

ANDREW J. ZARUTSKIE, Town Clerk
1496 Route 300, Newburgh NY 12550
845-564-4554

AGENDA
PUBLIC TOWN COUNCIL MEETING
Monday, March 5, 2012
7:00 p.m.

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. MOMENT OF SILENCE
4. CHANGES TO AGENDA
5. COMMENTS ON AGENDA ITEMS
6. (7:00 p.m.) SECOND PUBLIC HEARING FOR COMPREHENSIVE PLAN and REOPENING OF PUBLIC HEARING: ZONING MAP LOCAL LAW AMENDMENTS
 - A. 84 Realty LLC: Parcel at Patton Road and South Plank Road B (Business) to R-2 (Residential)
 - B. Parke Lane at Newburgh LLC: Parcel near Stewart Avenue and I-84: IB (Interchange Business) to R3 (Residential)
7. ASSESSOR:
 - A. Certiorari Settlement for "The Four B's"
 - B. Certiorari Settlement for "G & L Realty"
8. POLICE: Hiring of Part-Time Dispatchers
9. HIGHWAY: Promotion to MEO
10. RESOLUTION: Authorization for the Supervisor to Sign the "Stop DWI/Traffic Programs for 2012"
11. ENGINEERING:
 - A. Stormwater Performance Security for Orange County Choppers
 - B. Highway Garage Buildings Electrical Upgrades
12. ACCOUNTING: Budget Transfer
13. PLANNING: Mountain Lakes Subdivision Landscape Bond
14. FLEET MAINTENANCE: Surplus Equipment
15. ANNOUNCEMENTS
16. PUBLIC COMMENTS
16. ADJOURNMENT

6. (7:00 p.m.) **SECOND PUBLIC HEARING FOR COMPREHENSIVE PLAN and REOPENING OF PUBLIC HEARING: ZONING MAP LOCAL LAW AMENDMENTS**
 - A. **84 Realty LLC: Parcel at Patton Road and South Plank Road B (Business) to R-2 (Residential)**
 - B. **Parke Lane at Newburgh LLC: Parcel near Stewart Avenue and I-84: IB (Interchange Business) to R3 (Residential)**

The first public hearing was held on September 19, 2011 and the minutes are posted on the Town Website.

AUG 22 2011

MAR 6 2012

6A-B

RIDER, WEINER & FRANKEL, P.C.

ATTORNEYS & COUNSELLORS AT LAW

DAVID L. RIDER
CHARLES E. FRANKEL
MICHAEL J. MATSLER
MAUREEN CRUSH
MARK C. TAYLOR
RODÉRIK É. DE RAMON
DONNA M. BADURA
M. JUSTIN RIDER (BY AND TH)
SHAY A. HUMPHREY
JEFFREY S.E. SCULLEY (BY AND TH)
DARREN H. FAIRLIE
VIKAS VARMA (BY AND TH)
DEBORAH WEISMAN-ESTIS (BY AND TH)

655 LITTLE BRITAIN ROAD
NEW WINDSOR, NEW YORK 12553

(MAILING ADDRESS)
POST OFFICE BOX 2280
NEWBURGH, NEW YORK 12550
TEL. (845) 562-9100
FAX (845) 562-9126

firm@riderweiner.com
www.riderweiner.com

M.J. RIDER (1906-1968)
ELLIOTT M. WEINER (1915-1990)

STEPHEN P. DUGGAN, III
BRUCE C. DUNN, SR.
COUNSEL

CRAIG F. SIMON
OF COUNSEL
1289 RT. 9
SUITE #3
WAPPINGERS FALLS, NY 12590
(845) 632-6094

MEMORANDUM

TO: HON. WAYNE C. BOOTH, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: COMPREHENSIVE PLAN AMENDMENT AND REZONING IB TO R-3
84 REALTY LLC AND PARKE LANE AT NEWBURGH, LLC
OUR FILE NOS. 800.1(B)(1)(2011), 800.1(B)(21)(2011)

DATE: August 19, 2011

Enclosed please find the following:

1. Town of Newburgh Comprehensive Plan Amendment for the Rezoning of Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District (84 Realty, LLC) and One Property Bounded by Patton Road and South Plank Road (NYS Route 52) from B to the Adjacent R-2 Zoning District (Parke Lane at Newburgh, LLC)
2. Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Property Bounded by Patton Road and South Plank Road from B to the Adjacent R-2 Zoning District and Calling a Public Hearing
3. Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District and Calling a Public Hearing

Page -2-

Should you have any questions or concerns, please do not hesitate to contact me.

MCT:kac

Enclosure

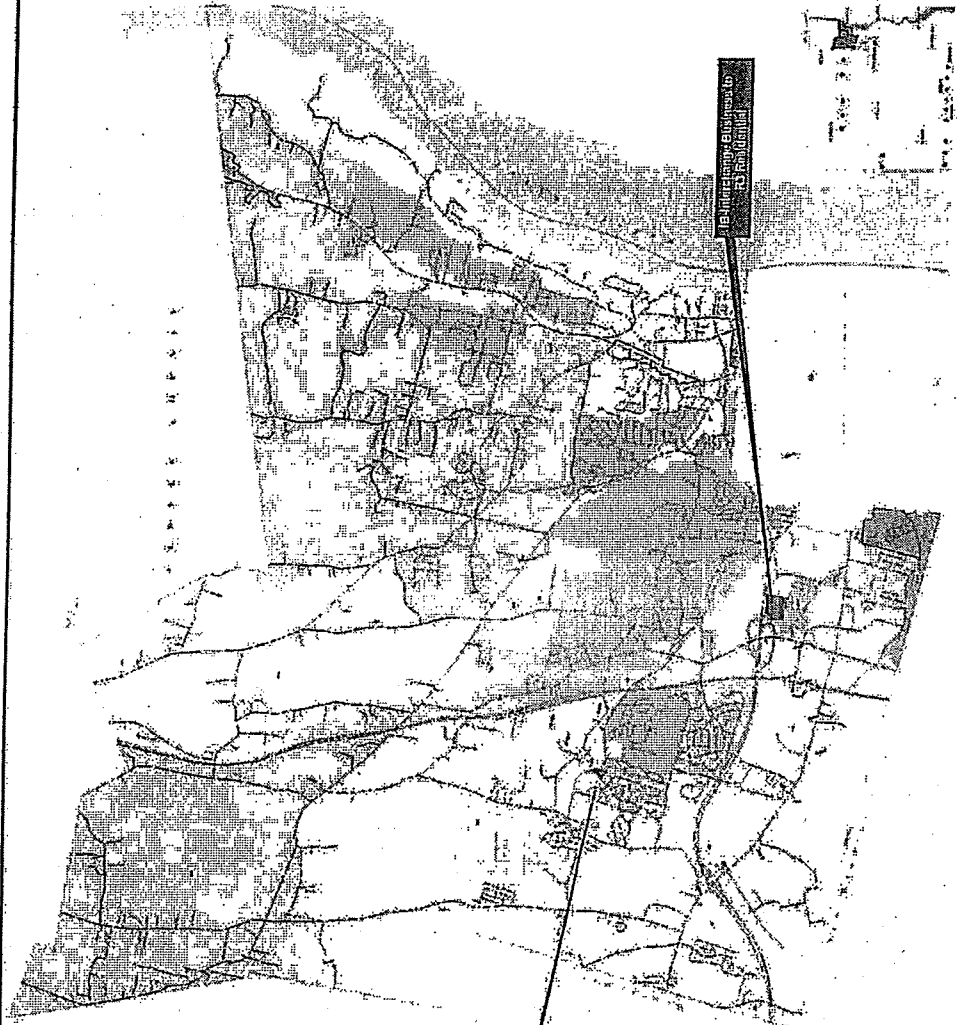
cc: Andrew J. Zarutskie, Town Clerk
James Osborne, Town Engineer (via e-mail)
Gerald Canfield, Code Compliance Supervisor (via e-mail)
David Smith, AICP (via e-mail)

TOWN OF NEWBURGH
COMPREHENSIVE PLAN AMENDMENT
FOR THE REZONING OF TWO LOTS,
NEAR STEWART AVENUE AND INTERSTATE 84
FROM IB TO THE ADJACENT R-3 ZONING DISTRICT
(PARKE LANE AT NEWBURGH, LLC)
AND ONE PROPERTY BOUNDED BY
PATTON ROAD AND SOUTH PLANK ROAD (NYS ROUTE 52)
FROM B TO THE ADJACENT R-2 ZONING DISTRICT
(84 REALTY, LLC)

