COMMON COUNCIL

June 18, 2013

In the absence of Mayor Joseph Maiurano, Ald. Terry Bresina, Council President, presided at a meeting of the Common Council held at 7:00 PM on June 18, 2013, in the Common Council Chambers at One Court Plaza.

Present:
Ald. Bryan McCracken
Ald. Terry Bresina
Ald. John Deierlein
Ald. Walter Schermerhorn
Ald. Paul Laughlin
Ald. Daniel Palmer
Supervisor Robert Jeffrey
Supervisor James McNeil

Absent:
Mayor Joseph Maiurano

Also:
Director of Finance/City Clerk William Roberts
Human Resources Director Deborah DeForest
Police Chief Joseph Angelino
Fire Chief Tracy Chawgo
City Attorney Patrick Flanagan
Deputy City Clerk Brian Drake
Code Enforcement Officer/Fire Marshall Jason Lawrence
Youth Bureau Director Robert Mason
Community Development Specialist Todd Dreyer
DPW Superintendent Carl Ivarson
Media Representative Shawn Magrath

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**Call to Order**
The meeting of the Common Council was called to order by Ald. Bresina at 7:02 p.m.

**Approval of minutes**
Ald. McCracken **moved** to approve the minutes of the regular meeting of May 21, 2013. Seconded by Ald. Palmer, duly approved ayes all.

**Open Forum** City Supervisor Robert Jeffrey, 17 York Street, requested a curb cut for a property he has rehabilitated at 15 York Street to which he is adding a driveway. He stated that DPW Superintendent Carl Ivarson has inspected the area.

**Correspondence**

**St. Baldrick's Run/Walk** Ald. Deierlein **moved** to accept and approve a request from Tracy Chawgo to hold the St. Baldrick's Run/Walk on September 28, 2013, with attendant street closings and police and fire assistance. Seconded by Ald. Schermerhorn, approved ayes all.

**Firemen's Parade** Ald. McCracken **moved** to accept and approve a request from Mary Weidman to hold the Firemen's Parade on August 6, 2013, with street closings on Midland Drive from the High School to East Main Street to the fairgrounds. Seconded by Ald. Deierlein, approved ayes all.

**Curb Cut Request - 85 Elm Street** Ald. McCracken **moved** to accept and approve a request from Kathleen Campbell to enlarge a curb cut at 85 Elm Street, subject to approval by the Superintendent of Public Works. Seconded by Ald. Deierlein, approved ayes all.

**Curb Cut Request - 15 York Street** Ald. Palmer **moved** to accept and approve a request from Robert Jeffrey for a curb cut at 15 York Street. Seconded by Ald. Schermerhorn, approved ayes all.

**Department, Board and Commission Reports**

Civil Service Commission Minutes of April 25, 2013
Parks Commission Minutes May 13, 2013
Police Department Monthly Report of May 2013
Youth Bureau Monthly Report of May 2013

Ald. Laughlin **moved** to receive and file the department, board, and commission reports. Seconded by Ald. Schermerhorn, approved ayes all.

**Ward Reports**

**Ward 1**
Ald. McCracken reported that he received no communication from constituents during the past month.

**Ward 2**
Ald. Bresina reported that he received no communication from constituents during the past month.

**Ward 3**
Ald. Deierlein reported that he received no communication from constituents during the past month.

**Ward 4**
Ald. Schermerhorn reported that all matters had been referred to the appropriate department heads and had been or are in the process of being resolved.

**Ward 5**
Ald. Laughlin reported that he received no communication from constituents during the past month.

**Ward 6**
Ald. Palmer reported that all matters had been referred to the Code Enforcement Office.

Ald. McCracken **moved** to receive and file the ward reports. Seconded by Ald. Deierlein, approved ayes all.

**Motion**

**Receive Proposed Local Law No. (A) of 2013 and Set Public Hearing** Ald. Palmer **moved** to receive Proposed Local Law No. (A) of 2013 regarding 421-m property tax exemption and set a public hearing for 7:00 p.m. on July 16, 2013. Seconded by Ald. Laughlin.

[Note: See motion to table following discussion below.]

PROPOSED LOCAL LAW NO. (A)
OF 2013

**EXEMPTION OF CERTAIN NEW OR SUBSTANTIALLY REHABILITATED MULTIPLE DWELLINGS**

BE IT ENACTED by the Common Council of the City of Norwich as follows:

Section 1.

