. All risks related to your business and connected with your use of E-mail are borne by you and are not our responsibility.

Both parties will carry out procedures to protect the integrity of data. In particular, it is the recipient's responsibility to carry out a virus check on any attachments before launching or otherwise using any documents, whether received by E-mail or on disk or otherwise.

Engagement Limitations

Except as may be specified in this Agreement, we will not audit or otherwise verify the information supplied to us, from whatever source, in connection with this engagement.

As you are aware, tax returns and filings with taxing and regulatory authorities may be subject to audit. We will be available to assist the Client in the event of an audit of any issue for which we have provided services under this Agreement. However, unless otherwise indicated, our fees for these additional services are not included in our fee for the services covered by this Agreement.

We will not be prevented or restricted by anything in this Agreement from providing services for other clients.

In the course of our engagement, certain communications between Client and Harbridge Consulting Group may be subject to a confidentiality privilege. Client recognizes that we may be required to disclose such communications to federal, state and international regulatory bodies; a court in criminal or other civil litigation; or to other Third Parties, including Client's independent auditors, as part of our professional responsibilities. In the event that we receive a request from a Third Party (including a subpoena, summons or discovery demand in litigation) calling for the production of information, we will promptly notify you. We agree to cooperate with Client in any effort to assert any privilege with respect to such information, provided Client agrees to hold Harbridge Consulting Group harmless from and be responsible for any costs and expenses resulting from such assertion.

Disassociation or Termination of Engagement

Either party may terminate this Agreement upon written notice to the other party. In the event of termination, Client will be responsible for fees earned and expenses incurred through the date termination notice is received.

Limitation of Liability

All services will be rendered by and under the supervision of qualified staff in accordance with the terms and conditions set forth in this Agreement. Harbridge Consulting Group makes no other representation or warranty regarding either the services to be provided or any Deliverables; in particular, and without limitation of the foregoing, any express or implied warranties of fitness for a particular purpose, merchantability, warranties arising by custom or usage in the profession, and warranties arising by operation of law are expressly disclaimed.

In no event, unless it has been finally determined that Harbridge Consulting Group was grossly negligent or acted willfully or fraudulently, shall Harbridge Consulting Group be liable to the Client or any of its officers, directors, employees or shareholders or to any other third party, whether a claim be in tort, contract or otherwise for any amount in excess of the total professional fee paid by you to us under this agreement for the particular service to which such claim relates. In no event shall Harbridge Consulting Group be liable for any special, consequential, indirect, exemplary, punitive, lost profits or similar damages, even if we have been apprised of the possibility thereof.

Resolution of Differences

In the unlikely event that differences concerning this Agreement should arise that are not resolved by mutual agreement, to facilitate judicial resolution and save time and expense of both parties, Harbridge Consulting Group and the Client agree not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

Other Provisions

Neither party shall be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control. All terms and conditions of this Agreement that are intended by their nature to survive termination of this Agreement shall survive termination and remain in full force, including but not limited to the terms and conditions concerning payments, warranties,

limitations of liability, indemnities, and resolution of differences. If any provision of this Agreement, including the Limitation of Liability clause, is determined to be invalid under any applicable law, such provision will be applied to the maximum extent permitted by applicable law, and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to any limitations required under applicable law.

Collection of Fees

In the event that Client fails to remit to Harbridge Consulting Group the fees covered under this Agreement within 90 days of the invoice date for any covered recurring service described herein or, if earlier, within 60 days of the delivery of all covered annual recurring services described herein, the Client authorizes Harbridge Consulting Group to directly invoice the above referenced Plan's Trustee or Custodian for the payment of any outstanding amounts attributable to this Agreement to the extent such fees are eligible to be paid from Plan assets. Furthermore, the above authorization shall also immediately apply if Client is in any bankruptcy proceeding that limits its ability to pay Harbridge Consulting Group the agreed upon fees within the above time limits. Client acknowledges that this Agreement shall serve as its only necessary authorization to the Plan's Trustee or Custodian to pay such outstanding invoiced amounts from Plan assets in accordance with the above and agrees to indemnify and hold harmless the Plan's Trustee or Custodian for its compliance with this authorization when presented by Harbridge Consulting Group to the Plan's Trustee or Custodian with an outstanding invoice covered by the terms described herein. Harbridge Consulting Group shall also be held harmless in the event it exercises these provisions of this Agreement.

This Agreement will be governed by the laws of the State of New York.

RESOLUTION NO.: 112 - 2013

OF

MAY 28, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH CERTIFIED APPRAISAL
SERVICE FOR PROFESSIONAL APPRAISAL SERVICES AT A COST OF
\$4,500.00 TO PREPARE AN APPRAISAL OF CITY-OWNED PROPERTIES
KNOWN AS THE MID-BROADWAY SITE**

WHEREAS, by Resolution No. 194-2012 of October 22, 2012, the City Council of the City of Newburgh, New York authorized the City Manager to execute a Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site; and

WHEREAS, the Development Agreement obligates the City to obtain an appraisal of the highest and best use prepared by a licensed appraiser in conformance with the Uniform Standards of Professional Appraisal Practice in order to determine the acquisition price of the City-owned property; and

WHEREAS, it is necessary and appropriate to retain licensed appraiser to perform this service; and

WHEREAS, after due consideration and evaluation the firm of Certified Appraisal Service has been identified as qualified, able and cost-effective and the preferred firm to provide said services;

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 an agreement with such terms and conditions as Corporation Counsel may require as necessary and appropriate under law, same as being in the best interests of the City of Newburgh with Certified Appraisal Services to prepare an appraisal of the City-owned properties known as the Mid-Broadway site at a cost of Four Thousand Five Hundred (\$4,500.00) Dollars.

