

**COMMON COUNCIL PROCEEDINGS**  
**October 2, 2012**

The meeting was called to order at 5:32 PM by Councilmember-at-large Kiyak followed by the Pledge of Allegiance.

Present: Councilmen Michalski, Rivera, Gonzalez, Councilwoman Szukala and Councilwoman-at-large Kiyak.

Also present: Mayor Dolce, City Attorney Szot, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Briggs, Building Inspector Zurawski, Clerk, Board of Assessors Mleczo, CDBG Administrator Gornikiewicz, Director of Development Neratko, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Certification of September 18, 2012 meeting was read by City Clerk Lawrence.

**RESOLVED:** That the reading of the minutes of Tuesday, September 18, 2012 be dispensed with.

Motion by Councilwoman Szukala to accept the minutes as presented. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Councilwoman-at-large Kiyak advised she needed a motion to suspend the rules and go into Executive Session.

Councilwoman Szukala motioned to meet in Executive Session to discuss the employment history of a particular person in matters leading to the employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person; it is expected that no new business take effect after the Executive Session concludes. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Councilwoman Szukala requested Mayor Dolce, City Attorney Szot, Police Chief Ortolano and Animal Control Officer Purol attend this Executive Session with the Council.

Executive Session called to order at 5:34 PM.

Councilwoman Szukala motioned to adjourn the Executive Session at 5:54 PM and reconvene to the regular Council Meeting. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Councilwoman-at-large Kiyak read the following statement:

“On behalf of the Common Council, I would like to make some brief comments regarding the recent issue involving Animal Control Officer Steve Purol.

First, the New York State Department of Agriculture and Markets has advised the City that it is proper to dispose of deceased animals, including domesticated pets, by double-bagging the animal and disposing the animal at the County Landfill.

The Council has reviewed this policy with the ACO, and the ACO has assured us that when this method is utilized, only City-owned receptacles will be used in the future.

Next, the business involved is not seeking any further action to be taken, agreeing that a formal written apology from the ACO will be sufficient. The ACO has hand-delivered this apology today and has provided us all with a copy.

Next Council will be drafting a formal admonishment which will be kept in the ACO's file. In addition the Council has decided that the ACO will be on probation for 60 days.

Lastly, every member of the Common Council takes this matter very seriously and we believe the resolution as I have outlined is appropriate. We consider the matter closed."

#### **PUBLIC COMMENTS:**

William Berg, 139 E. Second Street, Dunkirk, NY asked what is the exact title of the ACO and what is the scope of animals he is allowed to handle?

Councilwoman-at-large Kiyak asked Animal Control Officer Purol to explain his position.

Animal Control Officer Purol advised his position with the city is a part-time position; he was not hired to pickup raccoons, possums or skunks and is only contracted to pickup dogs. Mr. Purol stated New York State will not allow him to pickup cats; advised residents they are to call nuisance control officers for those animals (raccoons, possums, skunks etc.) and advised he has a private business where he provides this service.

Councilwoman Szukala advised it is the responsibility of the homeowner to contact a private nuisance control contractor if they need an animal, other than a dog, removed from their property. Councilwoman Szukala advised there currently is no money in the budget to expand the ACO's responsibilities.

Pat Mleczo, 51 Point Drive West, Dunkirk, NY, stated officials are elected to serve the public and advised no official has contacted her in regard to what she saw regarding the Animal Control Officer disposing animals in dumpsters and stated this could have been resolved in a professional manner. Mrs. Mleczo proceeded to discuss a picture which appeared in the OBSERVER, wanted to know where the additional garbage in the dumpster came from and asked where have additional dogs been disposed.

Maureen Pagan, 6 W. Courtney Street, Dunkirk, NY advised she was horrified by the picture in the OBSERVER, has had a run in with the Animal Control Officer and stated every little thing you do wrong in the city, especially if you are a minority or married to a minority, you are going to be punished.

Ann Bowers, 40 Summer Street, Fredonia, NY had several questions regarding the Animal Control Officer and his duties for the City of Dunkirk.

Councilwoman-at-large Kiyak proceeded to answer Ms. Bowers's questions regarding the Animal Control Officer and his duties.