1. Basis for Exemption

Pursuant to authority granted by the Real Property Tax Law Section 421-m, an eligible multiple dwelling constructed or substantially rehabilitated in the benefit area designated pursuant to this section shall be eligible for an exemption from taxation and local ad valorem levies for the tax years commencing during the construction or rehabilitation of such structure pursuant to the following schedule. Provided however, that the amount of taxes paid during such period shall be at least the amount of the taxes paid on such land and any improvements thereon immediately preceding the commencement for the exemption. In addition, any improvements to property receiving this exemption shall not be eligible to receive any other exemption under any other section of law.

CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIPLE DWELLINGS

| | |
|---|---|
| During construction or substantial rehabilitation (maximum three years) | 100% |
| Following completion of work year: | |
| 1 through 12 | 100% |
| 13-16 | 80% |
| 15-16 | 60% |

| | |
|---|---|
| 17-18 | 40% |
| 19-20 | 20% |

2. Definitions

When used in this local law, the following terms shall have the following meanings:

"Designated Benefit Area(s)" means the contiguous geographic properties that have been identified as by the common Council of the City of Norwich as being eligible and desirable for the creation of the benefits of the 421-m tax exemption program. Additional benefit areas may be created from time to time by amendment to this local law as the Common Council may find appropriate.

"Substantial Rehabilitation" shall mean all work necessary to bring a property into compliance with applicable laws and regulations and shall include but not be limited to the installation, replacement or repair of, heating, plumbing, electrical and related systems and the elimination of all hazardous and violations in the structure in accordance with state and local law and regulation.

"Multiple dwelling" shall mean a dwelling, other than a hotel which is to be occupied or is occupied as the residence or home of three or more families living independently from one another including dwellings rented or owned as a cooperative or a condominium

3. Eligibility

In order to grant the real property tax exemption provided under Section one, the City shall determine that:

(a) Such construction or rehabilitation of a multiple dwelling will occur on land which:
(i) is vacant, predominantly vacant, or
(ii) is improved with a non-conforming use or
(iii) contains one or more substandard or structurally unsound buildings or a building that has been certified as unsanitary by the local health agency.

(b) At least 20% of the units shall be affordable to individuals or families of low or moderate income whose incomes at the time of initial occupancy do not exceed 90% of the area median income adjusted for family size and the individual or family shall pay in rent or carrying charges no more than 30% of their adjusted gross income as reported in their federal income tax return or would be reported if such return were required, less personal exemptions and deductions and medical expenses as are actually taken by the taxpayer, as verified according to procedures established by the state division of housing and community renewal. The City shall consult annually with the division to determine that the property is in compliance with the affordability requirements of this local law. If such requirements are not met, the multiple dwelling shall not qualify for the exemption in that year.

(c) Such construction or substantial rehabilitation is carried out with the assistance of grants, loans or subsidies for the construction or substantial rehabilitation of affordable housing from any state, local, or federal agency.

(d) Such construction or substantial rehabilitation shall commence after the effective date of this section, but no later than December 15, 2015, for the North Broad Street Benefit Area and the Unguentine Building Benefit Area. Such commencement date requirement may be extended by amendment of this section to accommodate these or other benefit areas designated in the future.
(i) The North Broad Street Benefit Area shall be comprised of the properties at 33 North Broad Street (tax parcel #136.48-3-11), 37-39 North Broad Street (tax parcel #136.48-3-10), 42 North Broad Street (tax parcel #136.48-5-18), 44-46 North Broad Street (tax parcel #136.48-5-19).
(ii) The Unguentine Building Benefit Area shall be comprised of the properties at 20 American Avenue (tax parcel #136.56-4-6) and American Avenue (tax parcel #136.57-1-50.3).

(e) If such property is to be used partially as a multiple dwelling and partially for commercial or other purposes, that:
(i) the square footage of the portion of the property used as a multiple dwelling represents at least 50% of the square footage of the entire property and;
(ii) at least 20 % of the units are affordable to individuals of families of low and moderate income and;
(iii) the requirements of this section relative to a multiple dwelling are otherwise satisfied.

(f) Any property owner seeking an exemption within the designated benefit area shall file the appropriate form(s) with the City Assessors' office for review.

Section 2.

If any part of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect the validity of the reminder of this local law or the application thereof to other persons or circumstances, and the City Council of the City of Norwich hereby declares it would have passed this local law or the reminder thereof had such invalid application or invalid provision have been apparent.

Section 3.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

Section 4.