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

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

ADOPTED

ORDINANCE NO.: 6 - 2013

OF

MAY 28, 2013

AN ORDINANCE TO AMEND ARTICLE VII, ENTITLED "SPECIAL USE PERMITS" OF CHAPTER 300 OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH ENTITLED "ZONING" BY ADDING SECTION 300-38 ENTITLED "LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL PERMIT"

WHEREAS, by Resolution No. 195-2008 of December 8, 2008, the City Council of the City of Newburgh adopted a Sustainable Master Plan pursuant to Section 28-a of the New York State General City Law; and

WHEREAS, by Resolution No. 172-2011 of September 12, 2011, the City Council of the City of Newburgh adopted a Future Land Use Plan as an amendment to the City's Sustainable Master Plan pursuant to Section 28-a of the New York State General City Law; and

WHEREAS, the Master Plan and the Future Land Use Plan identify lower Broadway as an opportunity area for a higher density mixed-use district to promote redevelopment as a traditional urban neighborhood; and

WHEREAS, the adoption of a Large Scale Mixed-Use Development Special Permit will support and facilitate the recommendations of the Master Plan and the Future Land Use Plan to provide opportunities for mixed-use development of an increased scale and density along the lower Broadway corridor; and

WHEREAS, the adoption of the Large Scale Mixed-use Development Special Permit recognizes the City's immediate need for continued and on-going redevelopment; is consistent with the Master Plan and the Future Land Use Plan; and will not interfere or conflict with the City's on-going plans to revise the City's entire Zoning Code; and

WHEREAS, **vesting the City Council will the authority to issue a large scale mixed-use development special permit recognizes the importance and significance of the lower Broadway area to the City's redevelopment and is consistent with methods by which other cities in the Hudson Valley region issue land use approvals; and**

WHEREAS, projects eligible for a large scale mixed-use development special permit will be required to obtain site plan approval from the City Planning Board and the City Council will have the benefit of technical support

and advice of the City professional staff in reviewing applications for large scale mixed-use development special permits; and

WHEREAS, this Council finds that the adoption of the Large Scale Mixed-Use Special Permit is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 300 of the Code of Ordinances shall be amended as follows:

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.

§ 300-36. Procedures.

§ 300-37. Standards for individual special uses.

§ 300-38. Large-Scale Mixed-Use Development Special Use Permit

§ 300-39. (Reserved)

§ 300-35. Special uses.

- A. Power.** The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.
- B. Conditions to be fulfilled.** In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:
- (1)** The use requested is listed among the special uses in the zone for which application is made.
 - (2)** The special use is essential or desirable to the public convenience or welfare.
 - (3)** The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.
 - (4)** The special use will be in conformity with the Master Plan.
 - (5)** Consistency with policies.

(a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.

[1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).

[2] To retain and promote commercial and recreational water-dependent uses (Policy 2).

[3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).

[4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

[5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).

[6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).

[7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).

[8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

- (1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.
- (2) The conservation of property values and the encouragement of the most appropriate uses of land.
- (3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.
- (4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.
- (5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.

- (6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.
- (7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.
- (8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.
- (9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.
- (10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.
- (11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.
- (12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

- (1) Such conditions may include a time limitation.
- (2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.

- (3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.
 - (4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.
- E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.
- F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.
- G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.
- H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

§ 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

- A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

- B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful. The fees filed in connection with applications under § 300-35 shall not be returnable regardless of the disposition of the case by the Planning Board.
- C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.
- D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.
- E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.
- F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as

required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.

- H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.
- I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.
- J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.
- L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.
- M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:

- (1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.
- (2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.
- (3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.
- (4) No repair or storage of vehicles shall be on the public street.
- (5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.
- (6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.
- (7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.
- (8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.

- (9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.
 - (10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article VIII of this chapter.
 - (11) The use shall be screened from all abutting residences or residential districts in accordance with § 300-12 of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § 300-12. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.
 - (12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § 300-35 of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection A(1) through (11) of this section.
 - (13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.
- B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.
- (1) The minimum lot size shall be 7,500 square feet.
 - (2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.
 - (3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.
 - (4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

- (5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.
- (6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.
- (7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.
- (8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.
- (9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

- (1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.
- (2) A floor plan of the day-care center shall be submitted.
- (3) In addition to the parking space requirements contained in Article VIII, Table 1, *Editor's Note: See § 300-45.* additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.
- (4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in

consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

- (5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.
- (6) Said facility shall provide a minimum of two exits.
- (7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.
- (8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.
- (9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

D. Bed-and-breakfasts shall be subject to the following:

- (1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.
- (2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:
 - (a) A sketch showing the floor plan of the home and the location of proposed guest rooms.
 - (b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.
 - (c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.
 - (d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.