Mayor Dolce advised Mr. Purol is an independent contractor and has no set days or hours for which he works for the city.

Councilwoman-at-large Kiyak advised Ms. Bowers the city has had discussions regarding proper policies and procedures, the Council currently is satisfied with his services and this matter is closed.

Ms. Bowers wanted to know how the two dogs died.

Animal Control Officer Purol advised one dog was hit by a car and the second dog was euthanized by a local veterinarian.

Councilwoman-at-large Kiyak advised Council receives monthly reports from Animal Control Officer Purol detailing the animals he comes into contact with, this report is available to the public and reiterated guidelines have been established and this matter is closed to the Council's satisfaction.

Harriet "Skeeter" Tower, 438 Swan Street, Dunkirk, NY spoke in regard to the Main Street Project, stated the tree planting project is complete and advised 11 new trees have been planted.

Ms. Tower advised she is waiting to receive policy information regarding the Adopt-A-Block Program, stated there are two corporations interested in adopting a block and there is funds for the design and purchase of one sign.

**COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:**

Mayor Dolce thanked everyone in the audience for attending tonight's meeting, welcomed SUNY Fredonia State student Kendell McNichols to tonight's meeting and advised he will be interning with the city thru Cable Access 12.

Mayor Dolce thanked Skeeter Tower and various groups for their work and stated he has visited the Humane Society, Main Street Project and Bi-Centennial Park.

Mayor Dolce advised Resolution #78-2012 on tonight's agenda is a partnership between SUNY Fredonia and the city and is excited about this project. Mayor Dolce advised Kevin Kearns and Chuck Cornell are here tonight on behalf of SUNY Fredonia and asked Kevin Kearns to explain this project.

Kevin Kearns stated this project is in the early stages and they are preparing to apply for a portion of a 60 million dollar grant. Mr. Kearns advised SUNY in collaboration with the city is looking to develop the waterfront with a Welcome Center and Working Station for entry to the harbor and stated this project will be a tremendous opportunity for economical revitalization, job output and development. Mr. Kearns spoke in regard to the SUNY Incubator, the jobs and businesses it has created and looks forward to a continued partnership with the city.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Request from Stephen O'Brien, Principal, Dunkirk Senior High School requesting 3 police officers on October 6<sup>th</sup> from 7:45 PM until 11:15 PM for their Homecoming Dance.

Councilwoman-at-large Kiyak advised a motion to approve was needed and referred this to the PBA.

Councilwoman Szukala motioned to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

**REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:**

Councilman Michalski thanked Jana Tarnowski and her family for her efforts in holding a tailgate party two weeks ago at the Boardwalk benefiting the American Cancer Society.

Councilman Rivera advised a Public Forum regarding a proposed resolution monitoring rental property was held last Tuesday (September 25<sup>th</sup>) and stated the meeting went well. Councilman Rivera advised he received good feedback during the meeting, work on this matter will continue and thanked Donna Keith, Greg and Edna Sek, Rose Floramo, Councilman Michalski and everyone who has helped regarding this matter.

Councilman Rivera spoke in regard to speeding through school zones and asked Chief Ortolano to speak on this issue.

Police Chief Ortolano advised he and Public Works Director Gugino have spoken with Dunkirk Superintendent Gary Cerne and Director of Building and Grounds Tim Abbey regarding two specific school zones, Sixth Street near the High School and Central Avenue near School #4. Police Chief Ortolano advised the cross walk at the High School will be enhanced with paint and new signage and the school will be issuing a memo to the students educating them regarding proper usage of the cross walk during school hours. Police Chief Ortolano advised flashing lights will be installed within that school zone on Central Avenue and thanked Gary Cerne, Tim Abbey and the school district for their help regarding this matter.

Public Works Director Gugino advised the flashing lights to be installed are solar powered and advised they are easier and faster to install than electrical powered lights.

Councilman Rivera thanked Police Chief Ortolano and Public Works Director Gugino for their quick action regarding this matter.

Councilman Rivera acknowledged his friends on Elm Street and Bradford Street and advised his thoughts are with them.