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

**Discussion:** Ald. Palmer stated that, while the proposed law may be helpful for some properties, he felt that certain properties on North Broad Street should be removed as Designated Benefit Areas because they are already designed for apartments and the tax exemption would not benefit the City. Ald. McCracken asked the criteria for selecting the Designated Benefit Areas. Community Development Specialist Todd Dreyer explained that some properties have been acquired by the City through tax foreclosure and fit the criteria required by State law, and such a program contemplated by the proposed law would act as an incentive for developers. In other cases owners or developers of properties approach municipal governments inquiring about programs to enable them to improve their properties. In the case of certain properties on North Broad Street, the City was aware of the program before the property owner approached the City for assistance. The criteria for properties to be named Designated Benefit Areas are defined by the State and are necessarily broad in scope. Some properties that had been considered did not meet the requirements for multi-family use that the State law defines. Ald. Schermerhorn requested clarification of the tax exemption. City Attorney Patrick Flanagan explained that the properties will continue to pay property taxes at the current assessment value for the first three years of construction and through years 1-12, then the full assessment value following construction or improvement is phased in from years 13-20; any increases in the tax rate are paid as usual. Ald. Schermerhorn asked if the City faced any legal challenge by its method of selecting properties for Designated Benefit Areas. P. Flanagan explained that this is a new State law, there is no case law yet regarding it, but he believes there would be no legal standing for challenges as properties are selected in order to rehabilitate empty, derelict, or rundown properties for the benefit of the City as a whole. The Council discussed the procedures for revising proposed legislation. P. Flanagan stated that substantive revisions would require the law be received again and another public hearing held. Director of Finance William Roberts reviewed other issues regarding the proposed law, including State requirements that the property owner receive federal, state, or local municipality grants, loans, or subsidies; that the municipality monitor income of tenants for the low- to moderate-income units annually; and that the exemption would not be allowed for any year in which those income requirements were not met.

Ald. Palmer **moved** to table Proposed Law No. (A) of 2013 pending further study. Seconded by Ald. Deierlein, approved ayes all.

**Resolutions**

**RESOLUTION #32-2013** **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NORWICH AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS DRINKING WATER FILTRATION AND TREATMENT FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE**

Ald. Deierlein introduced the following and **moved** its adoption:

WHEREAS, it is necessary for the City of Norwich (hereinafter called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Four Million Twenty-Two Thousand Dollars ($4,022,000.00) pursuant to the provisions of NYS Local Finance Laws; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association;

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, “Assurance Agreement,” and Form RD 400-1, “Equal Opportunity Agreement,” including an “Equal Opportunity Clause,” which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed $1,000,000 under the terms offered by the Government; that the Mayor of the Association is hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Seconded by Ald. Laughlin, and duly adopted, 6-0, on a roll call vote.

**RESOLUTION #33-2013** **AUTHORIZING RENEWAL OF DCMO BOCES PRINT SHOP CONTRACT**

Ald. Schermerhorn introduced the following and **moved** its adoption:

WHEREAS, the DCMO BOCES Print Shop Service is a plan of a number of public school districts in the Delaware-Chenango-Madison-Otsego BOCES area in New York, to jointly provide duplicating services through a centralized facility; and

WHEREAS, the City of Norwich is desirous of participating with other governmental entities in the Delaware-Chenango-Madison-Otsego BOCES area in the Service mentioned above as authorized by General Municipal Law, Section 119-o; and

WHEREAS, the Public Safety/Public Works and Finance/Personnel Committees have made certain recommendations; now, therefore be it

RESOLVED, that the Common Council of the City of Norwich hereby appoints the Delaware-Chenango-Madison-Otsego BOCES Print Shop Service to represent it in all matters relating above; and, further be it

RESOLVED, that the Mayor be and hereby is authorized, under the direction of the City Attorney, to enter into an agreement with DCMO BOCES Print Shop Service for 2013/2014 to assume its share of the costs for duplicating costs; abide by majority decisions of the participating members; and abide by the terms and conditions of the Mutual Sharing Plan of the BOCES Board.

Seconded by Ald. Palmer, and duly adopted, 6-0, on a roll call vote.