- (e) Proof of insurance to operate a bed-and-breakfast.
- (3) Requirements and conditions of operation.
- (a) The bed-and-breakfast shall be the primary residence of the owner.
 - (b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.
 - (c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.
 - (d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.
 - (e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.
 - (f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.
 - (g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.
 - (h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.
 - (i) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.
 - (j) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions

or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.

- (k) There shall be no more than two employees in addition to the owner.
 - (l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.
 - (4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.
 - (5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.
 - (6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.
 - (7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.
- E. Community parking area. Community parking areas shall be subject to the following:
- (1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible

for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.

- (2) Adequate drainage shall be provided.
- (3) The owner shall be responsible for keeping said parking area clean and debris-free.
- (4) The community parking area shall be screened from abutting residential uses in accordance with § 300-12.
- (5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.
- (6) No more than one curb cut shall be permitted per each street frontage.

F. Planned residential development shall be subject to the following:

- (1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.
- (2) The site plan shall be accompanied by building elevations and a landscape plan.
- (3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.
- (4) No building shall exceed 120 feet in length.
- (5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.
- (6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.
- (7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.
- (8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area

shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.
- (10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.
- (11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.
- (12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.
- (13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

- (1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.
- (2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.
- (3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.
- (4) A landscape plan shall be submitted with the site plan.
- (5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.
- (6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

- (1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.
- (2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.
- (3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.
- (4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.
- (5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.
- (6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.
- (7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

I. Colleges or universities shall be subject to the following:

- (1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.

- (2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.
- (3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.
- (4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.
- (5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.
- (6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

J. Used car lots shall be subject to the following:

- (1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § 300-12 of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building **Inspector**.

| **§ 300-38. Large-Scale Mixed-Use Development Special Use Permit**

A. Power. The City Council –shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council’s opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

- (1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.
- (2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.
- (3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.
- (4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.
- (5) Off-street parking.
 - (a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44. provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;
 - (b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
 - (c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.

- (6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:
 - (a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
 - (b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.
- (7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials.
- (8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.
- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.
- (10) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.

(12) On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

This ordinance shall take effect immediately.

Mayor Kennedy said that she has been talking to land use lawyers and trying to understand what Spot Zoning is about. The City has picked one little small section of the City of which we own nine tenths of that property to pass a special use permit on. This could very easily be called Spot Zoning, which is illegal. They have also set up a situation in this Ordinance that says they are going to pass on the uses of that permit so we are taking the right to do that away from the Planning Board, where it belongs, and giving it to ourselves. This seems like a very political answer to something that doesn't smell right or look right to her. She has some real issues with the way that this is set up. She does not like the idea of Spot Zoning and the City Council taking on the idea of passing those permits when she has no training in Planning. She is not qualified to pass something that the Planning Board is supposed to meet on. They go to school and take the classes. This is where she is with this.

Councilman Brown asked Corporation Counsel, Michelle Kelson, if this is Spot Zoning.

Michelle Kelson, Corporation Counsel, responded that this is not Spot Zoning.

Mayor Kennedy said that she is glad to hear that because she has been very concerned about it.

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee - 4

Nays - Mayor Kennedy - 1

ADOPTED

020.0.13

Zoning
300 Attachment 8
City of Newburgh
Schedule of Use and Bulk Regulations
TC-1 Tourist Commercial District¹

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
Use									
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10*	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only ^{***}	P	2,500	25	100	15	0/5**	20	3	45
Professional and business office	P	2,500	25	100	15	0/5**	20	3	45
Government office	P	2,500	25	100	15	0/5**	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5**	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5**	20	3	45
Museum	P	2,500	25	100	15	0/5**	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5**	20	3	45
Craft shop	SP	2,500	25	100	15	0/5**	20	3	45
Restaurant, bar	SP	2,500	25	100	15	0/5**	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5**	20	3	45
Laundromat	SP	2,500	25	100	15	0/5**	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development ^{****}	SP	20,000	100	100	15 ^{*****}	0/5 ^{*****}	20	6/4 ^{*****}	65/45 ^{*****}
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								
P = Permitted	SP = Special Permit Use	A = Accessory Use							

NOTES:

¹In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street

* Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.

** Minimum area is per unit.

^{***} One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

^{****} Only applicable to lots with frontage on Broadway pursuant to Section 300.38.

^{*****} Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.

^{*****} Six stories (65 feet) are permitted within 200 feet of Broadway; four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300.38.

