

AGENDA

PUBLIC TOWN COUNCIL MEETING

Monday, June 18, 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. RESOLUTION for SEQRA Lead Agency Status: Local Law Amending Home Occupations
7. RESOLUTION of Referral for Local Law: Home Occupations
8. RESOLUTION Scheduling Public Hearing for Local Law Amending Home Occupations
9. RESOLUTION Scheduling Public Hearing for Local Law Amending Marina Zoning
10. RESOLUTION of Referral for Local Law Amending Marina Zoning
11. SEWER: West Stone Street Sewer
 - A. RESOLUTION of Final Order of Establishments for the West Stone Street Sewer Extension
 - B. RESOLUTION of Consolidation of the West Stone Street Sewer Extension and Sewer District
 - C. Engineering Service
12. ENGINEERING: Change Order for the Delaware Aqueduct Tap Water Filtration Plant
13. ANIMAL CONTROL:
 - A. T-92 Withdrawal
 - B. T-93 Withdrawal
 - C. T-94 Withdrawal
14. ANNOUNCEMENTS
15. PUBLIC COMMENTS
16. ADJOURNMENT

- 6. RESOLUTION for SEQRA Lead Agency Status: Local Law Amending Home Occupations**
- 7. RESOLUTION of Referral for Local Law: Home Occupations**
- 8. RESOLUTION Scheduling Public Hearing for Local Law Amending Home Occupations**

JUN 18 2012

6.7.12

**INTRODUCTORY LOCAL LAW # __ OF 2012
A LOCAL LAW AMENDING CHAPTER 185 ENTITLED
"ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH TO ESTABLISH
SUPPLEMENTARY REGULATIONS APPLICABLE TO
HOME OCCUPATIONS**

BE IT ENACTED by the Town Board of the Town of Newburgh as follows:

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 to Establish Supplementary Regulations Applicable to Home Occupations".

SECTION 2 – PURPOSE AND INTENT

The Town Board of the Town of Newburgh declares its intent to amend the Town of Newburgh Zoning Code in order to clearly prohibit accessory home occupation activities outside of dwellings so that such accessory uses are restricted to uses within dwellings. In that regard, the Town Board finds that certain uses cannot be conducted solely within dwellings as currently required by the Zoning Code and are accordingly to be explicitly prohibited. Additionally, the Town Board finds that certain activities that may be associated with home occupations will have detrimental impacts on neighboring residences and residential neighborhoods and accordingly supplemental regulations of home occupations are needed.

SECTION 3 – AMENDMENTS TO CHAPTER 185

1. Section 185-3 entitled "Definitions; word usage" is hereby amended by revising the definition of "HOME OCCUPATION" as follows:

HOME OCCUPATION

Any gainful occupation or profession customarily conducted within a dwelling by the residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one nonresident employee working on the premises at any one time and shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling, if so used. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; and teaching, with musical, dancing and other instruction limited to one pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barbershop or beauty parlor, restaurant, animal hospital, ~~or~~ commercial animal breeding, taxi service or yard and in residential zones, uses which entail the outdoor use, maintenance, servicing, testing, cleaning, repair, loading, unloading or storage of outdoor machinery, motor equipment or commercial vehicles or outdoor work activities conducted on the property containing the dwelling.

2. A new Section 185-48.5 entitled "Home Occupations" is hereby added to Chapter 185 to read as follows:

"§ 185-48.5 Home Occupations"

- A. Findings. The Town of Newburgh permits customary Home Occupations to be conducted as accessory uses in dwellings subject to special permit in each of its residential districts and in the B (Business) district. The Town Board of the Town of Newburgh finds that certain occupations, which potentially could be conducted in dwellings, are detrimental to residential neighborhoods and accordingly are specifically prohibited. The Town Board of the Town of Newburgh additionally finds that occupations which require the use of outdoor motor equipment, machinery or vehicles or which involve outdoor on-premise work activities or outdoor storage upon the property occupied by the subject dwelling are also detrimental to residential neighborhoods as a result of noise, traffic on residential streets, emissions and related impacts, and accordingly the presence of such equipment, machinery and vehicles and such outdoor work activities should not be permitted on the property located in a residential zone in conjunction with Home Occupations.
- B. Purposes. Home Occupations are permitted subject to special permit in recognition that certain occupations and professions have been customarily conducted within dwellings by residents without changing the character of the structure as a residence or the property occupied by the structure. A Home Occupation will change the residential character of the structure and the property it occupies, however, if it is not confined to the interior of the dwelling or if the presence of non-residential employees is not limited. If an occupation which commences as a Home Occupation prospers and grows to a point where it is a business with more than one nonresident employee, then it should no longer be conducted as a Home Occupation. It is accordingly appropriate that the Zoning Board of Appeals require as a condition of the granting of all Home Occupation special permits that the permit be for a finite time period and subject to application by the applicant at the stated interval for renewal following review and hearing by the Zoning Board of Appeals.

Certain occupations due to the traffic they generate, noise or odor impacts are detrimental to neighboring residential properties or neighborhoods. Certain occupations which have indoor office components but also entail the use, maintenance, storage, testing, cleaning, repair, loading or unloading of outdoor machinery, motor equipment or commercial vehicles or outdoor work activities, to the extent such activities are conducted upon the property occupied by the dwelling, also have detrimental impacts to neighboring residential properties and neighborhoods.

The purpose of this section is to establish regulations for Home Occupations so that they do not have detrimental impacts on neighboring residences and residential neighborhoods and to specifically prohibit certain uses and activities as home occupations in residential zones in order to preserve the character of residential neighborhoods.

- C. No more than one nonresident employee, associate, assistant or intern shall work on the premises at any one time. The nonresident employee's, associate's, assistant's or intern's work activities shall be confined to space within the dwelling. The nonresident employee, associate, assistant or intern shall not engage in outdoor work activities. No additional nonresident employees, associates, assistants or interns shall report to the property for any purpose, including but not limited to transportation to off site work premises, conferences, training or testing.

F. The following are prohibited as home occupations:

1. clinic;
2. hospital;
3. barbershop;
4. beauty parlor;
5. restaurant;
6. animal hospital;
7. commercial animal breeding;
8. uses in residential zones which include the outdoor use, maintenance, servicing testing, cleaning, repair, loading, unloading, or storage of outdoor machinery, motor equipment or commercial vehicles;
9. uses in residential zones which include outdoor work activities conducted on the property containing the dwelling; and
10. taxi or ambulance service or yard.

Any such use which has previously received a special permit from the Zoning Board of Appeals or existed prior to prohibition in the Zoning Code shall be deemed nonconforming.

- G. No outdoor machinery, motor equipment or commercial vehicular maintenance, service, testing, cleaning or repair, nor the loading and unloading of motor equipment in conjunction with a Home Occupation shall be conducted on the residential premises of the Home Occupation in residential zones, except inside a building on the premises.
- H. No commercial vehicle, trailer or motor equipment parking, storage, loading or unloading in conjunction with the Home Occupation shall take place outdoors on the residential premises of a Home Occupation in a residential zone, except for the parking of one vehicle as permitted pursuant to § 185-13E. Home occupations shall provide off-street parking for any and all anticipated increases in vehicles at the premises above and beyond the parking already required. Off-street parking required for the home occupation shall not be located in a front yard.
- I. Delivery and pickup of material or commodities to and from the residential premises of a Home Occupation in a residential zone by a commercial vehicle shall not exceed 20 vehicle trips per week.
- J. The Home Occupation shall not use, store, produce or dispose of any toxic or hazardous material.
- K. The Home Occupation in a residential zone shall not produce any odor, noise, vibration, smoke, dust, heat, or glare discernible at the property line.
- L. No outdoor display of goods other than agricultural food products or outdoor storage of goods, equipment, containers or material used in the Home Occupation shall be permitted in a residential zone.
- M. Home Occupations shall be limited to one per lot.
- N. When applicable, the building construction classification and fire separations for the building shall comply with the applicable fire and building safety requirements of the

Town for mixed use of residential and the applicable nonresidential use classification of such Home Occupation and shall be certified by the Building Inspector.

