

AGENDA - COMMON COUNCIL MEETING – December 4, 2012 - 5:30 P.M.  
REGULAR MEETING

1. Call to order, Roll Call and Pledge of Allegiance to the flag.
2. Certification of prior meetings. Resolution dispensing with reading of minutes.
3. Reading of Privilege of the Floor Regulations.
4. Privilege of the Floor:
5. Communications from the Mayor including disapproval messages.
6. Communications from the public and petitions.
  1. Notice of Claim from Amstar of WNY for an outstanding payment.
  2. Request from Washington Park Action Restoration Committee (PARC) to use the perimeter of Washington Park for horse & wagon rides on December 14th from 6:00 to 9:00 PM.
7. Reports of Standing Committees, Boards and Commissions.
8. Unfinished Business:
9. Pre-filed Resolutions:
  109. Resolution awarding bids for 2013 requirements of treatment chemicals for the Water Pollution Control & Water Treatment Facilities.
  110. Resolution authorizing Engineering Agreement for East Side Water Project.
  111. Resolution authorizing release and settlement for the Masonic Temple.
  112. Resolution authorizing change for the first January 2013 Common Council Meeting.
  113. Resolution authorizing budget line transfers.
  114. Resolution authorizing Partnership Agreement for 21st Century Community Learning Centers Program.
  115. Resolution authorizing NYSDEC Quick Start Arbor Day Grant acceptance.
10. New Business:
11. Adjournment.

Lacy Lawrence  
City Clerk

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF CHAUTAUQUA

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In The Matter of the Claim of

AMSTAR OF WESTERN NEW YORK, INC.

Claimant,

vs.

THE CITY OF DUNKIRK

Respondent.

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RECEIVED  
CLERK'S OFFICE  
DUNKIRK, N.Y.  
2012 NO 26 AM 10:19

NOTICE OF CLAIM

TO: THE CITY OF DUNKIRK  
342 Central Avenue  
Dunkirk, New York 14048

1. The name and post office address of the Claimant is: AMSTAR OF WESTERN NEW YORK, INC. ("Amstar"), 825 Rein Road, Cheektowaga, New York 14225. The name of the Claimant's attorney is Damon Morey LLP (Christopher A. Cardillo, of Counsel), 9276 Main Street, Suite 3, Clarence, New York 14031.

2. This Claim arises out of the following facts: In or about July 2010, Amstar was awarded Contract 1-10, Exterior Tank Painting of Benton Street Water Storage Tank, City of Dunkirk, New York (the "Project").

By August 31, 2010, Amstar had achieved substantial completion of the Project, with only punch list items to be performed pursuant to a final inspection report issued on behalf of the Project owner, The City of Dunkirk.

WASHINGTON PARK ACTION RESTORATION COMMITTEE  
DUNKIRK, NY

November 29, 2012

Dear Mayor Dolce and members of the Common Council,

The Washington Park Action Restoration Committee (PARC) would like permission to host horse and wagon rides around the perimeter of Washington Park. The event will be held on the evening of December 14, 2012 from 6:00 to 9:00. It will be in conjunction with the activities held in The Dunkirk First United Methodist Church. Chautauqua Opportunities will be responsible for all costs incurred. We will be responsible for all clean up of the park and streets.

Thank you so much for your consideration,

Michele Bautista and members of Washington PARC

RECEIVED  
CLERK'S OFFICE  
DUNKIRK, N.Y.  
2012 NOV 29 PM 2:58

**RESOLUTION #109-2012**

**DECEMBER 4, 2012**

**BY COUNCILMAN MICHALSKI:**

**AWARDING BIDS FOR YEAR 2013 REQUIREMENTS OF TREATMENT CHEMICALS FOR THE  
WATER POLLUTION CONTROL AND WATER TREATMENT FACILITIES**

**WHEREAS**, sealed bids for the furnishing of water and wastewater treatment chemicals were opened and read aloud in the Dunkirk City Clerk's Office at 10:00 a.m. on November 26, 2012, for chemicals which were determined to be rejected and re-bid in accordance with Resolution #88-2012, now, therefore, be it hereby