AUGUST, 2011



5000'



18.00 Acres, 300' by 615' Parcel to be Rezoned 'UO1-1'

18.00 Acres, 300' by 615' Parcel to be Rezoned 'UO1-1'

Date: July 2011

Legend

- Zoning District
 - R1 - Residential
 - R2 - Residential
 - R3 - Residential
 - AR - Agricultural Residential
 - FR - Regional Office
 - ICD - Interchange District
 - B - Business
 - IP - Industrial Professional
 - UO1-1 - Office District
 - UO1-2 - Office District
 - UO1-3 - Office District
 - Other
 - Streets
 - Streams
 - Roads
 - 2005 Parcel Lines
 - 2005 Parcel Lines
- Source: Orange County Planning Department January 2006

**PROPOSED ZONING MAP AND
COMPREHENSIVE PLAN AMENDMENTS
NEWBURGH COMPREHENSIVE PLAN
Town of Newburgh, New York**



Strauch & Schill



0 1 mile

- Consolidated Water District
- Municipal Sewer Districts
- Combined Water and Sewer Coverage
- Potential Growth Boundary

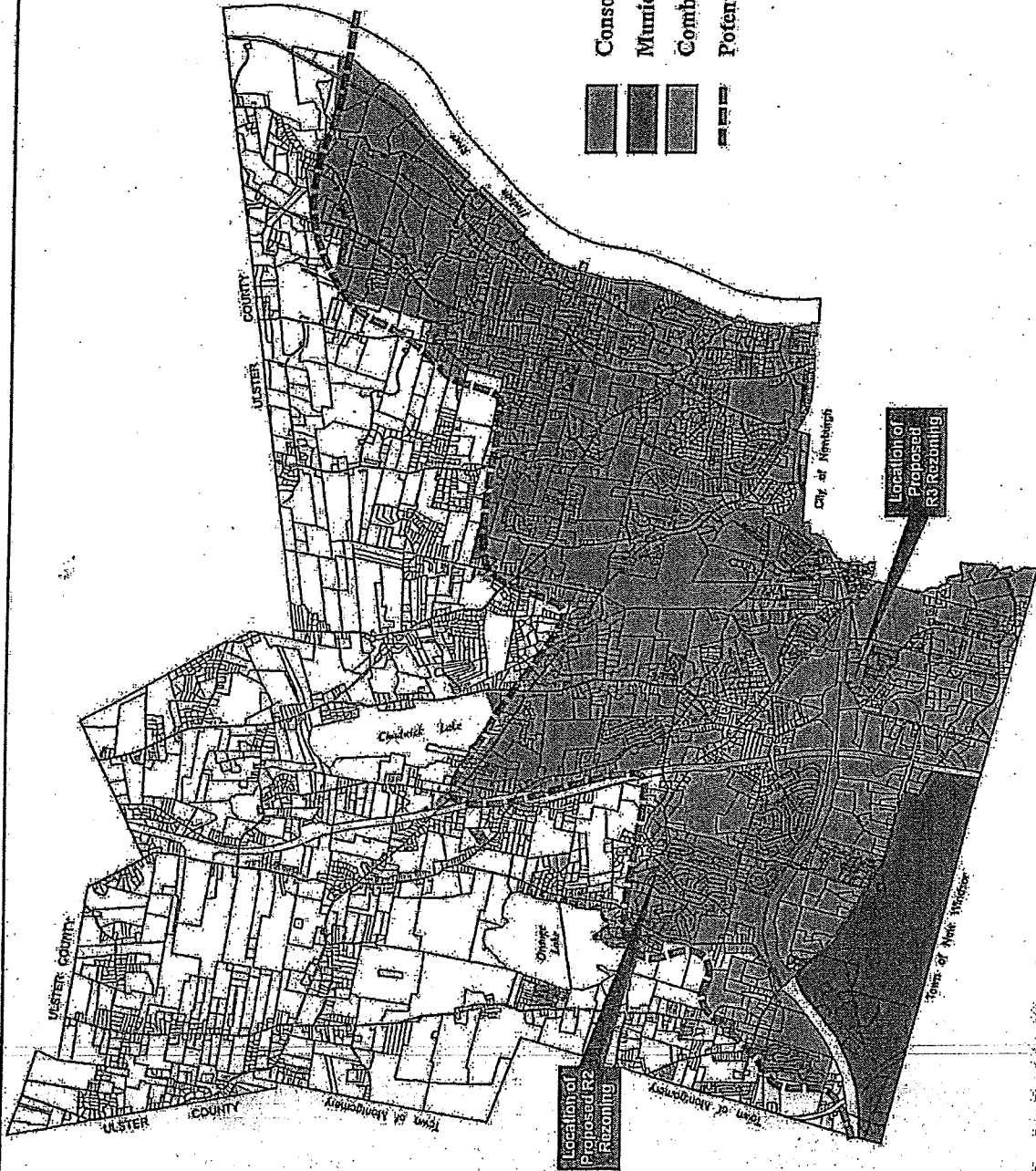


Exhibit III-1
**GROWTH MANAGEMENT
 FACTORS**

COMPREHENSIVE PLAN UPDATE
 Town of Newburgh, New York

Severell A. Schillig, Inc. - Planning and Development Consultants

BASE MAP SOURCE: Orange County, New York, 2010

Memorandum

To: Newburgh Town Board

Date: August 2, 2011

Project No: 28318.00

From: David B. Smith

Re: Newburgh Zoning Map and
Comprehensive Plan Updates

Section 272-a of the New York State Town Law provides the details and process for Town government to prepare and update its Comprehensive Plan. The Town of Newburgh recently updated its Comprehensive Plan in 2005 and has been implementing various recommendations since then. One of the effects of adopting a comprehensive plan is that all town regulations must be in accordance with the plan. Given that the zoning map identifies how specific properties are to be regulated, the Comprehensive Plan Update and the zoning map need to be consistent. The Proposed Action being considered by the Town of Newburgh Town Board are two separate rezoning applications. Given that both applications were before the Town Board at about the same time, and both involved changes to the zoning map and amendments to the Comprehensive Plan from commercial to residential zoning, the Town Board has consolidated the reviews into one action.

The Proposed Action includes the following (refer to Exhibit 10):

- 1 A zoning map amendment to rezone a 16.5 acre parcel from IB- Interchange Business to R-3 Residential (The R-3 Rezoning). The proposed R-3 Rezoning is located in the south-east corner of the Town of Newburgh proximate to Stewart Avenue, I-84 and Route 300. Access to the subject site would be from Stewart Avenue through a ± 4.1 acre parcel already zoned R-3.
- 2 The rezoning of an approximately 9.4 acres parcel from B-Business to R-2 Residential (The R-2 Rezoning). The R-2 Rezoning is located in the west-central section of the Town at the southeast corner of the intersection of South Plank Road and Patton Road.

Zoning and Land Use Analysis

R-3 Rezoning

The R-3 Rezoning site is located in an area that is adjacent to an existing R-3 zoning district. In the event that the zoning map amendment is adopted, development potential could yield approximately 100 residential units on the rezoned parcel provided that water and sewer service are both available to the site. It is noted that both water and sewer service are available proximate to the site. A preliminary proposal has been submitted to the Town that would potentially include 150 multi-family rental units on the entire site, including the property already zoned R-3, with 15 two-story buildings with 10 units per building. In the event the

Town Board enacts the R-3 Rezoning, any subsequent submission to the Town for site plan review would still be subject to SEQR for that specific proposal.

The conversion of land area from B to R3 precludes the development of mini-malls, retail and convenience stores, shopping center, theatres, office, restaurants, research laboratories and manufacturing uses. Refer to Table 2 for a comparison of selected impact issues, for this analysis it was assumed that the overall site acreage would be developable at the prescribed building coverage allowed under zoning.

Access to the R-3 Rezoning site would be from Stewart Avenue which ultimately provides access to Route 300 (Union Avenue) and Route 17K. Route 300 northbound provides convenient access to the major interstate highway systems Route 84 and 87. The R-3 Rezoning site is located within the Crossroad Sewer District and is also within the Town's Consolidated Water District.

The R3 Residential Zoning District allows primarily, single family dwellings, multi-family housing, municipal buildings, places of worship, nursery schools, schools, senior citizen housing and membership clubs.