RESOLUTION NO.: 113 - 2013

OF

MAY 28, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH MALCOLM PIRNIE-ARCADIS TO ADD PROFESSIONAL FINANCIAL SERVICES TO DEVELOP WATER AND SEWER FINANCIAL MODELS FOR BUDGETING, CAPITAL PLANNING AND RATE SETTING IN CONNECTION WITH DEVELOPING AND IMPLEMENTING THE LONG TERM CONTROL PLAN FOR THE WASTEWATER TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED FORTY-FIVE THOUSAND (\$45,000.00) DOLLARS

WHEREAS, by Resolution No. 219-2011 of October 24, 2011, the City Council authorized the City Manager to enter into an, Order on Consent to settle an enforcement action by the New York State Department of Environmental Conservation (DEC) for failure to develop a Phase I Long Term Control Plan ("LTCP") for the City's Wastewater Treatment Plant ("WWTP") in connection with the SPDES permit NY No. 0026310 for the operation; and

WHEREAS, by Resolution No. 173-2011 of September 12, 2011, the City Council authorized the City Manager to execute a contract with Arcadis/Malcolm Pirnie, Inc. to prepare and develop an LTCP for the City's WWTP; and

WHEREAS, Arcadis/Malcolm Pirnie, Inc. has prepared LTCP with Combined Sewer Overflow ("CSO") control alternatives in the form of five project proposals along with a cost/benefit analysis, recommendation and preliminary affordability analysis; and

WHEREAS, the City of Newburgh requires additional financial analysis and projections to evaluate the feasibility of CSO control project alternatives; and

WHEREAS, Arcadis/Malcom Pirnie, Inc. through its subsidiary Red Oak Consulting can provide financial services in the form of developing baseline and on-going financial model assistance under which the City will be able to monitor and project cash flows, revenues, revenue requirements, utility rate review and rate structure revision for the purposes of annual budgeting, capital planning and rate setting purposes; and

WHEREAS, funding for such project shall be derived from HG1.8120.0400.8021.2010; and

WHEREAS, this Council determines entering into the amended contract with Arcadis/ Malcolm Pirnie-for professional financial services in connection with the development and implementation of the LTCP and CSO control project 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 amendment to its existing contract with Arcadis/Malcolm Pirnie for professional financial services to develop an interactive, multi-year financial and rate planning model for water and sewer budgeting, capital planning and rate setting, under the terms of the proposal dated May 2, 2013 with other provisions as Corporation Counsel may require, in an amount not to exceed Forty-five Thousand (\$45,000.00) Dollars.

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

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

Nays - Councilman Brown - 1

ADOPTED

RESOLUTION NO.: 114 - 2013

OF

MAY 28, 2013

**RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$5,000.00 FROM CONTINGENCY TO MAYOR FOR PAID
INTERN FROM JUNE 1, 2013 THROUGH DECEMBER 31, 2013**

WHEREAS, the Mayor receives large quantities of mail which needs to be processed; and

WHEREAS, the Mayor's office is involved in multiple community outreach projects such as the Newburgh Film Office, the Youth Empowerment Center and multiple other efforts to improve the perception of the city; and

WHEREAS, the Mayor has requested an intern to assist in the large quantity of work to be done and desires to pay the intern a stipend for work accomplished;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900 Special Items	\$5,000.00	
.1990 Contingency - Emergency		
A.1210 Mayor		
.0448 Other Services		\$ 5,000.00

Councilman Brown asked if the actual cost will be \$5,000.00 or \$2,500.00 since we are half way through the year.

Mayor Kennedy said that this is for up to fifteen hours per week for the next thirty-four weeks at \$10.00 per hour.

City Manager, Richard Herbek, said that he thinks the answer is that this was figured out for the period of June 1st until the end of the year for \$5,000.00.

Mayor Kennedy said that it actually came out to \$5,100.00 but we figured that there would be some holidays in there.

Councilwoman Lee said that she thinks this should be tabled. What is this Intern going to do?

Mayor Kennedy said that the Intern has been working on data bases. We have had two Interns here; one who has been working with Community Development helping to develop the data base for all the properties. This Intern has also helped with that and she has created a data base for all of the contacts who they are constantly reaching out to for all kinds of things. She is currently sharing this Intern with Courtney Kain in Community Development.

Councilwoman Lee said that she thought this was for an Intern that the Mayor wanted to have. She didn't know it was an Intern that she currently has and now wants to pay.

Mayor Kennedy said that she has already worked a whole semester for free. One graduated and another one is coming on board so she figures if they put in one free semester they are trying to help them to stay in school and keep going. The rate of \$10.00 per hour seems like a pretty good bargain because now they are trained and can add value.

Councilwoman Lee said that it could also be a job. She is not really comfortable with having a paid Intern at this point. She thinks this should be tabled.

Councilman Dillard said that they should look at it again with the Comptroller. He said that he has no problems with the Intern but he wants to make certain that we are using the funds properly.

Councilman Brown said that he doesn't get it. This is the same Council who approved the salaries from last week and now they want to bicker about and Intern for \$5,000.00? That's a little hard to understand.

Councilwoman Lee said that the Mayor and Councilman Brown tickle her. They don't want to pay anyone but the Mayor wants an Intern.

Councilman Brown asked the Acting Comptroller, Katie Nivins if we have the funds for this.

Acting City Comptroller, Katie Nivins responded that we do have the funds.

Councilman Dillard asked if this person will receive a 1099 at the end of the year.

Acting City Comptroller, Katie Nivins answered that is correct.

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

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

Nays - Councilwoman Lee - 1

ADOPTED

OLD BUSINESS

Resolution numbers 106-2013 and 107-2013 will remain Tabled and are therefore done. They will have to be brought up again as new resolutions in the future.