- O. No unlawful use of a building or structure or lot for a Home Occupation existing at the effective date of the local law enacting this Section shall be deemed to be a nonconforming use.”

SECTION 4 – AMORTIZATION OF NONCONFORMING ACCESSORY HOME OCCUPATION USES

A. Notwithstanding Section 185-19 of the Town Code the following applies to Home Occupations rendered nonconforming by this Local Law

- (1) The Town Board finds that certain Home Occupations adjacent to and abutting other residential properties in residential districts adversely impact neighborhoods' quality of life, through outdoor work activities which produce noise, traffic on residential streets, emissions and related impacts on neighboring properties that cannot be eliminated without a cessation of such outdoor work activities. Such activities include outdoor equipment or vehicular and motor equipment maintenance, service, testing, cleaning and repair, the loading and unloading of equipment from vehicles or trailers and the storage, parking, starting, stopping and idling of more than one vehicle or motor equipment.
- (2) The Town Board further finds that the continued operation of Home Occupations which include outdoor work activities in residential districts and are rendered nonconforming by this Local Law will adversely affect the health, safety and welfare of the residents of the Town in general and the neighboring and nearby residences in particular and that their continued operation will likely adversely affect neighboring property values.
- (3) Based upon the foregoing findings, the Town Board has determined that in order to preserve and protect the health safety and welfare of the residents of the Town, and to preserve and protect the property values in the Town the continued use of residential properties for nonconforming Home Occupations in residential zones which entail the outdoor use, maintenance, servicing testing, cleaning, repair, loading, unloading, or storage of outdoor machinery, motor equipment or commercial vehicles or other outdoor work activities should be discontinued and that said operation should be terminated upon the following provisions.

B. Termination.

- (1) The right to operate and maintain a nonconforming Home Occupation in a residential zone which entails the outdoor use, maintenance, servicing testing, cleaning, repair, loading,

unloading, or storage of outdoor machinery, motor equipment or commercial vehicles or other outdoor work activities conducted on the property containing the dwelling, where the property is adjacent to and abutting other residential property shall terminate one (1) year from the date this Local Law is adopted unless, within the time specified, the owner or mortgagee or both appeal to the Zoning Board of Appeals and the Zoning Board of Appeals by decision and resolution extends the termination date for an additional period of time not to exceed two (2) years from the date this Local Law is adopted.

- (2) In the event that an appeal is taken to a court of competent jurisdiction from any of the provisions of this amortization section or from any decision of the Zoning Board of Appeals, the period of termination set forth above shall continue to run during said appeal.
- (3) In the event the owner permanently ceases the outdoor use, maintenance, servicing testing, cleaning, repair, loading, unloading, or storage of outdoor machinery, motor equipment or commercial vehicles and other outdoor work activities, the nonconforming Home Occupation may continue in accordance with §185-19A following the expiration of the periods set forth above.

C. Notice of termination.

- (1) Upon the adoption of this Local Law, the Building Inspector shall serve a notice of termination upon the owners of the real property and the mortgagee, if any, of any mortgage on real property, notifying them that the operation of the nonconforming Home Occupation shall terminate on the date specified in the notice. The notice shall further state that the owner or mortgagee, or both, may, within 60 days of the date the notice is served, file an application with the Zoning Board of Appeals for an extension of the termination date.
- (2) If no such application is filed within the time set forth herein, it shall be presumptive proof that the termination date set forth in said notice is reasonable and that the nonconforming Home Occupation has been fully amortized, and the use shall terminate on the date specified in the notice.
- (3) The notice of termination shall be sent by certified mail, return receipt requested, to the owner of the real property at the address set forth on the most recent tax rolls of the Town and to any mortgagee at the address set forth on any recorded mortgage.
- (4) In the event that the certified letter is not accepted by the owner, the posting of a copy of the notice on the property and the mailing of a copy by regular mail to the owner's address shall be deemed sufficient notice.

D. Hearing.

- (1) Upon the filing of an application, the Zoning Board of Appeals shall schedule and notice a public hearing to determine the termination date.
- (2) The Zoning Board of Appeals shall be entitled to retain such experts and others it deems necessary to assist it in its review in accordance with the provisions of Chapter 104.
- (3) The applicant shall have the burden of establishing the right to continue the operation of the home occupation beyond the date set forth in the termination notice.
- (4) The Zoning Board of Appeals shall consider the following factors, among others, in making its determination:

[a] The value of the land without the buildings, fixed equipment, fixed structures and other fixed capital improvements existing on the property and used in the operation of the nonconforming Home Occupation, excluding the dwelling, as of the date it was acquired by the present owner.

[b] The value of all the buildings, fixed equipment, fixed structures and other fixed capital improvements existing on the property and used in the operation of the nonconforming Home Occupation excluding the dwelling as of the date the Home Occupation became a nonconforming use.

[c] The value of all the buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation, excluding the dwelling, as of the date the present owner acquired the property.

[d] The value of all buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation that were added pursuant to a valid building permit subsequent to the date the present owner acquired the property.

[e] The value of all additions, modifications and alterations made to buildings, fixed equipment, fixed structures and other fixed capital improvements used for the nonconforming Home Occupation that were added pursuant to a valid building permit subsequent to the date the present owner acquired the property.

[f] The depreciation of buildings, fixed equipment, fixed structures and other fixed capital improvements used in the nonconforming Home Occupation taken for income tax purposes by the present owner.

[g] The effect the operation of the nonconforming Home Occupation has upon property values in the area.

[h] The character of the neighborhood.

[i] The environmental effects the nonconforming Home Occupation has upon the neighborhood.

E. Standing. Any resident of the Town and the Town Board shall have the standing and the right to intervene in any hearing before the Zoning Board of Appeals.

SECTION 5 – VALIDITY

If any word, clause, sentence, paragraph, section or part of this local law or the application thereof to any person or circumstance 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 thereof or the application thereof to any other persons or circumstances 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 hereby declares that it would have enacted this Local Law or the remainder thereof if the invalidity of such provision or application thereof had 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.

DRAFT

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 4th day of June, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne C. Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piacquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
DETERMINING THE PROPOSED
LOCAL LAW AMENDING
THE APPLICATION AND PUBLIC HEARING
NOTIFICATION PROVISIONS OF CHAPTER 83
ENTITLED "CLEARING AND GRADING",
CHAPTER 163 ENTITLED "SUBDIVISION OF
LAND", CHAPTER 168 ENTITLED
"TELECOMMUNICATIONS FACILITIES,
WIRELESS" AND CHAPTER 185 ENTITLED
"ZONING" OF THE CODE OF THE TOWN OF
NEWBURGH IS AN UNLISTED ACTION AND
PROVIDING FOR REVIEW UNDER SEQR

Councilwoman Greene presented the following resolution which was seconded
by Councilman Piacquadio.

WHEREAS, the Town Board of the Town of Newburgh has caused to be prepared a local law amending the Application and Public Hearing Notification Provisions of Chapter 83 Entitled "Clearing and Grading", Chapter 163 Entitled "Subdivision of Land", Chapter 168 Entitled "Telecommunications Facilities, Wireless" and Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh; and

WHEREAS, the Town Board of the Town of Newburgh recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a and has determined that the proposed change is consistent with and does not require an amendment to the Town's adopted Comprehensive Plan Update; and

WHEREAS, the Town Board of the Town of Newburgh has caused an Environmental Assessment Form (the "EAF") to be prepared for the proposed adoption of the proposed local law amending the Municipal Code's application and public hearing notification requirements (the "Action"); and

WHEREAS, the Town Board proposed to undertake, fund and approve the Action and wishes to assume Lead Agency status in connection with the review of the Action pursuant to the State Environmental Quality Review Act.