R-2 Rezoning

The R-2 Rezoning is located adjacent to an existing neighborhood zoned R-2. Rezoning approximately 9/4 acres of land from B-Business to R-2 Residential would preclude the following, including: retail and personal service, health clubs, office, eating and drinking establishments, indoor amusement, motor vehicle service stations, convenience stores, hotels, shopping center, theater, places of worship business parks, mini-malls. Refer to Table 2 for a comparison of selected impact issues, for this analysis it was assumed that the overall site acreage would be developable at the prescribed building coverage allowed under zoning. The R2 District allows single family dwellings and municipal buildings and town activities as permitted uses. Uses subject to site plan review by the planning board include: membership clubs, places of worship, nursery schools, schools, and rehabilitation homes.

In the event the R-2 Rezoning is rezoned development potential could yield approximately 23 single family units provided that water and sewer are available to the site. This number has arrived at by taking a percentage of land area (15%) for access road and utilities and dividing the balance of the site by the zoning requirement of 15,000 square feet per dwelling unit. This does not take into account specific environmental features that may potentially reduce overall density. A separate environmental review process would still need to be conducted. The applicant for this action has indicated that they would be pursuing a potential redevelopment for single family homes. Access to the R2 Rezoning site would likely be from Patton Road, as South Plank Road access faces certain topographic site constraints.

Table 1
Selected Zoning Standards

	Minimum Lot Area (s.f.)	Lot Building Coverage (%)	Building Height (ft)	Lot Surface Coverage (%)
B	15,000-435,600	20-60	35-50	50-85
IB	15,000-217,800	25-40	35-40	50-80
R-3	12,500-435,600	15-35	35	30-50
R-2	15,000-435,600	15-25	35	30-50

As noted in Table 1 above, the rezoning would tend to have a less intense development pattern relative to building coverage, height and lot surface coverage.

Surrounding Land Use

The R-3 Rezoning site is currently vacant. Surrounding land uses include: single family residential and community center uses to the south; commercial uses to the west; Route 84 right of way to the north abutting the site; and, single family and New York State Thruway Authority facility to the east.

The R-2 Rezoning site is currently vacant. Surrounding land uses include: single family residential to the east and south; vacant land to the west; and, automotive, professional office, single family and vacant land to the north.

Preliminary Impact Evaluation

The rezoning associated with the Proposed Action will generate a different set of impacts compared to the uses allowed under existing zoning. Table 2 below presents, on a conceptual level, how impacts for selected uses compare.

Table 2
Selected Impact Issues

Acres (±)	Land Use	Est. Population ³	Est. Water Usage ⁴	Est. Vehicle Trips ⁵
16.5 (IB Existing)	Shopping Center/Office (215,000 s.f.)	NA	33,600	1,068 retail/333 office
16.5 (R3 Rezoning)	100 MP ¹ Residential	259	29,850	67
9.4 (B Existing)	Mini-mall/Office (160,000 s.f.)	NA	24,000	1,094 retail/248 office
9.4 (R2 Rezoning)	23 SP ² Residential	68	10,350	23

1. Assumes even mix of 1, 2 and 3 bedroom units
 2. Assumes 3 BR units
 3. Source: Rutgers University, Center for Urban Policy Research Residential Demographic Multipliers
 4. Source: NYSDEC Design Guidelines for Wastewater Treatment Works (150 gpd/bedroom)
 5. ITE, Trip Generation Handbook, peak hour generation

The approximately 327 new residents as a result of the proposed rezoning would result in additional disposable income being introduced into the local economy. It is noted that the rezoning would create an opportunity for new residential development with potential impacts to municipal services including schools and emergency service providers, although the project population increase amounts to approximately 1% of the Town's overall population of 29,801 as reported by the US Census Bureau.

Related Development Issues

The ultimate development of both actions could result in the generation of recreational and other fees for the Town. Based on the R-2 and R-3 Rezoning, there could be the potential for 123+ residential lots/units which, depending on Planning Board determinations, may generate recreation fees in lieu of parkland dedications. At a current rate of \$2,000/unit this amounts to over \$240,000 in potential recreation fees. These monies would go toward the improvement or acquisition of new municipal parkland. These fees would not be available to the Town if the subject properties were developed for non-residential uses.

The Town of Newburgh Comprehensive Plan Update has recommended that growth occur in areas where there is sufficient infrastructure to support development activity. Both the R-2 and R-3 Rezoning occur in areas where the zoning would be consistent with the surrounding community and compatible with surrounding land uses. Based on the growth boundary exhibit (Exhibit III-1) in the Comprehensive Plan Update, both the R-2 and R-3 Rezoning are within areas of the Town that are supported by infrastructure (water, sewer and roadways).

Conclusion

Based on an evaluation of the supporting documentation submitted to the Town related to the Proposed Action, a review of land use, zoning and potential impacts associated therewith, the rezoning is consistent with the intent and purpose of the Comprehensive Plan Update. The Town will still need to review specific proposals for the individual properties as they come in and evaluate details relative to the requirement of the State Environmental Quality Review Act (SEQRA).

**INTRODUCTORY LOCAL LAW # OF 2011
A LOCAL LAW AMENDING
CHAPTER 185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH
AND
THE ZONING MAP
OF THE TOWN OF NEWBURGH
TO REZONE
PROPERTY
BOUNDED BY PATTON ROAD AND SOUTH PLANK ROAD (NYS ROUTE 52)
FROM B TO THE ADJACENT R-2 ZONING DISTRICT**

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Property Bounded by Patton Road and South Plank Road (NYS Route 52) from B to the Adjacent R-2 Zoning District."

SECTION 2 - PURPOSE

The purpose of this local law is to rezone a certain lot located at the intersection of Patton Road and South Plank Road (New York State Route 52) from the B (Business) Zoning District to the adjacent R-2 (Residential) Zoning District.

The rezoning will encompass approximately 9.4 acres of land. The area is comprised of a property which is situated on both the north and south sides of Patton Road at its intersection with South Plank Road (New York State Route 52). The R-2 zoning will be consistent with the Town of Newburgh's adopted Comprehensive Plan, as amended. The owner of the property, 84 Realty, LLC, has applied for the change in zoning.

SECTION 3 - AMENDMENT TO CHAPTER 185 AND ZONING MAP

1. The Zoning Map of the Town of Newburgh, adopted and made a part of Chapter 185 of the Code of the Town of Newburgh pursuant to Section 185-5, as last amended by Local Law No. 8 of 2009, is hereby amended to change the Zoning District from IB to R-2 for the following property:

Tax Map Section 47 Block 1 Lot 44

2. The Zoning Map of the Town of Newburgh, as amended by this local law, shall be maintained on file in the office of the Town Clerk.

3. The Amendment to the Zoning Map is adopted upon condition that the property be used for single family residences consistent with the character of the adjoining residential neighborhood, as represented in the owner's application for the amendment.

SECTION 4 - REPEAL. All ordinances and local laws and any parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 5 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board of the Town of Newburgh hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6 - EFFECTIVE DATE

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

2. The Zoning Map of the Town of Newburgh, as amended by this local law, shall be maintained on file in the office of the Town Clerk

SECTION 4 - REPEAL All ordinances and local laws and any parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 5 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board of the Town of Newburgh hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6 - EFFECTIVE DATE

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

7. ASSESSOR:
 - A. Certiorari Settlement for "The Four B's"
 - B. Certiorari Settlement for "G & L Realty"

MAR 6 2012

7a

HACKER MURPHY, LLP
ATTORNEYS AT LAW
7 AIRPORT PARK BOULEVARD
LATHAM, NEW YORK 12110-1429
TELEPHONE (518) 783-3843
FACSIMILE (518) 783-8101
WWW.HACKERMURPHY.COM

February 15, 2012

Mark C. Taylor, Esq.
Rider, Weiner, Frankel & Calhelha, P.C.
P.O. Box 2280
Newburgh, New York 12550

RE: The Four B's v. Town of Newburgh
Index No. 8178/2010; 7483/2011
Our File No. 4325/5018.055

Dear Mark:

Attached please find the proposed Consent Judgment in reference to the above-entitled proceedings. The full market value of the subject property was \$934,451 in 2010 and \$860,955 in 2011. The building was constructed as a 26 door transit terminal. The building is no longer utilized as such and only three of the 26 doors remain. In its current condition, ESAC's preliminary full market value was \$800,000 for 2010. I was able to negotiate a settlement of \$800,000 for 2010 and about \$744,000 for 2011. The Town's refund liability is approximately \$1,000. I feel that it is a good settlement.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board Meeting for approval. Once the Resolution passes, please have Wayne Booth sign all three original Consent Judgments and then return them to me for signing. I will then forward them to the petitioner's attorney for signing and filing.