City Manager, Richard Herbek said that he will be discussing with the City Council at the June Work Session some Excel spreadsheets for the Non-Bargaining Unit employees. Non-Bargaining is the only group of employees who were impacted by a 5% pay cut in 2009 and the step increases have been frozen since that time.

Mayor Kennedy said that is a good idea because they need to understand the whole picture.

City Manager, Richard Herbek said that in order to do that he needs to spend some time with the Council so that he can walk them through the various Excel spreadsheets. They will plan to do that at the June Work Session.

Councilman Dillard said that at the last Work Session they discussed NCAC. He was provided with information in terms of if the City helped NCAC it would be considered a loan or a gift under the New York Constitutional Municipal Law. He said that he disagrees with that because there are other ways that the City can help that agency. They have been in the City for over thirty years and if they let this Agency die he feels that they will be letting down the low-income people in the City of Newburgh. He suggested that they go back and think of ways on how they can help them instead of how they cannot help this Agency. He told the City Manager that he would like to meet with him on this.

City Manager, Richard Herbek said that they can certainly meet and talk about it. He has a lot of notes and information that he has gathered and there is a letter from the Secretary of State's Office that he will copy for the Council.

Councilwoman Lee said for the record that they have established that she is not a Board member.

City Manager, Richard Herbek said that he believes Councilwoman Lee publicly stated more than a year ago that she was no longer on the Board.

Mayor Kennedy asked Councilwoman Lee if she attends their Board meetings on a regular basis.

Councilwoman Lee said if she did it would not make her a Board member.

Mayor Kennedy said she was just asking if she did.

Councilwoman Lee asked why?

Mayor Kennedy said that she would probably know a lot about what is going on there that way.

Councilwoman Lee said that she does know a lot about what is going on and she is inclined to agree with Councilman Dillard. She thinks that there are ways for us to assist them and she thinks we should.

Mayor Kennedy told Councilman Dillard that no matter what happens with this they do need to save the programs. She believes that he was associated with an organization called RECAP that would be capable of handling that.

Councilwoman Lee said that NCAC will not be transferring to RECAP. She told the Mayor that will not happen.

Mayor Kennedy said that she wants to make sure she saves the programs no matter what happens.

Councilwoman Lee told here that she will not save them by transferring to RECAP.

Councilman Dillard said that the City cannot transfer anything to anyone. It is up to the Secretary of State to do that. He added that we hired a company to do an evaluation of our Police Department and he asked were they are with that.

City Manager, Richard Herbek, said that he tried to get it on for the June meeting but they are not quite ready with the report yet. It will definitely be on for the July Work Session meeting which will be on July 11th.

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

PUBLIC COMMENTS REGARDING GENERAL MATTERS

Timothy Hayes-el, City of Newburgh, said that the City Council members are the Trustees and the residents are the Beneficiaries. A few years ago we had a 74% tax increase and people lost their homes and businesses. After that the Council came up with the Land Bank which is a Real Estate Company so people are being taxed out of their homes and then they are being sold to businesses and corporations. They said that they are going to take care of the taxpayers by not giving any increases but a few people received them so they are not really protecting the taxpayers. He said that this Council seems to be more interested in making money and grinding people into the dirt.

Brenda McPhail, City of Newburgh, said she was glad to see most of the Council members at the Parade yesterday because it shows that they care. They need to get out into the community more often so people can see their faces and know who they are. She said in regard to resolution #107-2013 that they argued about giving people raises and now they are giving an Intern \$5,000.00. The Mayor is a part-time employee so she does not need an Intern. If she needs someone to help her it should be somebody who is interested in running for Mayor. What can she teach this Intern? We have to stop wasting money. That is why this City is in the condition that it's in because money is used foolishly. She said in the past that to be on the City Council you have to be business minded because they make decisions for a City. We need people who are looking out for the best interests of the City. She is looking for some people who are really sincere and want to see a change in Newburgh. She said that it has nothing to do with color because she sees corruption in every color here in Newburgh. We will never get to where it needs to be because of all this greed that is taking place. Everyone is worried about themselves instead of the community. That is why the young people here have become oppressed because they have no hope and they see that nobody cares. People need to be educated not only to get out and Vote but to see if people are really sincere.

Omari Shakur, City of Newburgh, said that about two weeks ago he was at the corner of Broadway and Johnston Street and there was a fight where an elderly black gentleman was knocked down and he was bleeding. He called the Police Station and it took them about eight minutes to respond which he thought was good, however, about a week ago at the corner of Broadway and Lander a white woman cut herself. The Police were called and they responded so quickly he thought that the President was in Town. He told the community that if there are any problems just tell the Police that there is a white woman bleeding and they will be right there. He added that people are always asking him what is going on in our Community. If you have a dysfunctional family where the parents and the kids are dysfunctional, then you have a

dysfunctional City. Everyone has been watching the video tapes and he believes that last week Councilman Dillard stated that he could not be bought so that is inferring that someone else on the Council has been bought. They throw stuff out there and he picks it up because he understands what is going on. Back in October there was an incident with our City Manager involving prostitutes and everyone came down and defended him because they thought that there was no evidence. No charges were brought against him because our Police Department didn't do their job but recently three people approached him with information saying that this incident did happen. There were video tapes and pictures of this incident so these people are willing to go to the FBI. He said that he has contact Mr. Maloney's office and the newspaper to talk with these people and found out that there was extortion and blackmail involved.