NOW, THEREFORE, BE IT RESOLVED, the Town Board pursuant to Article 8 of the Environmental Conservation Law ("SEQR"), Part 617 of the General Regulations adopted pursuant thereto ("Part 617") and Chapter 100 entitled "Environmental Quality Review" of the

Town of Newburgh Municipal Code, hereby determines that the Action is subject to SEQR and is an unlisted action; and

BE IT FURTHER RESOLVED, that the following agencies identified by the EAF, using all due diligence, are involved agencies for the Action:

None

and;

BE IT FURTHER RESOLVED, that the following are identified as interested agencies for the Action:

Orange County Department of Planning

Town of Newburgh Planning Board

Town of Newburgh Zoning Board of Appeals

and;

BE IT FURTHER RESOLVED, that the Town Board hereby directs that a Lead Agency coordination letter be circulated among involved agencies, if any, together with copies of the EAF, and such other information as is appropriate, indicating the Town Board's intent to assume the role of Lead Agency for the Action under SEQR and Part 617, and that copies of the EAF also be forwarded to all interested agencies for review and comment.

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 AYE

Gilbert J. Piaquadio, Councilman voting AYE

Elizabeth J. Greene, Councilwoman voting AYE

Ernest C. Bello, Jr., Councilman voting AYE

Wayne C. Booth, Supervisor voting AYE

The resolution was thereupon declared duly adopted.

DRAFT

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 __th day of June, 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 PROVIDING FOR REFERRAL OF LOCAL LAW AMENDING CHAPTER 185 ENTITLED 'ZONING' OF THE CODE OF THE TOWN OF NEWBURGH TO ESTABLISH SUPPLEMENTARY REGULATIONS APPLICABLE TO HOME OCCUPATIONS

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

WHEREAS, the Town Board of the Town of Newburgh has caused a local law to be prepared amending Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh to establish supplementary regulations applicable to Home Occupations ; and

WHEREAS, said Local Law Amending Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh to Establish Supplementary Regulations Applicable to Home Occupations has been introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York.

NOW, THEREFORE, BE IT RESOLVED that copies of the aforesaid local law be forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their reports in accordance with the provisions of the New York State General Municipal Law and the Town of Newburgh Zoning Code; and

BE IT FURTHER RESOLVED, that a copy of the aforesaid local law also be forwarded to the Town of Newburgh Zoning Board of Appeals for its comments.

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. Greene, Councilwoman voting _____
- Ernest C. Bello, Jr., Councilman voting _____
- Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

DRAFT

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 ___th day of June, 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
INTRODUCING
LOCAL LAW AMENDING CHAPTER
185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF
NEWBURGH TO ESTABLISH
SUPPLEMENTARY REGULATIONS
APPLICABLE TO
HOME OCCUPATIONS
AND CALLING PUBLIC HEARING

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

BE IT RESOLVED that a Local Law Amending Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh to Establish Supplementary Regulations Applicable to Home Occupations be and hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York; and.

BE IT FURTHER RESOLVED that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law; and

BE IT FURTHER RESOLVED that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 the Town of Newburgh, New York on the ___th day of July, 2012 at 7:___ o'clock, p.m., and

BE IT FURTHER RESOLVED that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing in accordance with the requirements of the Municipal Home Rule Law and Section 25-1 of the Town of Newburgh Municipal Code and by posting one copy of the local law together with the notice of hearing on the signboard of his office not later than the day such notice is published; and

BE IT FURTHER RESOLVED that copies of the aforesaid local law and notice of the public hearing be forwarded to all municipalities, agencies and boards required to receive such copies and notices in accordance with the provisions of the New York State General Municipal Law, the New York State Town Law and the Town of Newburgh Zoning Code.

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. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

9. RESOLUTION Scheduling Public Hearing for Local Law Amending Marina Zoning

10. RESOLUTION of Referral for Local Law Amending Marina Zoning

**INTRODUCTORY LOCAL LAW NO. ___ of 2012
TOWN BOARD
TOWN OF NEWBURGH
COUNTY OF ORANGE: STATE OF NEW YORK
A LOCAL AMENDING
THE MARINA TOWNHOME
ACCESSORY USE REGULATIONS OF
CHAPTER 185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH**

BE IT ENACTED by the Town Board of the Town of Newburgh, New York as follows:

Section 1. Title. This Local Law shall be referred to as "A Local Law Amending the Marina Townhome Accessory Use Regulations of Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh."

Section 2. Amendment to Chapter 185. Chapter 185 of the Code of the Town of Newburgh, entitled "Zoning," is hereby amended in the following manner:

A. Subparagraph 185-34B(3)(b) of Section 185-34B entitled "Accessory uses" of Section 185-34 entitled "Marinas" is hereby amended to read as follows:

"(3) Townhomes are permitted as an accessory use to a marina subject to the following conditions and restrictions:

...

(b) The marina must contain at least ~~100~~ 20 boat slips and no more than ~~150~~ 40 boat slips;"

Section 3. 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 judgement shall not affect, impair or invalidate the remainder 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 judgement shall have been rendered.

Section 4. Effective Date. This Local Law shall be effective immediately upon filing with the New York Secretary of State.

DRAFT

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 ___th day of June, 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
INTRODUCING A
LOCAL LAW AMENDING THE
MARINA TOWNHOME
ACCESSORY USE REGULATIONS
OF CHAPTER 185 ENTITLED
"ZONING" OF THE CODE
OF THE TOWN OF NEWBURGH
AND CALLING PUBLIC HEARING

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

BE IT RESOLVED that a Local Law Amending Marina Townhome Accessory Use Regulations of Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh be and hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York; and.

BE IT FURTHER RESOLVED that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law; and

BE IT FURTHER RESOLVED that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 the Town of Newburgh, New York on the ___th day of July, 2012 at 7:___ o'clock, p.m., and

BE IT FURTHER RESOLVED that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing in accordance with the requirements of the Municipal Home Rule Law and Section 25-1 of the Town of Newburgh Municipal Code and by posting one copy of the local law together with the notice of hearing on the signboard of his office not later than the day such notice is published; and

BE IT FURTHER RESOLVED that copies of the aforesaid local law and notice of the public hearing be forwarded to all municipalities, agencies and boards required to receive such copies and notices in accordance with the provisions of the New York State General Municipal Law, the New York State Town Law and the Town of Newburgh Zoning Code.

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. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

DRAFT

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 ___th day of June, 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 PROVIDING FOR REFERRAL OF LOCAL LAW AMENDING THE MARINA TOWNHOME ACCESSORY USE PROVISIONS OF CHAPTER 185 ENTITLED 'ZONING' OF THE CODE OF THE TOWN OF NEWBURGH

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

WHEREAS, the Town Board of the Town of Newburgh has caused a local law to be prepared amending the Marina Townhome Accessory Use Regulations of Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh ; and

WHEREAS, said Local Law Amending the Marina Townhome Accessory Use Regulations of Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh has been introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York.

NOW, THEREFORE, BE IT RESOLVED that copies of the aforesaid local law be forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their reports in accordance with the provisions of the New York State General Municipal Law and the Town of Newburgh Zoning Code; and

BE IT FURTHER RESOLVED, that a copy of the aforesaid local law also be forwarded to the Town of Newburgh Zoning Board of Appeals for its comments.