**RESOLVED**, that the following bids be accepted for furnishing year 2013 water and wastewater treatment chemicals:

<u>Bidder</u>	<u>Item</u>	<u>Cost</u>
Kemira Water Solutions, Inc. 3211 Clinton Parkway Court Lawrence, Kansas 66047	Poly-Aluminum Chloride (WTP)	\$990.00 per dry ton
Amrex Chemical Company, Inc. 117 E. Frederick Street P.O. Box 642 Binghamton, NY 13902	Aqua Ammonia Solution (WPCF) Phosphoric Acid (WPCF)	\$ 0.275 per pound NH <sub>4</sub> OH \$ 0.590 per pound

and, be it further

**RESOLVED**, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with each of the above-named vendors, for the purchase of such treatment chemicals for the Water Pollution Control and Water Treatment Facilities, and that the City Clerk is hereby authorized to return the bid deposits of the bidders in accordance with the contract specifications.

**RESOLUTION #110-2012**  
**DECEMBER 4, 2012**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING ENGINEERING AGREEMENT FOR EAST SIDE WATER PROJECT  
(NUSSBAUMER & CLARKE, INC.)**

**WHEREAS**, the City of Dunkirk continues to explore additional opportunities for the sale of water and a proposal has been made to study the possibility of supplying water east along Route 5 through to the Village of Silver Creek; and

**WHEREAS**, the City of Dunkirk, Town of Dunkirk, Town of Sheridan and Village of Silver Creek have been provided a proposal for such study for a lump sum fee of Three Thousand Nine Hundred Dollars and Zero Cents (\$3,900.00), to be divided equally among the four (4) communities; now, therefore, be it

**RESOLVED**, the Mayor is hereby authorized and directed to execute all necessary documents to be a participant with the Town of Dunkirk, Town of Sheridan and Village of Silver Creek in an engineering proposal to study the possibility and costs of supplying City water along Route 5 eastward to the Village of Silver Creek with Nussbaumer & Clarke, Inc., 3556 Lake Shore Road, Suite 500, Buffalo, New York 14219-1494, in an amount not to exceed Nine Hundred Seventy-Five Dollars and Zero Cents (\$975.00) with the funds for such expense to be charged to:

002-8320-4736    Water Purification/Pumping – Contracted Services                    \$975.00

**RESOLUTION # 111-2012**

**DECEMBER 4, 2012**

**BY: ENTIRE COUNCIL**

**AUTHORIZING RELEASE AND SETTLEMENT – Masonic Temple  
(Empire Building Diagnostics, Inc.; Robert K. Lesser)**

**WHEREAS,** as a result of the devastating fire to the Masonic Temple Building (February 2010), the City of Dunkirk (the "City") engaged the services of Empire Building Diagnostics, Inc. to undertake emergency work (including the removal of unstable walls to a safe level/height and the preparation of the Building to allow the City's Fire Department personnel safe, appropriate and adequate access to successfully attack and extinguish the fire); and,

**WHEREAS,** such services were provided at the City's request; and,

**WHEREAS,** a demand has been made to the City for payment for such services in the amount of Sixty-Four Thousand Three Hundred Ninety-Seven Dollars and Twenty-One Cents (\$64,397.21); and,

**WHEREAS,** the Dunkirk City Code provides that costs incurred in performance of such emergency work shall be paid by the City, with recovery from the property owner to be undertaken by the City; and,

**WHEREAS,** negotiations have been undertaken to settle the dispute among the City, the contractor and the property owner; and,

**WHEREAS,** it is in the best interests of the City to resolve the dispute among the City, the contractor and the property owner, in an attempt to avoid the large expense and uncertainty of litigation; now, therefore, be it

**RESOLVED,** that the Mayor is hereby authorized and directed to execute any documents and releases with Empire Building Diagnostics, Two Main Street, Depew, New York 14043, and Mr. Robert K. Lesser, One Eliot Plaza, Fairfield, CT 06824, and to resolve the dispute in an amount not to exceed Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00); and, be it further

**RESOLVED,** that the Fiscal Affairs Office and City Treasurer make appropriate budget modifications as follows:

Charge:	001-1900-1930	Judgments/Claims
Decrease	001-1900-1990	\$2,500.00
Increase	001-1900-1930	\$2,500.00.