Kippy Boyle, Grand Street, asked if the walkway traffic light at the corner of Colden and Marine Drive will be installed this summer. Have the interviews for the Comptroller been completed and when will they issue a decision on that? Saturday is June 1st so we are now six months into the year and we will be on a vacation schedule of one meeting a month but when they get back it will be Budget time. Have they started the interviewing process for City Manager and have they decided what they are going to pay a City Manager? Lastly she would like some information regarding the Dyson Group who gave a grant to hire a Consultant to do the rezoning because she understands that the public is not welcome to those meetings. It was suggested by someone in that group that the meetings be moved from City Hall to another location. She would like to know the full makeup of this zoning committee because she is not sure who they are or what their expertise is. It is grant money and a partnership in the City which is a good thing but the bottom line is anything that has to do with zoning has to do with the residents who live here. These are their tax dollars so they would like to not feel excluded from watching the process.

Pebbles, City of Newburgh, said that her mother worked for NCAC when she was a little girl and she remembers helping out. That experience gave her and her sister the opportunity to interact and be a real part of the community. She asked the Council to please try to do something to try to help NCAC because she believes it was and still could be a good organization with the right people and programs. She remembers Councilman Brown bringing up last year about no money being given to employees because the City didn't have any money but now they are talking about an Intern for the Mayor. If the Mayor had an agreement with her that she should get paid, then she should be but she should be paid by the Mayor. The City did not hire her and there is no money to be given. What made this Intern so outstanding that she that she

needed to get \$5,000.00 even though the Council has been pushing that no one gets any money because the City doesn't have it?

Janet Gianopolous, City of Newburgh, said that in regard to positions being open the Town of Newburgh put an article in the paper that there are slots for Interns who wish to learn about City Government. They need to be very careful of the citizen's money. Someone mentioned earlier about not being able to attend various meetings that have to do with the good of our City but she is a citizen and Budget time is coming up so they need the Council to advocate for them.

Roxie Royal, City of Newburgh, spoke in support of the City, if possible, keeping NCAC going. She remembers NCAC employing the youth of this City and her children worked there which provided them with the basics on how to work with the public. Back in the late 60's and 70's a group of men got together and created NCAC which was a viable and good organization in the City that worked for the inner city children and adults. This needs to be revived and she would love to see NCAC kept alive in this City. In regard to the Interns, she has been talking to our Congressman and Assemblyman about taking them on which they have agreed to do but they have not agreed to pay them. \$10.00 an hour to some people might not seem like much but we have people with families that have jobs here in the City of Newburgh who are working for minimum wage which is not \$10.00 an hour. We need to think about what we can do for the needs of this City. She is sure that that money will help that Intern with her College expenses but there are a lot of young people here in the City of Newburgh who are trying to go to school and get their education to better themselves. They are doing so on their own by working full-time and part-time to help pay for their education. We need to think of a way that we can help everyone.

Mark Coolidge, City of Newburgh, asked the Police Chief what they are doing about the PCP epidemic in the City of Newburgh. Our youth are killing each other and every day is a dying day for these young men. He knows that the Police are doing drug raids but he never sees anything in the paper about people being arrested. He wants the PCP off the streets of this City. This is an epidemic that he wants to be addressed. There are also Panhandlers at the stores where people are being beaten up if you don't give them money. We need to address this PCP problem and get more involved because he is tired of people dying in this City. The Gun Buy Back was good but we are not getting the right guns or enough of them off the streets. Perhaps we should do it again and address it differently. We have to try to help these kids.

A City resident said that there is an epidemic across this Country with gun violence and chaos and we need to do something about it. There are things that our youth face every day that they don't tell anybody about. The members of this community should be reaching out to them to find out how they feel about what is going on. NCAC is a good program and there is evidence that we still need them here in the City of Newburgh. Anybody can fall on hard times. It can happen to the best of us. We have to brainstorm together because our children are our future and if we lose them then we have none.

Police Chief, Michael Ferrara said that it is imperative that we pay attention to our youth here in the City of Newburgh. Our thirteen to fifteen year olds are in the shadows of what goes on here in the City of Newburgh. They come into the light between the ages of fifteen and eighteen and then unfortunately from eighteen to twenty-five they have to live their lives according to what happened to them during their childhood and the trouble that they get into. We really have to do more for the little ones before they get involved with gangs, narcotics and violent crimes. All of the drugs; Marijuana, Crack Cocaine, Heroin, Hallucinogens and PCP are a problem. They categorize those complaints as they come in and they work on them by priority. Many times they stack up and they are working in twenty different locations at the same time. They will get to all of them but it is a huge issue with a number of people working on it. We could do more but we need more resources for that. He said that they need more resources in the Police Department and they have to consider our thirteen to fifteen year olds as a major consideration.