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. Greene, Councilwoman voting _____
- Ernest C. Bello, Jr., Councilman voting _____
- Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

- 11. SEWER: West Stone Street Sewer**
 - A. RESOLUTION of Final Order of Establishments for the West Stone Street Sewer Extension**
 - B. RESOLUTION of Consolidation of the West Stone Street Sewer Extension and Sewer District**
 - C. Engineering Service**

JUN 18 2012

11 a+b

RIDER, WEINER & FRANKEL, P.C.

ATTORNEYS & COUNSELLORS AT LAW

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(845) 632-6094

MEMORANDUM

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

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: WEST STONE STREET SEWER DISTRICT EXTENSION AND
CONSOLIDATION
OUR FILE NO. 800.1(B)() (2011), 801. ____

DATE: JUNE 14, 2012

The permissive referendum period has expired without submission of a petition for referendum on the resolution adopted by the Town Board on April 16, 2012 approving the establishment of the West Stone Street Extension to the Crossroads Consolidated Sewer District. Enclosed for the Board's consideration are a final order on the West Stone Street Sewer District Extension and a resolution approving the consolidation of the extension with Crossroads Consolidated Sewer District are the following draft resolutions:

FINAL ORDER OF THE TOWN BOARD OF THE TOWN OF NEWBURGH
ESTABLISHING THE WEST STONE STREET EXTENSION OF CROSSROADS
CONSOLIDATED SEWER DISTRICT IN THE TOWN OF NEWBURGH, ORANGE
COUNTY, NEW YORK (In the Matter of the West Stone Street Extension Of the Crossroads
Consolidated Sewer District in the Town of Newburgh, County of Orange, State of New York)

A RESOLUTION APPROVING FINAL JOINT CONSOLIDATION AGREEMENT BY AND
BETWEEN THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF
NEWBURGH, NEW YORK AND THE WEST STONE STREET EXTENSION OF THE
CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH,
NEW YORK PURSUANT TO ARTICLE 17-A OF THE GENERAL MUNICIPAL LAW OF
THE STATE OF NEW YORK

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

cc: Town Clerk Andrew J. Zarutskie
James Osborne, Town Engineer (via e-mail)
Jacqueline Calarco, Town Accountant (via e-mail)

DRAFT

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 ___th day of June, 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

FINAL ORDER OF THE TOWN BOARD
OF THE TOWN OF NEWBURGH
ESTABLISHING
THE WEST STONE STREET EXTENSION
OF THE CROSSROADS CONSOLIDATED
SEWER DISTRICT IN THE TOWN OF
NEWBURGH, ORANGE COUNTY, NEW YORK

-----x
 In the Matter of the West Stone Street Extension
 Of the Crossroads Consolidated Sewer District
 in the Town of Newburgh, County of Orange,
 State of New York
 -----x

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

WHEREAS, a map, plan and report has been duly prepared according to law in such manner and in such detail as has heretofore been determined by the Town Board of the Town of Newburgh, relating to the extension of the Crossroads Consolidated Sewer District of said Town, such Sewer District extension to be known as the "West Stone Street Extension of the Crossroads Consolidated Sewer District" of the Town of Newburgh, Orange County, New York; and

WHEREAS, said map, plan and report showing the facilities involved together with the proposed boundaries of the proposed West Stone Street Extension of the Crossroads Consolidated Sewer District was prepared by GHD Consulting Engineers, LLC, competent engineers, duly licensed by the State of New York, and has been filed in the office of the Town Clerk of said Town, where the same is available during regular office hours for examination by any persons interested in the subject matter thereof; and

WHEREAS, the boundaries of the proposed extension of said sewer district extension are set forth in Appendix "A" annexed hereto and made a part hereof; and

WHEREAS, the Action which includes the proposed establishment of the extension of the

Crossroads Consolidated Sewer District Stewart has been determined to be an "Unlisted Action" pursuant to Part 617 of the General Regulations ("Part 617") adopted pursuant to Article 8 of the Environmental Conservation Law ("SEQR") and Chapter 100 entitled "Environmental Quality Review" of the Town of Newburgh Municipal Code, for which the Town has prepared an Environmental Assessment Form, which Form has been filed in the office of the Town Clerk of said Town, where the same is available during regular business office hours for examination by any persons interested in the subject matter thereof; and

WHEREAS, on April 16, 2012, the Town Board acting as the Lead Agency in a coordinated SEQR review adopted a "Negative Declaration" pursuant to which it was determined that the proposed establishment of the extension of the Crossroads Consolidated Sewer District to include an area of the Town in the vicinity of West Stone Street and North Carpenter Avenue currently outside the boundaries of any established sewer district pursuant to Article 12-A of the Town Law of the State of New York and related project elements comprising the Action will not result in a significant effect on the environment; and

WHEREAS, \$525,000.00 is the maximum amount set forth in the map, plan and report as proposed to be expended for the improvements of the extension of the sewer district's facilities; and

WHEREAS, financing is proposed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the Town; and

WHEREAS, the estimated hook up fee is \$100 and the cost of the district extension to the typical property is \$375.90, equaling the sum of an estimated \$7.90 debt service charge for the district extension, an estimated \$134.00 debt service charge for the existing Crossroads Consolidated Sewer District and an estimated \$234.00 typical operation and maintenance charge, which is the same as the cost to the typical one and two family home; and

WHEREAS, in accordance with prior determinations and referendum, all the expenses of the Crossroads Consolidated Sewer District, including all extensions heretofore established, have been a charge against the entire area of the district as extended in accordance with the provisions of Town Law Section 206-a, and it is proposed that the Crossroads Consolidated Sewer District of the Town of Newburgh and the West Stone Street Extension of the Crossroads Consolidated Sewer District of the Town of Newburgh be consolidated pursuant to Article 17-A of the General Municipal Law concurrently with the extension of the sewer district; and

WHEREAS, the levying of assessments for the West Stone Street Extension of the Crossroads Consolidated Sewer District of the Town of Newburgh shall be on a benefit basis as follows: by assessment of the costs against the properties in the district in just proportion to the benefits which the improvements shall confer upon the same; and

WHEREAS, an order was duly adopted by said Town Board on February 29, 2012,

reciting a description of the boundaries of said proposed District, the services proposed, the fact that said map, plan and report was on file in the Town Clerk's Office for public inspection and specifying the 16th day of April, 2012, at 7:15 o'clock P.M., Prevailing Time, at the Town Hall, 1496 Route 300, in Newburgh, New York, in said Town, as the time when and the place where said Town Board would meet for the purpose of holding a public hearing to consider the matter of the West Stone Street Extension of the Crossroads Consolidated Sewer District of the Town of Newburgh and said map, plan and report filed in relation thereto and the improvements therefore and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of said Town Board as may be required by law or shall be proper in the premises; and

WHEREAS, notice of the aforesaid public hearing was duly published and posted in the manner and within the time prescribed by Section 209-d of the Town Law, and proof of publication and posting has been duly presented to the Town Board; and

WHEREAS, said public hearing was duly held at the time and place stated in said order, at which all persons desiring to be heard were duly heard; and

WHEREAS, said Town Board duly considered said map, plan and report and the evidence given at said public hearing; and

WHEREAS, the Town Board did duly find, determine and resolve following said hearing that

(a) The notice of hearing was published and posted as required by law and is otherwise sufficient;

(b) All the property and property owners within said proposed West Stone Street Extension of the Crossroads Consolidated Sewer District are benefitted thereby;

(c) All the property and property owners benefitted are included within the limits of said proposed West Stone Street Extension of the Crossroads Consolidated Sewer District;

(d) It was in the public interest to grant in whole the relief sought and establish said West Stone Street Extension of the Crossroads Consolidated Sewer District; and

(e) the establishment of the West Stone Street Extension of the Crossroads Consolidated Sewer District, as more fully described in the map, plan and report prepared by GHD Consulting Engineers, LLC, competent engineers, duly licensed by the State of New York, was approved; and