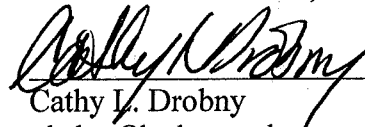
I have enclosed for your review a copy of the refund liability chart which shows the potential liability versus the proposed settlement refund liability.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

HACKER MURPHY, LLP

By:


Cathy L. Drobny
cdrobny@hackermurphy.com
Direct: (518) 213-0116

CLD:scf

Enclosure

cc: Alan F. Cagney, Deputy Assessor

The Four B's v. T/O Newburgh - Settlement

Year	Parcel Number	Assessed Value	Reduced AV	Eq. Rate	FMV	Reduced FMV	Difference	Tax Rate	Refund Liability	Interest	Total Refund Liability
2010	95-1-40	\$ 306,500	\$ 262,400	32.80%	\$ 934,451	\$ 800,000	\$ 44,100	County 9.46	\$ 417.19		\$ 417.19
								Town 11.50	\$ 507.15		\$ 507.15
								Fire-Cron 4.15	\$ 183.02		\$ 183.02
								Sp.Dist.	\$ -		\$ -
								School 62.7960	\$ 2,769.30		\$ 2,769.30
2011	95-1-40	\$ 306,500	\$ 265,000	35.60%	\$ 860,955	\$ 744,382	\$ 41,500	County 9.3141	\$ 386.54		\$ 386.54
								Town 11.4049	\$ 473.30		\$ 473.30
								Fire-Cron 4.1413	\$ 171.86		\$ 171.86
								Sp.Dist.	\$ -		\$ -
								School 63.6879	\$ 2,643.05		\$ 2,643.05

2

The Four B's v. T/O Newburgh

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference	Tax Rate	Refund Liability	Interest	Total Refund Liability
2010	95-1-40	\$ 306,500	\$ 175,000	32.80%	\$ 934,451	\$ 533,537	\$ 131,500	County 9.46	\$ 1,243.99		\$ 1,243.99
								Town 11.50	\$ 1,512.25		\$ 1,512.25
								Fire-Cron 4.15	\$ 545.73		\$ 545.73
								Sp.Dist. -	\$ -		\$ -
								School 62.7960	\$ 8,257.67		\$ 8,257.67
2011	95-1-40	\$ 306,500	\$ 175,000	32.80%	\$ 934,451	\$ 533,537	\$ 131,500	County 9.3141	\$ 1,224.80		\$ 1,224.80
								Town 11.4049	\$ 1,499.74		\$ 1,499.74
								Fire-Cron 4.1413	\$ 544.58		\$ 544.58
								Sp.Dist. -	\$ -		\$ -
								School 63.6879	\$ 8,374.96		\$ 8,374.96

7a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
THE FOUR B'S,

Petitioner,

CONSENT JUDGMENT

-against-

Index Nos.: 8178/10
7483/11

BOARD OF ASSESSORS FOR THE TOWN OF
NEWBURGH and TOWN OF NEWBURGH,

Respondents.
-----X

**PRESENT: HON. CATHERINE M. BARTLETT
ACTING JUSTICE, SUPREME COURT**

UPON THE CONSENT attached hereto duly executed by the attorneys for all parties
and by all the parties, it is

ORDERED, that the real property of Petitioner described on the Town of Newburgh tax
rolls for the tax year 2010-11 as follows:

Tax Map No. 95-1-40

be reduced in assessment from \$306,500 to a total assessment of \$262,400 for a total reduction in
assessment of \$44,100, prior to the application of any real property tax exemptions, if any, and it
is further;

ORDERED, that the real property of Petitioner described on the Town of Newburgh tax
rolls for the tax year 2011-12 as follows:

Tax Map No. 95-1-40

be reduced in assessment from \$306,500 to a total assessment of \$265,000 for a total reduction in
assessment of \$41,500, prior to the application of any real property tax exemptions, if any, and it
is further;

7a

ORDERED, that the Petitioner's real property taxes on said parcels above described for the 2010-11 and 2011-12 School and Library taxes and for the 2011 and 2012 County and Town taxes be adjusted accordingly and that Petitioner be reimbursed for any overpayment or be credited with the corresponding decrease in taxes, as the case may be, and it is further;

ORDERED, that the officer or officers having custody of the aforesaid assessment rolls of the Town of Newburgh shall make or cause to be made upon the proper books and records and upon the assessment rolls of said Town the entries, changes and corrections necessary to conform said assessment to such corrected and reduced valuation, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the County of Orange the amount, if any, paid as Town taxes and Town Special District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the County of Orange and/or the County Commissioner of Finance the amounts, if any, paid as County taxes and County Special District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the Newburgh Central School District the amounts, if any, paid as School District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that the provisions of RPTL §727 shall apply herein, and it is further;

ORDERED, that all tax refunds hereinabove directed be made payable to the order of Jacobowitz and Gubits, LLP, as attorneys for the Petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to §475 of the Judiciary Law, and it is further;

ORDERED, that in the event that the refunds are made within sixty (60) sixty days after service of the Order with notice of entry, there shall be no interest, otherwise, interest shall be paid in accordance with the applicable statute, and it is further;

7a

ORDERED, that the parties and attorneys signing this Consent Judgment, by doing so, represent that they have the necessary authority to do so, that said party has duly agreed to this settlement, taken the necessary action to do so and are the duly authorized and empowered persons to do so, and it is further;

ORDERED, that these proceedings are settled without costs or disbursements to either party as against the other.

Signed this _____ day of _____, 2012 at Goshen, New York.

ENTER:

**HON. CATHERINE M. BARTLETT
ACTING SUPREME COURT JUSTICE**

**ON CONSENT:
Dated: January 12, 2012.**

**THE FOUR B'S
Petitioners**

**TOWN OF NEWBURGH
Respondents**

By: _____
DOUG MARCUS

By: _____

**JACOBOWITZ AND GUBITS, LLP
Attorneys for Petitioners**

**HACKER & MURPHY, LLP
Attorneys for Town**

By: _____
JOHN H. THOMAS, JR., ESQ.

CATHY L. DROBNY, ESQ.

MAR 6 2012

7B

HACKER MURPHY, LLP
ATTORNEYS AT LAW
7 AIRPORT PARK BOULEVARD
LATHAM, NEW YORK 12110-1429
TELEPHONE (518) 783-3843
FACSIMILE (518) 783-8101
WWW.HACKERMURPHY.COM

February 27, 2012

Mark C. Taylor, Esq.
Rider, Weiner, Frankel & Calhelha, P.C.
P.O. Box 2280
Newburgh, New York 12550

RE: G & L Realty v. Town of Newburgh
Index Nos. 2010-8173; 2011-7236
Our File No. 4327/5018.057

Dear Mark:

Attached please find the proposed Consent Judgment in reference to the above-entitled proceedings. After reviewing ESAC's preliminary appraisal and consideration of the cost of a trial ready appraisal and trial, which could run over \$25,000, this settlement was negotiated. I started negotiating the settlement with Mike Fogarty before his retirement and after several Court conferences, it was finalized. I feel that it is a fair settlement.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board Meeting for approval. Once the Resolution passes, please have Wayne Booth sign all three original Consent Judgments and then return them to me for signing. I will then forward them to the petitioner's attorney for signing and filing.