Pastor Austin, City of Newburgh, said that there is a cry on our streets and we have not heard it. They come to the Council and hear the cry in the hall so they need to do something about our youth. What they are currently doing is not working. Last week an alternative program, a private public partnership, was put before the Council and suddenly it disappeared off of the Agenda which she doesn't understand. There is a need for youth services. They have partnered with the Police and she walks the streets at night so she knows and talks to them. She knows what their needs are and unfortunately their cry is not being heard. She compelled the Council to reconsider the Youth Empowerment Center. Reconsider the space that could be used in a very powerful way and would be a safe place for our youth to come and be supported and cared about. They don't want to see another situation or another crisis. One ounce of prevention is worth a pound of cure.

Latoya Parker, City of Newburgh, said that she is grateful for programs like the Latch Key Afterschool Program and Glenn Hines Center that she grew up with. If nothing else it taught her to mind her manners and respect her

elders which this generation is seriously lacking. Our young people are ill educated and their manners corrupted from infancy and then we turn around and punish them for the crimes of which their first education disposed to them. Why not help them from the start and teach them to be productive members of society and the life skills that they need to move forward. She is a single parent and she is struggling against the streets to raise her children and she needs help as do others. She thinks that this City is in dire need of the Youth Empowerment Center and she supports it whole heartedly.

Craig Marti, City Engineer, said in response to an earlier comment concerning the stop light schedule that the design and construction documents will be completed by the end of July. They will then submit for the appropriate DOT permits and solicit public bids and a Contractor to do that. He has requested that if it can't be done by this fall that they have a completion date prior to Memorial Day next year.

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

COUNCIL COMMENTS

Councilwoman Angelo thanked everyone for coming tonight and all of the participants in the 2013 Memorial Day Parade.

Councilman Brown wished to address the question raised regarding the Mayor's Assistant or Intern. He wants everyone to understand that the Mayor does about ten times more work than any other Council member at the table. He is almost certain that she would need some kind of assistance whether it is paid or not. Maybe the word *Intern* is being misused. Perhaps it should be *Work Study* or *Assistant* but he is sure that she needs some kind of help as she has been working tirelessly to try to get this City on track. He said that he has no problem approving that \$5,000.00 just like he fought at the last meeting to get some raises reduced. He hasn't heard anyone step up to the microphone questioning the twenty something thousand dollars that they gave to two employees with no support for him with things that this Council should have supported. They are too busy supporting political manipulation when the City Manager says that we have to have something or it might be a lawsuit. What about the taxpayers of this City? The taxpayers should start filing lawsuits because money is being spent that shouldn't be. He feels that the Mayor should have an Assistant or Intern with the amount of work that she does. He said that he knows for a fact that she does more work than the City Manager so he has no problem with \$5,000.00. He added that Mark Coolidge is absolutely right. PCP is killing the youth of this City. It is turning them into zombies. He knows a few young men who are not the same people they used to be. He never hears about any arrests regarding PCP sales at all. This is a drug that needs to be targeted because it is killing the youth and residents of this City. It is a horrible, horrible drug and they need to start addressing that. In response to what Omari Shakur was speaking about, he said that he has been approached by a young man concerning sex, lies, video tapes and drugs involving Mr. Herbek. He said that he doesn't want to put any validity to it because he needs some more facts but what this young man talks about is unbelievable. It is to the point of possible police corruption here in the City and some serious allegations. If founded to be true, he is not sure where the City goes from there. He told everyone that we all need to stand together and support each other. This Council doesn't support each other which is seen at every Council Meeting because they are too busy worrying about what someone or how the employees are going to think. It doesn't matter to him. He said before that his vote never could be and never will be bought. He supports the taxpayers and the residents of this City which is his job. If anyone who works in City Hall doesn't like him, he can't apologize to that because his job is to make sure that the taxpayers and residents of this City get what they deserve. He thanked everyone for coming and wished them a good night.

Councilman Dillard thanked everyone for coming tonight and said that he will see them at the next Work Session.

Councilwoman Lee said that she has been an Intern and she knows what it's like to have Interns. She also knows that given the high rate of unemployment if there is someone you need to do some outreach or to help you, there are enough unemployed people here in the City to do that. She sees this as another way of circumventing the issues. There are people here who are unemployed and \$10.00 in some households is a lot of money. She doesn't think we should give it to a student to work with the Mayor. We could use that funding to hire people in the City and if we need Interns we have people here who are in school who could work as an Intern. She added that last week they listened to a presentation but she wasn't sure why they were listening to it. They are a very nice group of people, who she knows, and Mayor Kennedy was promoting them. Because there is an RFP she didn't think that anyone would be so bold as to have a group present in front of them and in a way try to bypass that RFP process and bypass yet again, because they went through this last year, the Advisory Board. She didn't connect the dots until Pastor Austin questioned why it wasn't on the Agenda. She said that she is really glad it wasn't because that to her would have said again that Mayor Kennedy is bypassing that they use the CDBG Advisory Board to bring a group in so that she could get the Council to vote to give them money for a program that they haven't even written about. They have only explained what they are going to do, could do or how they might help. To use the Lembhard family, the Coolidge family, Omari and all of the other people here who come out to advocate for the poor and bash the Council so that they can spend time focusing on bringing this group in here and giving them money to work with our children she thinks is the most egregious insult to her and everyone sitting here and the people who come here looking for some kind of relief. She called Courtney and asked her why they were presenting and to cover the Mayor she danced around her question. She said that they have to follow the process. We have a system in place where everybody who is looking to obtain funds can apply. She told Mr. Slaughter that she hopes he will take a long hard look at that because just because the Mayor says it's a great idea doesn't mean that that group gets to jump in front of everyone else. There are a lot of people here including Omari Shakur who have come up with ideas and obtained funds to work with community residents and they have done a good job so there is no need to divert money anywhere. Mayor Kennedy sits on the Advisory Board so the last thing she should be doing is bringing a group in front of the Council to talk about giving them \$10,000.00 to do anything. Lastly she said that the bashing is getting out of control. Talking about a person's manhood is really out of control. It is one thing when the Council does it but a whole other thing when you bring your friends in here to start bashing us. This has to stop. She told Mayor Kennedy that no one should be