(f) Said West Stone Street Extension to the Crossroads Consolidated Sewer District shall be bounded and described as set forth in Appendix A attached hereto and made a part hereof; and

WHEREAS, the adoption of said resolution was subject to a permissive

referendum in the manner provided in Article Seven of the Town Law and Subdivision 3 of Section 209-e of the Town Law; and

WHEREAS, the Town Clerk, within ten (10) days after the adoption of said resolution, posted and published a notice setting forth the date of adoption of the resolution and containing an abstract thereof concisely stating the purpose and effect thereof and specifying that the resolution was adopted subject to permissive referendum; and

WHEREAS, the Town Clerk caused to be prepared and had available for distribution proper forms for the petition for referendum; and

WHEREAS, no petition requesting that the matter be submitted to a referendum of the property owners of the proposed district was filed with the Town Clerk prior to the expiration of the time for filing a petition established by Article Seven of the Town Law; and

WHEREAS, after the expiration of the time for filing a petition requesting that the matter be submitted to a referendum of the property owners of the proposed district, the Town Clerk filed a certificate stating such fact in the office of the county clerk and in the office of the department of audit and control at Albany, New York.

NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of Newburgh, Orange County, New York as follows:

Section 1. An extension of the Crossroads Sewer District of the Town of Newburgh be established in the said Town of Newburgh, Orange County, New York, to be known and designated as the "West Stone Street Extension of the Crossroads Consolidated Sewer District."

Section 2. Said West Stone Street Extension to the Crossroads Consolidated Sewer District shall be bounded and described as set forth in Appendix A attached hereto and made a part hereof.

Section 3. The levying of assessments for the West Stone Street Extension to the Crossroads Consolidated Sewer District shall be on the same basis as the Crossroads Consolidated Sewer District, to wit: a benefit basis in proportion as nearly as may be to the benefit which each lot or parcel will derive therefrom as follows: by assessment of the costs against the properties in the district in just proportion to the benefits which the improvements shall confer upon the same.

Section 4. The Town Clerk of the Town of Newburgh is hereby authorized and directed to cause a certified copy of this order to be duly recorded in the office of the Clerk of the County of Orange within ten (10) days after the adoption of this order.

Section 5. The Town Clerk is hereby authorized and directed to file a certified copy of this order in the Office of the State Department of Audit and Control, Albany, New York, within ten (10) days after the adoption of this order.

Section 6. This order shall take effect immediately.

The foregoing Order was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

APPENDIX "A"

**DISTRICT EXTENSION DESCRIPTION
WEST STONE STREET EXTENSION
NORTH CARPENTER AVENUE**

All that certain plot, piece, or parcel of land situate, lying and being in the Town of Newburgh, County of Orange, State of New York, being bounded and described as follows:

BEGINNING at a point on the Town of Newburgh/City of Newburgh boundary line, said point being on the northerly right-of-way line of North Plank Road and at the southeasterly corner of the Town of Newburgh's tax map Section 84, Block 4 Lot 26 (1996); thence in a westerly direction along said North Plank Road right-of-way line a distance of 224.2± ft. to the southwesterly corner of tax map Section 84 Block 3 Lot 9; thence in a northerly direction along the westerly property line of said Lot 9 and Lots 9 and 7 a distance of 149.7± ft. to the northwesterly corner of said Lot 7, said point also being on the southerly property line of Lot 6; thence in a westerly direction along the southerly property line of said Lot 6 a distance of 50± ft. to the southwesterly corner of said Lot 6; thence in a northerly direction along the westerly property line of said Lot 6 a distance of 9.4± ft. to the southeasterly corner of Lot 4, said point also being on the westerly property line of said Lot 6; thence in a westerly direction along the southerly property line of said Lot 4 a distance of 50± ft. to the southwesterly corner of said Lot 4, said point also being on the easterly property line of Lot 3; thence in a southerly direction along the easterly property line of said Lot 3 a distance of 6.3± ft. to the southeasterly corner of said Lot 3; thence in a westerly direction along the southerly property line of said Lot 3 and Lot 2 a distance of 147.9± ft. to the southwesterly corner of said Lot 2, said point also being on the easterly property line of Lot 1; thence in a southerly direction along the easterly property line of said Lot 1 and Lot 15 a distance of 132.6± ft. to the southeasterly corner of said Lot 15, said point being on the northerly right-of-way line of said Plank Road; thence in a northwesterly direction along the northerly right-of-way line of said Plank Road and the southerly property line of said Lot 15 and the tax map Section 84, Block 2 Lot 1.1 a distance of 212± ft. to the southwesterly corner of said Lot 1.1, said point being on the northerly right-of-way of said Plank Road; thence in a northerly direction along the westerly property line of said Lot 1.1 a distance of 144± ft. to the northwesterly corner of said Lot 1.1, said point being on the southerly property line of Lot 1.2; thence in a northwesterly direction along the southerly property line of said Lot 1.2 a distance of 50± ft. to the southwesterly corner of said Lot 1.2; thence in a northerly direction along the westerly property line of said Lot 1.2 a distance of 50± ft. to the southwesterly corner of said Lot 1.2; thence in a northwesterly direction along the southerly property line of said Lot 1.2 a distance of 154.5± ft. to the southwesterly corner of said Lot 1.2; thence in a northwesterly direction along the westerly property line of said Lot 1.2 a distance of 67.5± ft. to the westerly corner of said Lot 1.2; thence in a northeasterly direction along the westerly property line of said Lot 1.2 a distance of 98.6± ft. to the northwesterly corner of said Lot 1.2; thence in a southeasterly direction along the northerly property line of said Lot 1.2 and across Stone Street a distance of 300± ft. to the westerly right-of-way line of said Stone Street and the westerly property line of tax map Section 84 Block 5 Lot 1; thence in a northerly direction along the westerly property line of said Lot 1 and Lot 4.1 a distance of 85.3± ft. to the northwesterly corner of said Lot 4.1; thence in an easterly direction along the northerly property line of said Lot 4.1 a distance of 101.6± ft. to the northerly corner of said Lot 4.1; thence in a southeasterly direction along the northerly property line of said Lot 4.1 and Lot 6.1 a distance of 362± ft. to the northerly corner of said Lot 6.1; thence in an easterly direction along the northerly property line of said Lot 6.1 a distance of 40.1± ft. to the northeasterly corner of said Lot 6.1; thence in a southerly direction along the easterly property line of said Lot 6.1 a distance of 43± ft. to the southeasterly corner of said Lot 6.1; thence in a westerly direction along the southerly property line of said Lot 6.1 a distance of 87.5± ft. to a point on the southerly property line of said Lot 6.1, said point being the northeasterly corner of Lot 9; thence in a southerly direction along the westerly property line of said Lot 9 across Stone Street a distance of 154± ft. to the southerly right-of-way line of said Stone Street, said point being the northwesterly corner of tax map Section 84 Block 4 Lot 1; thence in a northeasterly direction along the southerly right-of-way line of said Stone Street and the northerly property line of said Lot 1 a distance of 48.8± ft. to the northeasterly corner of said Lot 1; thence in a southerly direction along the easterly property line of said Lot 1 a distance of 98± ft. to the southeasterly corner of said Lot 1, said point being on the northerly property line of Lot 29; thence in a westerly direction along the northerly property line of said Lot 29 a distance of 67.9± ft. to the northeasterly corner of said Lot 29; thence in a southerly direction along the easterly property line of said Lot 29 and Lots 28 and 26 a distance of 211.9± ft. to the southeasterly corner of said Lot 26.