I have enclosed for your review a copy of the refund liability chart which shows the potential liability versus the proposed settlement refund liability.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

HACKER MURPHY, LLP

By:


Cathy L. Drobny
cdrobny@hackermurphy.com
Direct: (518) 213-0116

CLD:scf

Enclosure

cc: Alan F. Cagney, Deputy Assessor

12

G&L Realty v. T/O Newburgh

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference	Tax Rate	Refund Liability	Interest	Total Refund Liability
2010	75-1-35.200	\$ 902,300	\$ 250,000	32.80%	\$ 2,750,915	\$ 762,195	\$ 652,300	County 9.46	\$ 6,170.76		\$ 6,170.76
								Town 11.50	\$ 7,501.45		\$ 7,501.45
								Fire-Cron 4.15	\$ 2,707.05		\$ 2,707.05
								Sp. Dist. -	\$ -		\$ -
2011	75-1-35.200	\$ 902,300	\$ 250,000	35.60%	\$ 2,534,551	\$ 702,247	\$ 652,300	School 62.7960	\$ 40,961.83		\$ 40,961.83
								County 9.3141	\$ 6,075.59		\$ 6,075.59
								Town 11.4049	\$ 7,439.42		\$ 7,439.42
								Fire-Cron 4.1413	\$ 2,701.37		\$ 2,701.37
								Sp. Dist. -	\$ -		\$ -
								School 63.6879	\$ 41,543.62		\$ 41,543.62

13

G&L Realty v. T/O Newburgh - Settlement

Year	Parcel Number	Assessed Value	Reduced AV	Eq. Rate	FMV	Reduced FMV	Difference	Tax Rate	Refund Liability	Interest	Total Refund Liability
2010	75-1-35.200	\$ 902,300	\$ 754,400	32.80%	\$ 2,750,915	\$ 2,300,000	\$ 147,900	County 9.46	\$ 1,399.13		\$ 1,399.13
								Town 11.50	\$ 1,700.85		\$ 1,700.85
								Fire-Cron 4.15	\$ 613.79		\$ 613.79
								Sp. Dist.	\$ -		\$ -
2011	75-1-35.200	\$ 902,300	\$ 754,400	35.60%	\$ 2,534,551	\$ 2,119,101	\$ 147,900	School 62.7960	\$ 9,287.53		\$ 9,287.53
								County 9.3141	\$ 1,377.56		\$ 1,377.56
								Town 11.4049	\$ 1,686.78		\$ 1,686.78
								Fire-Cron 4.1413	\$ 612.50		\$ 612.50
								Sp. Dist.	\$ -		\$ -
								School 63.6879	\$ 9,419.44		\$ 9,419.44

7B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
G&L REALTY,

Petitioner,

-against-

CONSENT JUDGMENT

BOARD OF ASSESSORS FOR THE TOWN OF
NEWBURGH and TOWN OF NEWBURGH,

Index Nos.: 8173/10
7236/11

Respondents.
-----X

**PRESENT: HON. CATHERINE M. BARTLETT
ACTING JUSTICE, SUPREME COURT**

UPON THE CONSENT attached hereto duly executed by the attorneys for all parties and by all the parties, it is

ORDERED, that the real property of Petitioner described on the Town of Newburgh tax rolls for the tax year 2010-11 as follows:

Tax Map No. 75-1-35.2

be reduced in assessment from \$902,300 to a total assessment of \$754,400 for a total reduction in assessment of \$147,900, prior to the application of any real property tax exemptions, if any, and it is further;

ORDERED, that the real property of Petitioner described on the Town of Newburgh tax rolls for the tax year 2011-12 as follows:

Tax Map No. 75-1-35.2

be reduced in assessment from \$902,300 to a total assessment of \$754,400 for a total reduction in assessment of \$147,900, prior to the application of any real property tax exemptions, if any, and it is further;

13

ORDERED, that the Petitioner's real property taxes on said parcels above described for the 2010-11 and 2011-12 School and Library taxes and for the 2011 and 2012 County and Town taxes be adjusted accordingly and that Petitioner be reimbursed for any overpayment or be credited with the corresponding decrease in taxes, as the case may be, and it is further;

ORDERED, that the officer or officers having custody of the aforesaid assessment rolls of the Town of Newburgh shall make or cause to be made upon the proper books and records and upon the assessment rolls of said Town the entries, changes and corrections necessary to conform said assessment to such corrected and reduced valuation, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the County of Orange the amount, if any, paid as Town taxes and Town Special District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the County of Orange and/or the County Commissioner of Finance the amounts, if any, paid as County taxes and County Special District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the Newburgh Central School District the amounts, if any, paid as School District taxes against the original assessment in excess of what said taxes would have been if said assessment had been made as determined herein, and it is further;

ORDERED, that the provisions of RPTL §727 shall apply herein, and it is further;

ORDERED, that all tax refunds hereinabove directed be made payable to the order of Jacobowitz and Gubits, LLP, as attorneys for the Petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to §475 of the Judiciary Law, and it is further;

ORDERED, that in the event that the refunds are made within sixty (60) sixty days after service of the Order with notice of entry, there shall be no interest, otherwise, interest shall be paid in accordance with the applicable statute, and it is further;

RB

ORDERED, that the parties and attorneys signing this Consent Judgment, by doing so, represent that they have the necessary authority to do so, that said party has duly agreed to this settlement, taken the necessary action to do so and are the duly authorized and empowered persons to do so, and it is further;

ORDERED, that these proceedings are settled without costs or disbursements to either party as against the other.

Signed this _____ day of _____, 2012 at Goshen, New York.

ENTER :

**HON. CATHERINE M. BARTLETT
ACTING SUPREME COURT JUSTICE**

**ON CONSENT:
Dated: January 17, 2012.**

**G&L REALTY
Petitioners**

**TOWN OF NEWBURGH
Respondents**

By: _____
LEONARD BELL

By: _____

**JACOBOWITZ AND GUBITS, LLP
Attorneys for Petitioners**

**HACKER & MURPHY, LLP
Attorneys for Town**

By: _____
JOHN H. THOMAS, JR., ESQ.

By: _____
CATHY L. DROBNY, ESQ.

8. POLICE: Hiring of Part-Time Dispatchers



8

TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

PERSONNEL DEPT.

PH: 845-566-7785
Fax: 845-564-2170

To: Supervisor Booth
Town Council
Jackie Calarco, Town Accountant

From: Charlene M Black, Administrative Aide

Date: February 29, 2012

Re: Part-time Dispatchers

Upon your approval, Christopher Heimink, Joseph DeAngelis, Heather Fries and Michael Scott will need to complete all the necessary paperwork, fingerprints and physical. Attached is their applications and employee request forms from Chief Clancy.

8



TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550

Michael Clancy
Chief of Police

(845) 564-1100

February 29, 2012

To: Town Board

From: Chief Michael Clancy

Subject: Authorization to Fill Four (4) Vacant Part-Time Dispatcher Positions

At present, we have four vacant part-time Dispatcher positions open in the Police Department. I am requesting authorization to fill all four part-time Dispatcher positions.

On February 21, 2012 and February 22, 2012 multiple candidates were interviewed for the positions. The interviews were conducted by Lt. Nenni and me. The candidates were interviewed at Police Headquarters and the consensus of the interviewers was to highly recommend the following candidates for the four vacant part-time dispatcher positions: Mr. Christopher Heimink, Mr. Joseph DeAngelis, Ms. Heather Fries and Mr. Michael Scott.

Mr. Christopher Heimink, Mr. Joseph DeAngelis and Ms. Heather Fries all currently work as part-time Dispatchers at two other Police Agencies. All three candidates would require little training as they are all familiar with the Department's communication systems.

Mr. Michael Scott received a score of 95 on the Dispatcher examination and is very computer savvy.

All four candidates listed above have a tremendous amount of computer knowledge and flexibility to work various shifts.

Based on the interview, and follow up background, I am requesting that the board appoint Mr. Christopher Heimink, Mr. Joseph DeAngelis, Ms. Heather Fries and Mr. Michael Scott to fill the four vacant part-time dispatcher positions at the current starting hourly pay rate of \$13.52.

Respectfully Submitted,

Michael Clancy
Chief Michael Clancy

TOWN OF NEWBURGH EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: Christopher Heimink

DEPARTMENT: Police

TITLE OF POSITION: Dispatcher

FULL TIME OR PART TIME: PART-TIME

HOURLY RATE: \$13.52

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 3120.1

PROPOSED HIRE DATE: 3/15/12

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMPLETION OF ALL REQUIRED PAPERWORK.

M. P. Clary
DEPARTMENT HEAD SIGNATURE

2/29/12
DATE

**ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL
DEPARTMENT**

COPY TO ACCOUNTING DEPARTMENT

TOWN OF NEWBURGH EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: Joseph De Angelis

DEPARTMENT: Police

TITLE OF POSITION: Dispatcher

FULL TIME OR PART TIME: PART-TIME

HOURLY RATE: \$13.52

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 3120.1

PROPOSED HIRE DATE: 3/15/12

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMPLETION OF ALL REQUIRED PAPERWORK.

M. P. Clem
DEPARTMENT HEAD SIGNATURE

2/29/12
DATE

**ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL
DEPARTMENT**

COPY TO ACCOUNTING DEPARTMENT

TOWN OF NEWBURGH EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: Heather Fries

DEPARTMENT: Police

TITLE OF POSITION: Dispatcher

FULL TIME OR PART TIME: PART-TIME

HOURLY RATE: \$13.52

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 3120.1

PROPOSED HIRE DATE: 3/15/12

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMLETION OF ALL REQUIRED PAPERWORK.