Councilman Gonzalez thanked Skeeter Tower for her work on the Main Street Project, apologized for canceling the Public Works Meeting this morning and stated this meeting will be rescheduled.

Councilman Gonzalez advised he is not happy with the current animal disposal procedure and stated although this is what New York State recommends he feels there should be a better way of disposing these animals.

Councilwoman Szukala spoke in regard to the Adopt-A-Block sign issue and suggested Ms. Tower contacts the Dunkirk High School Art Department and recommends they hold a sign design contest amongst the students.

Councilwoman-at-large Kiyak asked Director of Public Works Gugino for an update on the status of the “No Parking” signs in front of the post office and two “Neighborhood Watch” signs that are to be installed on Main Street between E. Fifth Street and E. Sixth Street.

Director of Public Works Gugino advised the signs will be installed within the next two weeks.

Councilwoman-at-large Kiyak spoke in regard to the International Coastal Cleanup held on September 22, 2012 and read the following statement:

“Partners who came together were: New York and American Littoral Society, an agency that is tracking the long-term health of Lake Erie and the other Great Lakes, Ocean Conservancy, SUNY Fredonia Inaugural Day of Service Committee and Sustainability Committee and local Cub Scout Pack #267. The events for our city took place at Point Gratiot and Wright Park.

SUNY Professors Christina Jarvis and Michelle Kuns were the Beach Captains, we had 97 volunteers and approximately 852.2 pounds of trash was picked up that day.

I would like to extend my sincerest gratitude to everyone who came out on that wet, chilly Saturday morning to clean up our beautiful beaches after the summer season ended. I hope that next year by providing more trash receptacles at these beaches and ticketing violators caught littering that the amount of trash removed will be cut in half.”

Councilwoman-at-large Kiyak advised the next Economic Development Committee will be held on Tuesday, October 23<sup>rd</sup> at 11:00 AM in the Conference Room and the next Dunkirk Citizens’ Dialogue Meeting will be held that same day at 6:00 PM in the Conference Room.

Councilwoman-at-large Kiyak advised there are three budget meetings scheduled in October and they will be held on Friday, October 19<sup>th</sup> from 9:00 AM until 3:00 PM, Friday, October 26<sup>th</sup> from 9:00 AM until 2:00 PM and Tuesday, October 30<sup>th</sup> from 9:00 AM until 2:00 PM; all three meetings are opened to the public and will be held in the Conference Room.

Department of Development Director Neratko thanked Chuck Cornell and Kevin Kearns for attending tonight’s meeting and supporting Resolution #81-2012 and advised there will be employment, economical development, educational, and environmental opportunities that will arise from this project.

Department of Development Director Neratko advised the next CDGB hearing will be held this Thursday, October 4<sup>th</sup> at 6:00 PM at Hose Company #4.

Development Director Neratko announced there is an opening at the Boardwalk, anyone interested can obtain an application from the Department of Development or on-line; applications must submit by October 9<sup>th</sup>.

Animal Control Officer Purol advised he will be making a monetary donation to the Lake Shore Humane Society.

Police Chief Ortolano announced the new police car was put into service two weeks ago; thanked the Council for their support and Jason Schrantz and Ken Sek from the city garage for their work in preparing the new vehicle.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #77-2012**  
**OCTOBER 2, 2012**

**BY COUNCILMAN MICHALSKI:**

**AUTHORIZING AGREEMENT WITH  
MID AMERICAN NATURAL RESOURCES, L.L.C.**

**WHEREAS**, in 2008, the City of Dunkirk entered into an Agreement with Mid American Natural Resources, L.L.C., for natural gas needs for City accounts; and

**WHEREAS**, the original agreement expired on October 31, 2010, was extended under Resolutions #77-2010 and #65-2011, including pricing reductions for each of those years; and

**WHEREAS**, there has been a new agreement proposal from Mid American Natural Resources, L.L.C., which would hold the previous price reduction of 0.519/Dkth for the proposed agreement term; now, therefore, be it

**RESOLVED**, the Mayor is hereby authorized and directed to execute all necessary documents for a two-year agreement extension from November 1, 2012 to October 31, 2014, with Mid American Natural Resources, L.L.C., 2501 Palermo Drive, Suite A., Erie, PA 16506.