DRAFT

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 ___th day of June, 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

A RESOLUTION APPROVING THE FINAL JOINT CONSOLIDATION AGREEMENT BETWEEN THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK AND THE WEST STONE STREET EXTENSION OF THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK PURSUANT TO ARTICLE 17-A OF THE GENERAL MUNICIPAL LAW

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

WHEREAS, the Crossroads Consolidated Sewer District was duly formed and from time to time extended and consolidated in accordance with New York State Town Law, and

WHEREAS, the West Stone Street Extension of the Crossroads Consolidated Sewer District is being duly formed in accordance with New York State Town Law, and

WHEREAS, the purposes of the Crossroads Consolidated Sewer District and the West Stone Street Extension of the Crossroads Consolidated Sewer District are to provide sanitary sewer facilities and service in order to prevent contamination of water supplies and provide for the health, welfare and safety of the residents of the Town of Newburgh by collecting, transporting and treating wastewater from the community's neighborhoods and business districts, and

WHEREAS, New York State General Municipal Law Article 17-A, Section 751 provides that two or more local governmental entities may be consolidated into a single local governmental entity if together the consolidated local government entity forms a local government entity of a kind or class that is authorized under the laws of the State of New York, and

WHEREAS, the Town Board of the Town of Newburgh, as the governing body of the Crossroads Consolidated Sewer District and the West Stone Street Extension of the Crossroads Consolidated Sewer District has the overall authority for managing the operation, maintenance and finances of each sanitary sewer district serving the Town, and

WHEREAS, the Town Board of the Town of Newburgh authorized the preparation of a map, plan and report for the establishment of the West Stone Street Extension of the Crossroads Consolidated Sewer District and the Report contemplates and recommends the consolidation of

the District and Extension so that the District extension costs, as well as the existing District debt, are to be paid for the by the entire Sewer District as extended; and

WHEREAS, New York State General Municipal Law Article 17-A, Section 751 requires the governing bodies of two or more local government entities, by joint resolution, to endorse a proposed Joint Consolidation Agreement for the purposes of commencing consolidation proceedings; and

WHEREAS, the Town Board of the Town of Newburgh, acting as the governing body of the Crossroads Consolidated Sewer District and the West Stone Street Extension of the Crossroads Consolidated Sewer District, has heretofore endorsed the DRAFT JOINT CONSOLIDATION AGREEMENT BETWEEN THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK AND THE WEST STONE STREET EXTENSION OF THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK PURSUANT TO ARTICLE 17-A OF THE GENERAL MUNICIPAL LAW attached hereto and made part of this resolution, and

WHEREAS, the Town Clerk displayed copies of a Descriptive Summary and Draft Consolidation Agreement in readily accessible places within each existing district; post copies of both documents on the Town's Website; and ensure publication of the Descriptive Summary in the official newspapers of the Town of Newburgh for four consecutive weeks; and

WHEREAS, the Town Board of the Town of Newburgh conducted a public hearing at the Town Hall at 1496 Route 300, Town of Newburgh, New York on the 16th day of April, 2012 at 7:00 o'clock, p.m., Prevailing Time in the matter of the DRAFT JOINT CONSOLIDATION AGREEMENT BETWEEN THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK AND THE WEST STONE STREET EXTENSION OF THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK PURSUANT TO ARTICLE 17-A OF THE GENERAL MUNICIPAL LAW and to hear all persons interested in the subject matter thereof concerning the same; and

WHEREAS, the Town Clerk caused notice of the public hearing to be published in The Mid-Hudson Times on April 4, 2012 and The Sentinel on April 6, 2012, the official newspapers of said Town, which was not less than ten (10) nor more than twenty (20) days before the day set for the hearing as aforesaid, and the Town Clerk shall also cause a copy of the notice of public hearing to be displayed on the website of the Town of Newburgh and to be posted on the signboard of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law on April 2, 2012, which was not less than ten (10) nor more than twenty (20) days before the day set for the public hearing as aforesaid; and

WHEREAS, no amendment has been made to the DRAFT JOINT CONSOLIDATION AGREEMENT.

NOW, THEREFORE BE IT RESOLVED, that the DRAFT JOINT CONSOLIDATION AGREEMENT BETWEEN THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK AND THE WEST STONE STREET EXTENSION OF THE CROSSROADS CONSOLIDATED SEWER DISTRICT OF THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK PURSUANT TO ARTICLE 17-A OF THE GENERAL MUNICIPAL LAW is hereby approved.; and

BE IT FURTHER RESOLVED, that the foregoing resolution shall take effect immediately.

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. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____


The resolution was thereupon declared duly adopted.

JUN 18 2012

11c

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: June 15, 2012
RE: S\ WEST STONE STREET SEWER EXTENSION

Attached for the Town Board's review and approval is a proposed contract amendment to Stearns & Wheler / GHD's existing contract to incorporate necessary engineering services for the NYSDEC regulatory review and approval, bidding phase and construction phase of West Stone Street Sewer Extension. (NOTE: An additional proposal for the design and construction services for the upgrade of the City of Newburgh's Crescent Avenue Sewage P.S. will have to be authorized upon approval of the cost sharing agreement for this work is finalized). The completion of the installation of this sewer collection system must be completed by June 2013 to comply with the mandated deadline. The cost of this work is \$37,600 as delineated in Exhibit C of this proposal.

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. Platt, DPW
J. Calarco, Accountant
K. Castro, GHD

EXHIBIT A
Engineer's Services – West Stone Street Sewer Extension

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 *Study and Report Phase – Not Used*

A1.02 *Preliminary Design Phase – Not Used*

A1.03 *Final Design Phase*

A. Final Design Revisions:

1. Revise the final design of the West Stone Street Extension (formerly referred to as the North Carpenter Avenue or Crossroads Sewer District Extension) that was completed by Stearns & Wheler, LLC in January 2000. Revisions will include:
 - a. Field verification of site changes.
 - b. New Contract Drawings cover.
 - c. Update Contract Documents with Owner's latest contract language.
 - d. Use of NYSDOT standards for backfill material.
 - e. Replace technical specifications with GHD's latest standards.
 - f. New prevailing wage rates.
 - g. Project title revision.
2. Submit the plans and specifications to New York State Department of Environmental Conservation for approval. The submission will be accompanied by a letter with a statement regarding the Owner's plans for upgrading the City of Newburgh's Crescent Ave Pump Station and provide a statement about the capacity for the City of Newburgh WWTP (statements provided by the Owner). State Environmental Quality Review to be provided by the owner.
3. Prepare a revised opinion of probable construction cost.

B. Engineer's services under the Final Design Phase will be completed within 45 days of authorization to proceed.

C. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one.

A1.04 *Bidding Phase*

A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

1. Reproduce fourteen (14) sets of contract documents and forward ten (10) sets to the Owner for the Owner's distribution to prospective bidders. Send two (2) sets to construction advertisement agencies. Two (2) sets will be retained by the Engineer.
 2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.
 3. Review bid proposals received and provide a recommendation for award of the contract.
- B. The Bidding Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

A1.05 *Construction Phase*

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
 2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D. The RPR will be provided over an anticipated twenty eight (28) days construction period for a total budget of two hundred thirty (230) hours.
 3. *Selecting Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the required services, if applicable.
 4. *Pre-Construction Conference:* Participate in a Pre-Construction Conference prior to commencement of Work at the Site. Issue minutes of the meeting.
 5. *Schedules:* Receive, review, and determine the acceptability of schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
 6. *Baselines and Benchmarks:* Not used.
 7. *Visits to Site and Observation of Construction:* Not used.
 8. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

9. *Clarifications and Interpretations; Field Orders:* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
10. *Change Orders and Work Change Directives:* Recommend change orders and work change directives to Owner, as appropriate, and prepare and distribute change orders and work change directives as required.
11. *Shop Drawings and Samples:* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
12. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
13. *Inspections and Tests:* Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.
14. *Disagreements between Owner and Contractor:* Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
15. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
 - a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents, and the conditions precedent to Contractor's being entitled to such payment appear to have

been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

- b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

16. *Contractor's Completion Documents:* Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under Paragraph A1.05.A.11, and transmit the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided in Paragraph A1.05.A.11.
17. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Project to determine if the Work is substantially complete. If after considering any objections of Owner, Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.
18. *Record Drawings:* Provide an electronic copy of record drawings based on marked-up record drawings from the Contractor.
19. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice in the form attached hereto as Exhibit E (the "Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of Paragraph A1.05.A.15.b) to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written

recommendation by Engineer for final payment to Contractors. Construction Phase services will be provided over an anticipated four (4) month contract period.