M. P. Clem
DEPARTMENT HEAD SIGNATURE

2/29/12
DATE

ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL DEPARTMENT

COPY TO ACCOUNTING DEPARTMENT

TOWN OF NEWBURGH EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: Michael Scott

DEPARTMENT: Police

TITLE OF POSITION: Dispatcher

FULL TIME OR PART TIME: PART-TIME

HOURLY RATE: \$13.52

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 3120.1

PROPOSED HIRE DATE: 3/15/12

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMLETION OF ALL REQUIRED PAPERWORK.

M. P. Clancy
DEPARTMENT HEAD SIGNATURE

2/29/12
DATE

**ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL
DEPARTMENT**

COPY TO ACCOUNTING DEPARTMENT

9. HIGHWAY: Promotion to MEO



TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

PERSONNEL DEPT.

PH: 845-566-7785
Fax: 845-564-2170

To: Town Board

From: Charlene M Black, Administrative Aide

Date: March 1, 2012

Re: Promotion to MEO

Please find attached Mr. Benedict's request to promote Kenneth Curtis to the position of Motor Equipment Operator, effective March 8, 2012 at a rate of \$21.0290 per hour.

Mr. Curtis will need to fill out a new application so it can be submitted to Orange County Personnel for his change of title.

Cc: Jackie Calarco, Town Accountant




HIGHWAY DEPARTMENT

90 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

TELEPHONE 845-561-2177
FAX 845-561-8987

DARRELL BENEDICT
HIGHWAY SUPERINTENDENT

TODD DEPEW
DEPUTY HIGHWAY SUPERINTENDENT

TO: Wayne C. Booth, Supervisor, & Town Board Members
FROM: Darrell Benedict, Highway Superintendent 
DATE: March 1, 2012
RE: Motor Equipment Operator Interviews

On October 7, 2011, I interviewed 4 Town of Newburgh Highway Department Employee's for the positions of Motor Equipment Operator's with Todd DePew present.

I feel the following employee is qualified for the position:

Kenneth Curtis

I am requesting that he is moved into these positions as soon as possible. Thank you.

The fourth person interview was a seasonal worker.

DB:ch

cc: Charlene Black, Personnel Department
Jackie Calarco, Accountant

**10. RESOLUTION: Authorization for the Supervisor to Sign the "Stop
DWI/Traffic Programs for 2012**

RIDER, WEINER & FRANKEL, P.C.
ATTORNEYS & COUNSELLORS AT LAW

DAVID L. RIDER
CHARLES E. FRANKEL
MICHAEL J. MATSLER
MAUREEN CRUSH
MARK C. TAYLOR
RODERICK E. DE RAMON
DONNA M. BADURA
M. JUSTIN RIDER (NY AND IL)
SHAY A. HUMPHREY
JEFFREY S.E. SCULLEY (NY AND IL)
DARREN H. FAIRLIE
VIKAS VARMA (NY AND INDIA)
DEBORAH WEISMAN-ESTIS (NY AND NJ)

655 LITTLE BRITAIN ROAD
NEW WINDSOR, NEW YORK 12553

(MAILING ADDRESS)
POST OFFICE BOX 2280
NEWBURGH, NEW YORK 12550
TEL. (845) 562-9100
FAX (845) 562-9126

firm@riderweiner.com
www.riderweiner.com

M.J. RIDER (1906-1968)
ELLIOTT M. WEINER (1915-1990)

STEPHEN P. DUGGAN, III
BRUCE C. DUNN, SR.
COUNSEL

CRAIG F. SIMON
OF COUNSEL
1289 RT. 9
SUITE #3
WAPPINGERS FALLS, NY 12590
(845) 632-6094

MEMORANDUM

TO: HON. WAYNE C. BOOTH, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: INTER-MUNICIPAL AGREEMENT WITH ORANGE COUNTY;

RESOLUTION OF TOWN BOARD AUTHORIZING EXECUTION AND
DELIVERY OF INTER-MUNICIPAL AGREEMENTS BETWEEN THE TOWN
OF NEWBURGH THE COUNTY OF ORANGE FOR THE CALENDAR YEAR
2012 FOR STOP DWI PROGRAM SERVICES
OUR FILE NO. 800.1(B)(7)(2011)

DATE: MARCH 2, 2012

Enclosed please find a proposed Agreement between the County of Orange and the Town of Newburgh for Stop DWI Program Services and the above referenced resolution authorizing this and any additional Stop DWI Program Services Agreements for calendar year 2012 for the Town Board's consideration.

Should you have any questions in this regard, please feel free to contact me.

MCT:sel
Enclosure

cc: Andrew J. Zarutskie, Town Clerk
Michael Clancy, Chief of Police
Jacqueline Calarco, Town Accountant

DRAFT

10

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the 5th day of March, 2012 at 7:00 o'clock p.m.

PRESENT:

- Wayne C. Booth, Supervisor
- George Woolsey, Councilman
- Gilbert J. Piaquadio, Councilman
- Elizabeth J. Greene, Councilwoman
- Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING EXECUTION AND
DELIVERY OF INTER-MUNICIPAL
AGREEMENTS BETWEEN THE
TOWN OF NEWBURGH AND
THE COUNTY OF ORANGE
FOR CALENDAR YEAR 2012 FOR
STOP DWI PROGRAM SERVICES

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, the County of Orange has forwarded a proposed Agreement between the County and the Town of Newburgh for the STOP-DWI program period beginning on March 15, 2012 and ending on January 1, 2013 (the "Agreement"); and

WHEREAS, the Town Board has reviewed the terms and conditions of the aforesaid Agreement and finds the Agreement acceptable; and

WHEREAS, the Town Board desires to authorize the execution of such agreement for STP DWI PROGRAM SERVICES between the County and Town.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Newburgh, Orange County, New York, that:

1. the execution and delivery of the Agreement and all other such agreements between the County of Orange and the Town of Newburgh for STOP DWI program services for enforcement periods ending on or before January 1, 2013 which conform to the terms and conditions of the Agreement by the Town of Newburgh Supervisor is hereby authorized; and
2. the Town of Newburgh Police Department is hereby authorized to participate in the Stop DWI enforcement program in accordance with the terms of the Agreement(s).

BE IT FURTHER RESOLVED, that the Supervisor, the Chief of Police and other officers of the Town are hereby authorized and empowered to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, agreements, documents and papers and to take such actions as may be necessary to effectuate and carry out the contents of the foregoing resolutions and the terms and conditions of the Agreement(s); and

BE IT FURTHER RESOLVED that the aforesaid resolutions shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Green, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.



INTER-MUNICIPAL AGREEMENT

THIS INTER-MUNICIPAL AGREEMENT ("IMA") is entered into this ____ day of _____, 20__, by and between the County of Orange, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services ("COUNTY"), and the Town of Newburgh, a Town of the State of New York, with its principal offices at 300 Gardnertown Road, Newburgh, NY 12550, by and through its Police Department ("MUNICIPALITY").

ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY is a municipal corporation chartered under the authority of the State of New York. Among other powers and duties, the COUNTY, by and through its Department of Emergency Services, administers the COUNTY's Special Traffic Options Program for Driving While Intoxicated in accordance with New York State Vehicle and Traffic Law Section 1197 ("STOP DWI Program"). The purpose of the STOP DWI Program is to coordinate and fund Orange County's town, city, and village efforts to reduce alcohol-related traffic injuries and fatalities. To facilitate this goal the COUNTY and the MUNICIPALITY recognize that police patrol enforcement campaigns are an effective tool towards ensuring safe and sober roadways.

It is the intention of the COUNTY, in order to carry out the goals of the STOP DWI Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable campaign periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York ("State"), and local laws.

ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on March 15, 2012 and end January 1, 2013.

ARTICLE 3. PROCUREMENT OF AGREEMENT

The MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by the MUNICIPALITY to solicit or secure this IMA upon an agreement for, or upon an understanding of, a commission, percentage, a brokerage fee, contingent fee

or any other compensation. The MUNICIPALITY further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this IMA and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or to take any other action provided for by law or pursuant to this IMA.

ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (2) submits such a Disclosure form and (a) discloses his/her interest in this IMA, or (b)

seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this IMA.

ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

ARTICLE 6. BOOKS AND RECORDS

The MUNICIPALITY agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this IMA.