**RESOLUTION #34-2013** **AUTHORIZING APPROPRIATION OF GRANT FUNDS FROM R.C. SMITH FOUNDATION & GREATER NORWICH FOUNDATION FOR CITY BAND PROGRAM**

Ald. Laughlin introduced the following and **moved** its adoption:

WHEREAS, a grant in the amount of $1,000.00 has been received from the R.C. Smith Foundation for supporting the Norwich City Band 2013 program; and

WHEREAS, a grant in the amount of $1,535.00 has also been received from the Greater Norwich Foundation for supporting the Norwich City Band 2013 program; and

WHEREAS, corresponding increases are therefore required in budgeted appropriations for the above designated purpose; and

WHEREAS, the Finance/Personnel Committee has made certain recommendations; now, therefore be it

RESOLVED, that $1,000.00 from the RC Smith Grant and $1,535.00 from the Norwich Greater Foundation grant be and hereby are appropriated for the Norwich City Band 2013 program; and, further be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following supplemental appropriation in the 2013 General Fund budget:

From:

| Account Number | Name | Amount |
|---|---|---|
| A910 | General Fund – Appropriated Fund Balance | $2,535.00 |

To:

| Account Number | Name | Amount |
|---|---|---|
| A7270.4020 | Band Concerts - Contracted Services | $2,535.00 |

Seconded by Ald. Deierlein, and duly adopted, 6-0, on a roll call vote.

**RESOLUTION #35-2013** **AUTHORIZING TRANSFER OF FUNDS - ELM STREET REHABILITATION ENGINEERING**

Ald. Schermerhorn introduced the following and **moved** its adoption:

WHEREAS, the Department of Public Works requires funding for preliminary engineering services for the Elm Street Rehabilitation project; and

WHEREAS, the Public Safety/Public Works and Finance/Personnel Committees have made certain recommendations; now, therefore be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following transfer of funds in the 2013 Sewer Fund Budget:

| From: | | |
|---|---|---|
| Account Number | Name | Amount |
| HR43-898 | Capital Reserves - Storm Sewers | $8,000.00 |

| To: | | |
|---|---|---|
| Account Number | Name | Amount |
| G8140.4020 | Storm Sewers - Contracted Services | $8,000.00 |

Seconded by Ald. Laughlin, and duly adopted, 6-0, on a roll call vote.

**RESOLUTION #36-2013** **AUTHORIZING TRANSFER OF FUNDS - WHEELER AVENUE TANK REPLACEMENT**

Ald. Laughlin introduced the following and **moved** its adoption:

WHEREAS, a change order to the professional engineering services agreement with GHD Consulting Engineers that was authorized by Resolution #14-2013 on February 19, 2013, is required for preparation and submittal of a funding application to USDA-RD; and

WHEREAS, the Public Safety/Public Works and Finance/Personnel Committees have made certain recommendations; now, therefore be it

RESOLVED, that the Mayor and Director of Finance be and hereby are authorized under the direction of the City Attorney to sign an addendum to the aforementioned agreement with GHD Consulting Engineers LLC in the amount of $16,200 for USDA-RD funding application services; and, further be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following transfer of funds in the 2013 Water Fund Budget:

| From: | | |
|---|---|---|
| Account Number | Name | Amount |
| HR29-898 | Capital Reserves - Water Repairs/Tanks, Storage | $16,200.00 |

| To: | | |
|---|---|---|
| Account Number | Name | Amount |
| F1989.4 | Water - Special Projects | $16,200.00 |

Seconded by Ald. Palmer, and duly adopted, 6-0, on a roll call vote.

**Payment of June 2013 Bills** Ald. Schermerhorn **moved** to pay the June 2013 bills after proper audit and certification. Seconded by Ald. Laughlin and duly adopted, ayes all..

**June Bills**

| | Prepaid | 6/18/13 | Grand Total |
|---|---|---|---|
| General Fund | $ 139,804.69 | $ 687,925.00 | $ 827,729.69 |
| Sewer Fund | 16,921.20 | 25,620.76 | 42,541.96 |
| Water Fund | 12,605.93 | 14,407.35 | 27,013.28 |
| Trust | 22,436.80 | - | 22,436.80 |
| Debt Service | 203,648.51 | - | 203,648.51 |
| Comm. Dev. Small Cities | 1,467.74 | 8,916.40 | 10,384.14 |
| **TOTALS** | **$ 396,884.87** | **$ 736,869.51** | **$1,133,754.38** |

**Executive Session** Ald. Palmer **moved** to enter executive session at 7:38 p.m. to discuss labor contract negotiations. Seconded by Ald. McCracken, approved ayes all.

Ald. Deierlein **moved** to exit executive session at 8:37 p.m. Seconded by Ald. McCracken, approved ayes all.

**Adjournment**
Ald. McCracken **moved** to adjourn at 8:38 p.m. Seconded by Ald. Deierlein, accepted ayes all.