- C. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 *Post-Construction Phase:* Not used.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Not Requiring Owner's Written Authorization*

- A. Engineer shall advise Owner in advance that Engineer is will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
1. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

EXHIBIT C

Payments to Engineer for Services and Reimbursable Expenses – West Stone Street Sewer Extension

C2.01 *Compensation for Basic Services – Lump Sum Method of Payment*

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer's Resident Project Representative, as follows:
1. A Lump Sum amount of **\$14,400** based on the following estimated distribution of compensation:
 - a. Final Design Phase \$3,900
 - b. Bidding Phase \$3,000
 - c. Construction Phase \$7,500
 2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
 3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
 4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.

C2.02 *Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment*

B. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative under Paragraph A1.05A.2 of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses. The total compensation under this Paragraph is estimated to be **\$23,200** based upon full-time RPR services on an eight-hour workday, Monday through Friday, over anticipated twenty eight (28) day construction period for a total of two hundred thirty (230) hours.

EXHIBIT D

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative – West Stone Street Sewer Extension

D1.01 Resident Project Representative

- C. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.
- D. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any contractor nor assumes responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific terms set forth in Paragraph A1.05 of Exhibit A of the Agreement are applicable.
- E. The duties and responsibilities of the RPR are as follows:
1. *General:* RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
 4. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

- c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.
9. *Inspections, Tests, and System Start-ups:*
 - a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
 - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.

10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed change orders, work change directives, and field orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.

12. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents,

and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor, and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

F. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept shop drawing or sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

**12.ENGINEERING: Change Order for the Delaware Aqueduct Tap
Water Filtration Plant**

JUN 18 2012

13

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 *JO*
DATE: June 15, 2012
RE: W \ DELAWARE AQUEDUCT TAP WTP

Attached for the Town Board's information is a cost breakdown for Proposed Change Order (PCO) No. 9 for the above project. This information was previously presented to the Town Board in a letter from GHD (formerly Stearns & Wheler) dated 14 December 2011 (attached). Only a small portion of the work considered essential has been completed – the bulk of the restoration work remains to be done.

The total amount of the PCO is \$223,464 and covers costs associated with the site restoration due to damage from Hurricane Irene and several proposed site improvements recommended by GHD in response to this 150-year storm event. The relative costs for these two components are \$88,087 for site restoration and \$135,377 for site improvements respectively. By judiciously selecting the site improvements, the \$135,377 could be reduced – the exact reduction would have to be determined.

I have pursued compensation for these costs through the Contractor's Builder's Risk Policy and FEMA, although strictly speaking only the site restoration costs would be considered eligible. The Contractor's Builder's Risk Policy has denied coverage because the damage was to "land" which is specifically excluded from coverage. Despite requests to expedite review of this claim, FEMA has only recently informed me of their denial of the claim, and will forward a written response when it is ready. FEMA's decision can be appealed, but there are no guarantees that the decision will be reversed. Because of the time elapsed since the storm and the progress of work completed on site to date, it is important to move forward with this in a timely fashion.

Based on the above, I am requesting Town Board authorization for the preparation of a Change Order in the amount of \$88,100 for restoration of the site grading to its original condition. I am also requesting Town Board authorization to negotiate a Change Order not to exceed \$100,000 for the site improvements recommended by GHD.

TO: Wayne Booth, Town Supervisor & Town Board
RE: W \ DELAWARE AQUEDUCT TAP WTP

June 15, 2012
Page 2

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

JWO/id

Attachment

cc: M. Taylor, Attorney
K. Castro, A. Weiss – GHD
J. Platt, DPW
J. Egitto, J. Guido – CAMO, PC



Delaware Aqueduct Tap WTP	12/12/2011	8612141
Project	Date	Job No.
Worth PCO-009	AJW	
Subject	Comp. By	

REVIEW OF GC-PCO-009 BREAKDOWN

<u>WORTH DIRECT COSTS</u>		IMMEDIATE REPAIR			NOTES
	QTY		RATE	TOTAL	
Project Management	1	hrs	\$ 150.00	\$ 150.00	
Supervision	4	hrs	\$ 95.00	\$ 380.00	
			SUBTOTAL	\$ 530.00	
			WORTH 10% OVERHEAD	\$ 53.00	GC Article 9.5.E
			WORTH 10% PROFIT	\$ 58.30	GC Article 9.5.F
			WORTH DIRECT COSTS SUBTOTAL	\$ 641.30	
<u>SUBCONTRACTOR COSTS</u>		QTY	RATE	TOTAL	
Vollers Inc.	1	LS	\$ -	\$ 68,311.70	Calculated from breakdown provided
			SUBTOTAL	\$ 68,311.70	
			VOLLERS 10% OVERHEAD	\$ 6,831.17	GC Article 9.5.E
			VOLLERS 10% PROFIT	\$ 7,514.29	GC Article 9.5.F
			SUBTOTAL	\$ 82,657.16	
			WORTH 5% OVERHEAD AND PROFIT ON SUBCONTRACTOR COST	\$ 4,132.86	GC Article 9.6
			SUBTOTAL GC-PCO-009 COST:	\$ 87,431.31	
			0.75% BOND COST	\$ 655.73	
			 SUBTOTAL GC-PCO-009 COST:	\$ 88,087	

<u>WORTH DIRECT COSTS</u>		RECOMMENDED IMPROVEMENTS			NOTES
	QTY		RATE	TOTAL	
Project Management	3	hrs	\$ 150.00	\$ 450.00	
Supervision	12	hrs	\$ 95.00	\$ 1,140.00	
			SUBTOTAL	\$ 1,590.00	
			WORTH 10% OVERHEAD	\$ 159.00	GC Article 9.5.E
			WORTH 10% PROFIT	\$ 174.90	GC Article 9.5.F
			WORTH DIRECT COSTS SUBTOTAL	\$ 1,923.90	
<u>SUBCONTRACTOR COSTS</u>		QTY	RATE	TOTAL	
Vollers Inc.	1	LS	\$ -	\$ 104,246.78	Calculated from breakdown provided
			SUBTOTAL	\$ 104,246.78	
			VOLLERS 10% OVERHEAD	\$ 10,424.68	GC Article 9.5.E
			VOLLERS 10% PROFIT	\$ 11,467.15	GC Article 9.5.F
			SUBTOTAL	\$ 126,138.60	
			WORTH 5% OVERHEAD AND PROFIT ON SUBCONTRACTOR COST	\$ 6,306.93	GC Article 9.6
			SUBTOTAL GC-PCO-009 COST:	\$ 134,369.43	
			0.75% BOND COST	\$ 1,007.77	
			 SUBTOTAL GC-PCO-009 COST:	\$ 135,377	

TOTAL	\$ 223,464
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CLIENTS | PEOPLE | PERFORMANCE

December 13, 2011

DEC 14 '11
TOWN OF NEWBURGH

Mr. James Osborne, P.E.
Town Engineer
Town of Newburgh
1496 Route 300
Newburgh, NY 12550

Re: Site Restoration and Improvements
Related to Hurricane Irene
Delaware Aqueduct Tap Water Treatment Plant
GHD No. 8612141.5

Dear Jim:

As the Town is aware, on August 27 and August 28, 2011, Hurricane Irene hit the Northeast. The storm caused significant, widespread damage prompting New York to issue a State of Emergency. On August 31, 2011, the Federal government declared Hurricane Irene a major disaster in New York State including Orange County. Subsequently, on September 7, 2011, the region was impacted by Tropical Storm Lee.