allowed to stand at the microphone for five minutes and bash Mr. Herbek and Councilman Dillard without her calling Chief Ferrara to get them out of here so that they can contain themselves. This has to stop. She told Mayor Kennedy that she did it because it's time for them to start talking about a City Manager and rather than have an adult conversation they are sitting here insulting this man's family again about what secrets he has. We all have secrets. Some of the things that people say about members of this Council are just as disgusting and despicable as they have said about Mr. Herbek. She said if they want to talk about getting a City Manager then just grow up and let's talk about it. They shouldn't just bash him. She told the Mayor that the next time someone gets up to bash him she will be pointing directly at her. She needs to make it stop and stop letting it get out of control. She wished everyone a good night.

Mayor Kennedy said that someone commented that she has a part-time job and the truth is that she is paid \$9,000.00 to basically come and sit at Council and Work Session meetings. She made a decision when she was elected that that was not what this job was going to be about for her. She decided that she would donate the next four years of her life to turn this City around. Right now she puts about six to eight hours a day, including Saturdays and Sundays, going to events and meetings with people all over this City. She works a full-time job for this City for free. \$9,000.00 a year doesn't cover anything except her gas money. She received a call from the Governor's Office to attend a Press Conference today. She drove in her own car and used her own gas. She spent her own time to find out about an economic development plan that the Governor has for cities like ours. She has told the City Manager that it is his job to manage the employees on the inside and she will do community outreach by working with businesses and people in the community to try to bring some kind of solidarity and get people to work together. That has been her focus for nearly one and a half years. She is overwhelmed with communications as she receives between fifty to one hundred e-mails per day that need to be answered and taken care of. People come to her with every kind of problem you could possibly imagine. The current description of the Mayor's job doesn't meet the need of what this City needs and it needs to be updated. There is a reason why this community is in trouble and it's because a job has not been done here for a long time. She is trying to do a job that hasn't been described and that's why she needs an Intern to help get a great deal of that work done. This Intern is an adult student with a family who has already donated a great deal of her time to this community. She has a 4.0 in Criminology and has been working for free already. Everyone is hollering about a youth program and she has been working on trying to create that. When people complain about \$5,000.00 and then stand up and say that they want all of these things done they have to know that she has to have some sleep which is why she has asked for some

help. She needs help if everyone wants her to keep doing what she's doing in this community. They brought the youth program to the community last week so that people would know that someone is doing something here. There is a group of people who have been working for almost three months now and they are going to go through the standard CDBG process. The only reason they came early was to present an idea and to let everyone know what that idea was. It is being talked about on the street and people start making up stories so they wanted everyone to know from the horses' mouth what is going on right from the get go. They will go through the proper channels just like everyone else. It was just to give people a heads up on what they are trying to do to help get the youth off the streets. They talked about children from eight years of age to twenty-four which is where the big issues lie. They are trying to create a safe place for them and an opportunity for them to be mentored. They are trying to create an opportunity for them to have some skills and social support. We just heard people talk about the fact that we have kids who are strung out on drugs so they need some kind of social support. She said that she has another initiative going on to do something with the three to eight year olds with is helping them to read so that they will be able to stay in school and be successful. She is doing everything she knows how to do so to have someone sit at this table and rail against that really upsets her. She is giving her heart to this community and she is doing everything she can. They have to get behind this youth program and stop playing politics. They can't let this community fail. Lastly the zoning process has a large group of community citizens involved. They are following the land use plan that was already approved and there will be community involvement. They are just doing some preliminary work at these meetings. There will be community hearings and it is a wide open process. No one is doing anything in secret or trying to hide anything. It is simply a planning process right now and trying to get some stuff together so that they can bring it to the community to let them all know what is going on. She encouraged everyone to get behind the Newburgh Illuminated Festival. Over thirty events are being planned and the goal is to bring business to this community. To bring outsiders in to see what is great about Newburgh. Newburgh has so many great assets and our goal is to bring new business here and create jobs. That is what will turn this City around. They have to see a city Government that is functioning and a community willing to get behind the business to create jobs for our citizens and an opportunity for our children when they graduate from College to stay here. There is nothing here for them to stay for. To do this everyone has to pull together and work as a team and stop the fighting. People have to feel good about living in this City. She thanked everyone for being here tonight and wished them a good night.

There being no further business to come before the Council, the meeting adjourned at 8:45 p.m.

**LORENE VITEK
CITY CLERK**