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

ARTICLE 7. RETENTION OF RECORDS

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of expenditures or fees under this IMA as may be required

by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 9. INDEMNIFICATION

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

ARTICLE 10. TERMINATION

The COUNTY may, by written notice to the MUNICIPALITY, effective upon mailing, terminate this IMA in whole or in part at any time (i) for the COUNTY's convenience, (ii) upon the failure of the MUNICIPALITY to comply with any of the terms or conditions of this IMA, or (iii) upon the MUNICIPALITY becoming insolvent or bankrupt.

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

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

ARTICLE 11. GENERAL RELEASE

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

ARTICLE 12. SET-OFF RIGHTS

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

ARTICLE 13. GOVERNING LAW

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

ARTICLE 14. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this IMA, including Schedule A and each award letter, which supersedes any other understandings or writings between or among the parties.

ARTICLE 15. MODIFICATION

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

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

COUNTY OF ORANGE

MUNICIPALITY

By: _____
Edward A. Diana
County Executive

By: _____
Name:
Title:

DATE: _____

DATE: _____

11. ENGINEERING:


- A. Stormwater Performance Security for Orange County Choppers**
- B. Highway Garage Buildings Electrical Upgrades**

MAR 6 2012

11 a

TOWN OF NEWBURGH
TOWN ENGINEER
1496 Rte. 300
Newburgh, NY 12550
(845) 564-7814

MEMORANDUM

TO: Wayne Booth, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer 
DATE: March 1, 2012
RE: **PB \ ORANGE COUNTY CHOPPERS SITE PLAN
AMENDMENT (OCC Café USA)**

Attached for the Town Board's review and approval is a cost estimate for additional stormwater management / pollution prevention for the proposed addition to the Orange County Choppers Building. The cost estimate of \$29,477 was prepared by M.A. Day Engineering. Based on a review of the cost estimate by Pat Hines, MH&E and myself, it is recommended that this be approved. In addition, the applicant is required to provide (in a separate check) \$2,000.00 for an escrow account for SWPPP inspection.

As the above requires Town Board action, I am requesting that this item be placed on the next available agenda for approval. If you have any questions or comments, I am available to discuss them with you.

JWO/id

Attachment

cc: M. Taylor, Attorney
J. Ewasutyn, P.B. Chairman
G. Canfield, Code Compliance
M. Day, M.A. Day Engineering

M. A. Day Engineering, PC

11a

3 Van Wyck Lane
Suite 2
Wappingers Falls, New York 12590
Phone: 845-223-3202
Fax: 845-223-3206

February 15, 2012

Patrick J. Hines, PE
McGoey, Hauser and Edsall Consulting P.C.
33 Airport Center Drive
Suite 202
New Windsor, New York 12553

Re: OCC Café USA

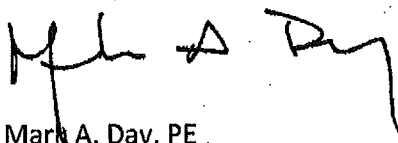
Mr. Hines,

As requested by the Town of Newburgh, this office has revised the previously submitted bond estimate for the installation of the proposed stormwater collection system as shown on the approved Site Plan. The estimate for the installation of these stormwater components is as follows:

Description	No. of Units	Units	Unit Cost	Cost
Excavation	337	yd ³	\$8.00	\$2,700.00
1-2 inch Washed Crushed Stone	285	ton	\$32.00	\$9,120.00
Cultec Recharger V8HD Heavy Duty Chamber	23	Each	\$300.00	\$6,900.00
Cultec Recharger V8SHD Starter Chamber	6	Each	\$260.00	\$1,560.00
Cultec HVLV F-110x4 Feed Connector	4	Each	\$70.00	\$280.00
Cultec No. 20L Polyethylene Liner	8	yd ³	\$1.50	\$12.00
4 oz Non-woven filter fabric	165	yd ³	\$1.70	\$280.00
Storm Sewer Pipe (15"Ø HDPE)	35	LF	\$40.70	\$1,425.00
Catch Basin, Depth > 5'	3	Each	\$2,400.00	\$7,200.00
			Total	\$29,477

Kindly distribute this information for review. Please feel free to contact me if you need any further information on this matter.

Very truly yours,



Mark A. Day, PE



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. MCGOEY, P.E. (NY & PA)

WILLIAM J. HAUSER, P.E. (NY & NJ)

MARK J. EDSALL, P.E. (NY, NJ & PA)

JAMES M. FARR, P.E. (NY & PA)

MAIN OFFICE

33 Airport Center Drive

Suite 202

New Windsor, New York 12553

(845) 567-3100

fax: (845) 567-3232

e-mail: mheny@mhepc.com

TOWN OF NEWBURGH
PLANNING BOARD
REVIEW COMMENTS

PROJECT: ORANGE COUNTY CHOPPERS ROADHOUSE
PROJECT NO.: 05-58
PROJECT LOCATION: SECTION 95 BLOCK 1 LOT 45.2
PROJECT REPRESENTATIVE: M. A. DAY ENGINEERING/ROBERT DALY
 (RDALY@FRONTIERNET.NET)
REVIEW DATE: 28 FEBRUARY 2012
MEETING DATE: N/A

1. The applicant's representatives have provided a cost estimate for the stormwater collection and treatment system associated with the construction of an offsite parking area required for the subject project. The applicant's representatives have utilized our published cost data for items which were available. The proposed system utilizes a proprietary under parking lot storage system for infiltration of the entire volume of stormwater runoff from the proposed parking lot. Based on our review of the cost estimate provided by M.A. Day Engineering dated 15 February 2012, this office takes no exception to the bonding of the stormwater improvements in the amount of \$29,477.00.

Respectfully submitted,

McGoey, Hauser and Edsall
Consulting Engineers, P.C.



 Patrick J. Hines/Associate

REGIONAL OFFICES

- 111 Wheatfield Drive • Milford, Pennsylvania 18337 • 570-296-2765 •
- 540 Broadway • Monticello, New York 12701 • 845-794-3399 •

MAR 6

11B WB

FELLENZER III

ENGINEERING LLP

www.fellp.com

Principals:
Archie D. Fellenzer Jr., P.E.
Mark D. Fellenzer, P.E.
John D. Fellenzer, P.E.
Eric D. Fellenzer, P.E.

February 21, 2012

Town of Newburgh – Engineering Department
1496 Route 300
Newburgh, NY 12550

Attn: Mr. James Osborne, P.E.

Re: Highway Buildings
New Generator – Highway Garage Buildings
Updates of the Electrical Upgrades
FE Project No. 12-035

Dear Mr. Osborne:

This letter proposal is pursuant to our recent discussion regarding the subject project and provides a basis for Engineering Services in accordance with your request.

The Engineering Services proposed are for design of a new emergency generator for the new and old highway buildings (1 Generator and 2 Automatic transfer switch systems), along with basic electrical plan updates for the execution of the electrical upgrades project to the Old Highway Garage building. (New highway work has been completed).

This proposal is based on our discussion and site visit.

This letter/contract shall include all necessary MEP designs and bid services in accordance with you request.

We propose to provide the following Engineering Services:

1. Generator sizing for the new combined and old highway garage buildings
2. Design of a new generator system utilizing natural gas as the fuel source
3. Include automatic transfer of power (both buildings).
4. Remote annunciator with appropriate automatic exercising controls (locate in New Highway Garage).
5. Generator pad details and grounding systems.
6. Design will also include fuel service connections.

□ 22 Mulberry Street, Suite 2A
Middletown, NY 10940
t 845-343-1481 • fx 845-343-4986

□ 85 Market Street, Suite 200
Poughkeepsie, NY 12601
t 845-454-9704 • fx 845-454-9705

□ 7 West Broome Street
Port Jervis, NY 12771
t 845-856-3600 • fx 845-856-3734

**TOWN OF NEWBURGH HIGHWAY BUILDINGS
REDESIGN & REBID OF THE ELECTRICAL UPGRADES PROJECT
FE PROJECT NO. 12-035**

7. Updates to previous electrical designs at the old Highway Building to accommodate final bidding documents.

Fellenzer Engineering, LLP will provide services for, but not limited to:

1. Verify system sizing, site location and placement.
2. Verify existing conditions, alterations and updates.
3. Attend and assist at the pre-bid meeting
4. Verify the installation upon contractor's completion of the project

Professional fees for the services outlined above shall be:

Generator Design	\$ 4,200.00
Construction Period Services	\$ 1,600.00
Total	\$ 5,800.00

We will provide complete plans and specifications as follows:

1. AUTOCAD graphics of all design work.
2. Specifications on 8 1/2" x 11" copy.

For all of the hereinbefore-outlined work we shall provide the following Engineering Services to assist in the bidding and construction phases of this project as follows:

1. Preparation of bid documents for contractor bidding or negotiations.
2. Evaluation of bids or pricing.
3. Shop drawing review and approvals.
4. Field visits, observation of construction during installation of new systems.
5. Punch listing and final project closeout.