**RESOLUTION #112-2012**  
**DECEMBER 4, 2012**

**BY: ENTIRE COUNCIL**

**AUTHORIZING CHANGE FOR  
FIRST JANUARY 2013 COMMON COUNCIL MEETING**

**WHEREAS**, the Common Council wishes to change the date of their first meeting in January, 2013, and

**WHEREAS**, the Tuesday, January 1, 2013 meeting will be changed to Wednesday, January 2, 2013, because of the New Year's Day holiday, now, therefore, be it

**RESOLVED**, that the Tuesday, January 1, 2013 Common Council Meeting shall be re-scheduled to Wednesday, January 2, 2013.

**RESOLUTION #113-2012**  
**DECEMBER 4, 2012**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING BUDGET LINE TRANSFERS**

**WHEREAS,** the City utilized in-house resources for certain "clerk of the works" services for the First Ward Water Waterline Project in order to reduce the costs to rate-payers; and,

**WHEREAS,** certain overtime expenses for such services were temporarily charged to a Department of Public Works Account in Fund One and transfers need to be made to accommodate the proper allocation for such expenses; and,

**WHEREAS,** such transfers are being recommended by the DPW Director as being reasonable and appropriate expenses of the First Ward Waterline Project; now, therefore, be it

**RESOLVED,** that the Fiscal Affairs Officer is hereby authorized and directed to make certain budgetary changes as follows:

<u>Account</u>		<u>Debit</u>	<u>Credit</u>
015-8320-5042-8050	First Ward Water Line	\$8,222.05	
015-0015-5031	Fund Transfer		\$8,222.05
001-0001-5031	Fund Transfer	\$8,222.05	
001-1490-1001	Pers Services – Eng – OT		\$8,222.05

**RESOLUTION #114-2012**  
**DECEMBER 4, 2012**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING PARTNERSHIP AGREEMENT  
(21<sup>st</sup> CENTURY COMMUNITY LEARNING CENTERS PROGRAM)**

**WHEREAS,** the Dunkirk City School District (the "District") and the City have in the past partnered to participate in the 21<sup>st</sup> Century Community Learning Centers Program to provide academic and recreational activities for students in the District; and,

**WHEREAS,** the District has again requested that the City join in participating in the Program which provides outreach to disengaged and disenfranchised youth, and which would provide a grant of Ten Thousand Dollars and Zero Cents (\$10,000.00); now, therefore, be it

**RESOLVED,** that the Mayor is hereby authorized and directed to execute a Partnership Agreement for the City's participation with the Dunkirk City School District for the 21<sup>st</sup> Century Community Learning Centers Program at Dunkirk High School for the 2012-2013 school year, and to accept and utilize funds in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00); and, be it further

**RESOLVED,** that the Fiscal Affairs Officer is hereby directed to create the appropriate accounts and/or to make the necessary budget line modifications to properly account for the receipt and use of the monies for the 21<sup>st</sup> Century Community Learning Centers Program.

**RESOLUTION #115-2012**  
**DECEMBER 4, 2012**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING NYSDEC QUICK START ARBOR DAY GRANT ACCEPTANCE**

**WHEREAS**, by Resolution No. 52.-2012, the Dunkirk Common Council approved and endorsed the City's application for a Quick Start Arbor Day Grant under the Urban and Community Forestry Program through the New York State Department of Environmental Conservation for a project located within the community; and

**WHEREAS**, such application was approved and grant funds of One Thousand Dollars and Zero Cents (\$1,000.00) have been awarded to the City for this Program, enabling the planting of trees on the 100 and 200 blocks of Central Avenue and for an educational Arbor Day Event at Bicentennial Park; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized to execute any and all contracts and related documents with the NYS Department of Environmental Conservation to accept and utilize funds in the amount of One Thousand Dollars and Zero Cents (\$1,000.00) for the Quick Start Arbor Day Grant; and, be it further

**RESOLVED**, that the Fiscal Affairs Officer is hereby directed to create the appropriate accounts and/or to make the necessary budget line modifications to properly account for the receipt and use of the monies for the Quick Start Arbor Day Grant Program.