Councilwoman-at-large Kiyak questioned the current price versus the price reduction.

Public Works Director advised upon discussions with Dave Manzella this agreement will save the city money and is the reason the city has decided to pursue this.

Carried, all voting aye.

**RESOLUTION #78-2012**  
**OCTOBER 2, 2012**

**BY: ENTIRE COUNCIL**

**AUTHORIZE AGREEMENT OF ADJUSTMENT AND RELEASE OF OWNER  
and AGREEMENT FOR ADVANCE PAYMENT  
(Millennium Parkway Project)**

**WHEREAS**, the New York State Department of Transportation (“NYSDOT”) is acquiring properties for the Millennium Parkway Project (the “Project”) which will include reconstruction of Talcott Street in the City of Dunkirk; and,

**WHEREAS**, the NYSDOT design plans require the acquisition of a portion of City property, to wit: an approximately triangular shaped parcel at the northwest corner of Talcott Street and Franklin Avenue (107 Franklin Avenue); and,

**WHEREAS**, the NYSDOT has made an “offer of settlement” for such parcel of One Thousand Seven Hundred Dollars and Zero Cents (\$1,700.00) as “total damages – just compensation”; and,

**WHEREAS**, the Common Council believes that is it appropriate for the acquisition of such parcel by the NYSDOT for the Project, and it is in the best interests of the City to accept this offer of settlement from the NYSDOT; now, therefore, be it

**RESOLVED**, that the Mayor is directed and authorized to execute any and all agreements necessary with New York State Department of Transportation for an *Agreement of Adjustment and Release of Owner* and for an *Agreement for Advance Payment* for One Thousand Seven Hundred Dollars and Zero Cents (\$1,700.00), for a portion of City property, to wit: an approximately triangular shaped parcel at the northwest corner of Talcott Street and Franklin Avenue (107 Franklin Avenue).

Councilwoman Szukala advised she sent an e-mail and Councilwoman-at-large Kiyak sent a letter to County Executive Greg Edwards regarding concerns about this project and read the following e-mail she received from County Executive Edwards.

“Upon review of your questions I called and spoke with Mayor Dolce. Due to the significance of this project to our major industries and economic development going forward I expressed my willingness to meet in a work session with the Council and the Mayor to review this matter in detail. If it makes sense to you and the other leaders of the City of Dunkirk this resolution could be pulled for action at your next voting session. After you have a chance to discuss this with your team please let me know how you would like to proceed. Sincerely, Greg Edwards.”

Councilwoman Szukala asked for support to have this Resolution pulled. Seconded by Councilman Gonzalez.

Councilman Rivera advised he is willing to listen to the concerns of his fellow councilmember's, proceeded to explain his reasons for supporting this Resolution and is in favor of pulling this Resolution tonight.

Councilman Gonzalez advised this is an excellent project however there are issues that need to be addressed before moving forward.

Councilman Michalski advised he is also in favor of pulling this Resolution, stated this project mainly affects his Ward (First) and Councilwoman Szukala's Ward (Fourth) and this project will take truck traffic off of Middle Road and Route 5.

Councilwoman-at-large Kiyak advised she is in agreement with her fellow councilmember's to pull this Resolution for further discussion.

**Resolution Pulled. The following Resolutions will be re-numbered.**

**RESOLUTION #78-2012**  
**OCTOBER 2, 2012**

**BY: ENTIRE COUNCIL**

**DECLARING 1975 WARD LaFRANCE PUMPER TO BE SURPLUS EQUIPMENT**

**WHEREAS**, the Chief of the Dunkirk Fire Department has determined that a certain 1975 Ward LaFrance Pumper owned by the City is no longer useful for the Department's purposes; and

**WHEREAS**, this vehicle is to be declared to be surplus and sold at auction; now, therefore, be it

**RESOLVED**, that the Common Council, based upon the recommendation of the Chief of the Dunkirk Fire Department, has determined and declared the following item to be surplus:

1975 Ward LaFrance Pumper; and, be it further

**RESOLVED**, that such item is to be made available for public auction by sealed bid.

Councilwoman-at-large Kiyak asked Fire Chief Ahlstrom what is the approximate value of this pumper; will this pumper be replaced and where will the proceeds of the sale be placed.