Both of these events have resulted in damage to the Town's Delaware Aqueduct Tap Water Treatment Plant project site located on Lattintown Road just south of the Ulster County line. The heavy rainfall from Hurricane Irene resulted in the small tributary creek running through the project site to surcharge significantly. Additionally, the wetlands to the north of the project site also surcharged and large volumes of water from both the wetlands and the creek ran over and around the southwest portion of the project site. Subsequently, the heavy rainfalls of Tropical Storm Lee surcharged the already saturated watershed and flood water again passed over and around the project site. The volume and flow rate of the water was significant. Observations from the field after the storms had passed indicated that water (the creek) was flowing over Lattintown Road just north of the entrance to the project site exceeding the capacity of the upstream culverts and bridge crossings and entering the project site in an uncontrolled fashion. The results of these events is damage to the project site that required immediate emergency repair by the General Contractor. Additionally, based on observations made during these events, improvements to the site to better protect it from the creek are recommended. Below is a discussion of the impacts to the site.

1. **Damage and Emergency Repair.** Enclosed with this letter are Figure A and Figure B which depict the conditions of the site after Hurricane Irene and Tropical Storm Lee, respectively. Figure A also includes several pictures of the site prior to the storms. The damage to the site is generally described as excessive erosion of site grade and earthen structures, displacement and loss of stockpiled materials, damage to storm water management systems, loss of armoring (riprap), and altered creek course which, left unmitigated, could jeopardize the access road to the new Water Treatment Plant (under construction).

The site is an active construction project. As such, the General Contractor is obligated to maintain progress on construction. Several of the photographs included in the figures were provided by the General Contractor. Upon arrival to the site, immediately after the storm events, the General Contractor acted to prevent further damage to the site. As shown in Figure B, the

14 Dec 2011
copies to: Supervisor
Town Board



creek had altered its course and was flowing into the site and through the stormwater management systems upon the General Contractor's arrival. The General Contractor made emergency repairs to the site to redirect the creek back to its original course and to limit the quantity of water from both the creek and the adjacent wetlands flowing freely across the site. The General Contractor has restabilized portions of the site and performed regrading to establish the access road and restore the stormwater management systems. The General Contractor has provided pricing for the emergency repairs performed after both Hurricane Irene and Tropical Storm Lee in their Proposed Change Order GC-PCO-009 attached. The total value of those repairs is \$88,087.05.

- 2. Permanent Restoration.** On August 30, 2011, Andrew Weiss from GHD Consulting Engineers LLC visited the site to review the site condition and discuss the observations with the General Contractor. Based on the observations made and the damage that the creek caused to the site, GHD prepared a site grading and armoring plan. The drawings detailed grading of the site as well as additional riprap and heavy stone armoring at strategic locations to increase the sites resilience in the event of future sever storm events. The plans generally consisted of straightening and armoring of the creek as it passes through the site, grading a berm along the Northern portions of the site to retain the water in the wetlands in the event of future surcharging, and to protect the new Water Treatment Plant building and backup generator equipment. This will provide strategic armored relief points such that in the event of storms of this nature, flooding would be controlled and routed through the site at locations that would allow access and operation of the facility. The plans detailing these permanent restoration measures were issued to the General Contractor for pricing via Engineer's Field Order GC-006. The General Contractor has provided pricing for the improvements in their proposed Change Order GC-PCO-009 for \$135,377.

Please call if you have any questions.

Sincerely,

GHD CONSULTING ENGINEERS, LLC

Andrew J. Weiss, P.E.
Project Manager – Water

AJW/mrv

Enclosures

cc: Kevin Castro, P.E., GHD Consulting Engineers, LLC (w/enc.)

- 13. ANIMAL CONTROL:**
- A. T-92 Withdrawal**
 - B. T-93 Withdrawal**
 - C. T-94 Withdrawal**

TOWN OF NEWBURGH
1496 ROUTE 300
NEWBURGH, N.Y. 12550

VOUCHER

DEPARTMENT _____

CLAIMANT'S
NAME
AND
ADDRESS

MDW Feline Rescue
1323 Union Ave.
Newburgh, NY
12550

TERMS _____

Order No. 139a

DO NOT WRITE IN THIS BOX

Data Voucher Received		AMOUNT	VOUCHER NO.
FUND - APPROPRIATION			
T-92	393		
TOTAL			
Abstract No.			

Vendor's
Ref. No.

Date	Quantity	Description of Materials or Services	Unit Price	Amount
5/21/12		Neuter with Rabbits		38.25
5/14/12		Spay		254.75
5/21/12		Spay with Rabbits		50.00
5/21/12		Spay with Rabbits		50.00
			TOTAL	393.00

(See Instructions on Reverse Side)

CLAIMANT'S CERTIFICATION

I, _____, certify that the above account in the amount of \$ _____ is true and correct; that the items, services and disbursements charged were rendered to or for the municipality on the dates stated; that no part has been paid or satisfied; that taxes, from which the municipality is exempt, are not included; and that the amount claimed is actually due.

5/25/12
DATE

Margaret Weber
SIGNATURE

President
TITLE

(Space Below for Municipal Use)

DEPARTMENT APPROVAL

The above services or materials were rendered or furnished to the municipality on the dates stated and the charges are correct.

6-4-12
DATE

[Signature]
AUTHORIZED OFFICIAL

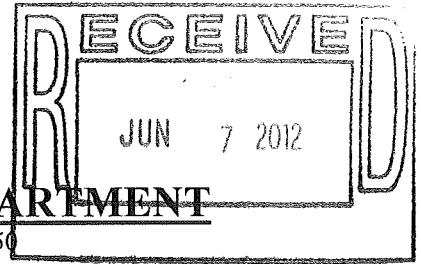
APPROVAL FOR PAYMENT

This claim is approved and ordered paid from the appropriations indicated above.

[Signature]



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TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550

Michael Clancy
Chief of Police

(845) 564-1100

June 6, 2012

To: Town Board

Subject: Authorization to Pay Veterinarian Services Utilizing T-93 Account

I am requesting authorization to use the T-93 account to pay for veterinarian services from Newburgh Veterinary Hospital for April & May and for your authorization for payment of this voucher in the total amount of \$855.25.

Sincerely,

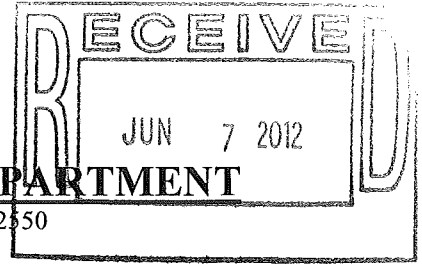
Donald B. Campbell
Deputy Chief of Police

Cc: Accounting



13
TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550



Michael Clancy
Chief of Police

(845) 564-1100

June 6, 2012

To: Town Board

Subject: Authorization to Pay Veterinarian Services Utilizing T-94 Account

I am requesting authorization to use the T-94 account to pay for veterinarian services from Newburgh Veterinary Hospital for the month of April & May and for your authorization for payment of this voucher in the total amount of \$1,270.56.

Sincerely,

Donald B. Campbell
Deputy Chief of Police

Cc: Accounting