Engineering construction phase exclusions shall be as follows:

1. Construction of management (CM), Site Safety
2. Coordination of trades
3. Construction cost accounting
4. DEC permitting or regulatory approvals (if required)

Drawings to be prepared on Mylar tracing media, ready for printing. Specifications to be written form on 8-1/2" x 11" copy. All graphics to be AUTOCAD.

Major changes in plans after completion required by Owner to be made at our standard per diem rates in addition to regular fees. (See attached schedule).

Payment to be as follows:

Billed monthly based on percent complete.

**TOWN OF NEWBURGH HIGHWAY BUILDINGS
REDESIGN & REBID OF THE ELECTRICAL UPGRADES PROJECT
FE PROJECT NO. 12-035**

11B

Thank you for this opportunity to assist you.

Very truly yours,



John D. Fellenzer, P.E.
Principal

Mr. James Osborne, P.E.

2.28.12

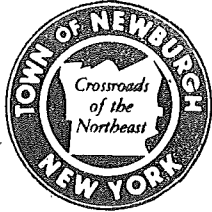
Date

Date

JDF/emh
Enclosure

12. ACCOUNTING: Budget Transfer

MAR 6 2012



TOWN OF NEWBURGH

1496 Route 300, Newburgh New York 12550

12

JACQUELINE M. CALARCO, CPA
ACCOUNTANT

845-564-5220
Fax 845-566-1432
E-Mail: townacct@frontiernet.net

To: Wayne C. Booth, Supervisor
CC: Board Members
From: Jackie Calarco, Town Accountant *Jackie Calarco*
Date: March 1, 2012
RE: 2011 Budget Transfers

Please approve the following year end budget transfers for 2011:

Department	Transfer to	Amount	Transfer from
General Fund Revenues			
Dial-A-Bus	001.0001.2030	15,100.00	001.0001.1232
Pre-school Activities	001.0001.2031	2,700.00	001.0001.2001
Youth Activities	001.0001.2032	5,400.00	001.0001.2001
Zoning Fees	001.0001.2110	6,000.00	001.0001.2037
Planning Board Fees	001.0001.2115	5,200.00	001.0001.1232
Dog License Fee	001.0001.2544	1,900.00	001.0001.2001
Other License Fee	001.0001.2545	30.00	001.0001.2590
Public Safety Permits	001.0001.2550	31,600.00	001.0001.1081
Building Permit Fees	001.0001.2555	65,700.00	001.0001.2610
Minor Sales	001.0001.2655	500.00	001.0001.2610
Insurance Recoveries	001.0001.2680	24,800.00	001.0001.2610
DARE	001.0001.2705	3,000.00	001.0001.2770
Mortgage Tax	001.0001.3005	332,800.00	001.0001.1120
State Aid - Real Prop	001.0001.3040	2,000.00	001.0001.3090
State Aid - Youth	001.0001.3820	2,400.00	001.0001.3804
Federal Aid	001.0001.4320	8,200.00	001.0001.4089
Water Fund Revenues			
Water Service Charges	040.0040.2144	4,800.00	040.0040.2140
Expenditures			
Department	Account	Transfer to	Transfer from
Animal Control	Maintenance/Leases	001.3510.0497	120.00 001.3510.0480
Recreation	Telephone	001.7110.0480	400.00 001.7110.0474
Water Distribution	Telephone	040.8340.0480	300.00 040.8340.0472

13. PLANNING: Mountain Lakes Subdivision Landscape Bond

KALA

Karen Arent Landscape Architect

13

Memorandum

To: Supervisor Wayne Booth and the Town of Newburgh Board

From: Karen Arent, Landscape Architect

Date: March 1, 2012

Subject: Mountain Lakes Subdivision, off Rock Cut Road

Town Project Number: 2004-61

Cc: Chairman John Ewasutyn and the Town of Newburgh Planning Board, Ms. Cindy Martinez, Mark Taylor, Esq., Attorney for the Town of Newburgh Board, Mr. Gerald Canfield, Code Enforcement for the Town of Newburgh, Mr. James Osborne

COMMENTS:

An inspection of the landscaping at the above referenced site was performed on January 19, 2012. An additional 55 street trees are recommended to be planted. Landscaping that was planted in general, appears healthy, but it is difficult to determine at this time of year. A total of 74 street trees are not needed because existing trees were preserved. Fifty percent of the bond held for landscaping that was installed during the fall of 2010, is also recommended.

The landscape bond originally held for the project is \$105,090. This bond can be reduced as follows:

74 street trees not needed, reduce amount by fifty percent per tree x \$165 per tree:	\$12,210
<u>Fifty percent reduction for plants installed fall, 2010:</u>	<u>\$31,260</u>
Total reduction recommended:	\$43,470

Attached is the landscape inspection report submitted to Jerry Canfield that outlines tree removals, street trees to plant, and other work requested to be completed before additional reductions in the bond can be recommended.

14. FLEET MAINTENANCE: Surplus Equipment

MAR 6 2012

14

**TOWN OF NEWBURGH
FLEET MAINTENANCE
88 GARDNERTOWN ROAD
NEWBURGH, NY 12550
(845) 561-2288 Fax# (845) 561-3975**

TO: Wayne Booth, Supervisor, and Town Board Members

FROM: James LaColla, Head Mechanic-Fleet Maintenance



DATE: March 2, 2012

RE: Surplus Equipment

**CC: Jacqueline Calarco, Town Accountant
Andrew Zarutskie, Town Clerk**

Request items on attached list be declared surplus to facilitate disposal through GovDeals.com

19

2012 Surplus				
Ref #	VEH #	Year	Model	Vin #
1	310	2004	FORD CVC	2FAHP71W64X138858
2	311	2004	FORD CVC	2FAHP71W84X138859
3	312	2004	FORD CVC	2FAHP71W44X138860
4	8	2002	Ford CVC	2FAFP71W42X148826
5	336	2002	FORD CVC	2FAFP71W22X148825
6	9	2003	Ford CVC	2FAFP71W73X140513
7	334	1999	FORD CVC	2FAFP71W5XX163990
8	322 (307)	2007	FORD CVC	2FAHP71WX7X134364
9	12	2003	Ford CVC	2FAFP71W53X140504
10	335	1999	FORD CVC	2FAFP71W0XX201836
11	BI 35	1999	FORD CVC	2FAFP71W7XX163988
12	BI 50	1999	FORD CVC	2FAFP71W7XX110854
13	5	1998	Ford Taurus	1FAFP52U7WG158652
14	11	1999	FORD WINDSTAR	2FMZA5247XBA75509
15	SUP	2002	CHEV IMP	2G1WF52E029305126
16	13	1998	Ford Taurus	1FAFP52U9WG158653
17	BI 40	1996	Ford Taurus	1FALP52U5TA224021
18	RD 6	1994	JEEP	1J4FJ28S5RL213864
19		2002	Dodge Caravan	1B4GP45322B520872
20	TH 1	2000	JEEP SUBN	1J4FF28SXYL231504
21	FI 33	2000	Chev. Impala Sedan	2G1WF52E4Y9326554
22	FM 1	2003	DODGE P/U	1D7HU16N13J565474
23	FM2	1991	GMC SUBN	1GKEV18K5MF521368
24	2	1997	Ford F350	1FDJW36F3VEA70162
25	SD 5	1997	DODGE P/U	1B7KF26Z1VJ562810
26	P/U 5	2001	FORD UTIL	1FTSW31F81ED15919
27	TRK 3	1978	FORD TRAC	U901VBE5472
28	AC 2	2002	DODGE VAN	2B7JB21Y42K118858
29	SD 2	1999	DODGE VAN	2B7HB11X6XK500316
30	WD 3	1981	MACK DUMP	1M2P129C5BA009418
31	TRK 19	1998	MITSU DUMP	JWGAGC1H3WN000253
32	P/U 6	1995	FORD UTIL	1FDJW36FXSEA15820
33	COMP	1975	IN/RA	87856U75250
34	LOADER	1990	TROJAN	3843610
35	FP	2003	J. DEERE GATOR	W006X4X069342
36	CHIPPER	1995	WOODCHUCK 17	W9M71217SS200300
37	EB	1994	ROLLER	38455