Fire Chief Ahlstrom advised there is not much value to this pumper; this apparatus is 37 years old and stated it maybe worth more as scrap than as a vehicle. Fire Chief Ahlstrom further advised there will be no need to replace this pumper because the city has a reserve pumper in place and the city should not need to replace a pumper for at least 10 years. Fire Chief Ahlstrom advised and the proceeds from this sale will be placed in the General Fund.

Carried, all voting aye.

**RESOLUTION #79-2012**  
**OCTOBER 2, 2012**

**BY: ENTIRE COUNCIL**

**EXTENSION OF ELEVATOR MAINTENANCE AGREEMENT**

**WHEREAS**, the current elevator maintenance agreement for units at City Hall and the Water and Wastewater Treatment Facilities will expire on December 31, 2012; and

**WHEREAS**, the existing agreement contains an annual mutual extension clause to extend the agreement to the end of FY 2013; and

**WHEREAS**, the Contractor and the City have mutually agreed to extend the term of the contract to December 31, 2013; now, therefore, be it

**RESOLVED**, upon the recommendation of Director of Public Works Gugino, the current elevator maintenance agreement with D.C.B. Elevator Company, Inc., P.O. Box 426, Lewiston, New York 14092, be extended until December 31, 2013, in accordance with the original bid specifications with the following mutually agreed revisions:

1. Add allowable 0.58% pricing increase in accordance with price adjustment clauses in the NYS Office of General Services mini-bid which said increase will revise total monthly charges across all accounts from \$900.00 to \$905.22,
2. Revise out-of-contract repair labor rates to reflect current New York State Department of Labor wage rates; and, be it further

**RESOLVED**, that the Mayor is hereby authorized and directed to execute any and all documents, on behalf of the City of Dunkirk; and, be it finally

**RESOLVED**, that monthly costs for this maintenance contract be funded, respectively, from the following accounts:

001-1620-4036	\$201.16	Building City Hall–Contracted Services
002-8320-4736	\$301.74	Water Purification & Pumping–Contracted
Services		
003-8130-4036	\$402.32	Wastewater Treatment–Contracted
Services		

Councilwoman-at-large Kiyak asked Public Works Director Gugino if this elevator and its' expenses are shared with anyone.

Public Works Director Gugino advised the city shares this elevator and expenses with the Sterns Building.

Carried, all voting aye.

**RESOLUTION #80-2012**  
**OCTOBER 2, 2012**

**BY: ENTIRE COUNCIL**

**SUPPORT FOR CITY and SUNY FREDONIA PARTNERSHIP  
SUNY 20/20 GRANT SUBMISSION**

**WHEREAS**, the City of Dunkirk and SUNY Fredonia have partnered on several successful projects, and the City and SUNY Fredonia are committed to continuing this positive relationship in order to have continued growth of the City and its residents; and

**WHEREAS**, SUNY Fredonia is working in conjunction with the City of Dunkirk, the US Fish & Wildlife Service, and the NYS Department of Environmental Conservation to submit a grant proposal to the SUNY 20/20 Grant Program, for a Lake Erie Research Station; and

**WHEREAS**, a Lake Erie Research Station would be a benefit to the City, as well as to the surrounding community; and

**WHEREAS**, the City has potential developable property in the harbor front area that would provide an ideal location for such Research Station; now, therefore be it,

**RESOLVED**, that the City of Dunkirk enthusiastically supports SUNY Fredonia's grant submission to the SUNY 20/20 Grant Program for a Lake Erie Research Station to be located in the City's harbor front area, and is committed to working cooperatively to support such grant submission and developing the project, should the submission be successful.

Councilwoman Szukala advised she has many concerns regarding this

Resolution, stated that although she believes this a fabulous project she does not believe the chosen area is the right fit and is not in favor of giving that piece of property away as a tax exempt property and suggested that perhaps Cedar Beach or the piece of property near the city's water treatment plant would better suit this project. Councilwoman Szukala advised she has a lot of questions and reservations as to what the city needs and stated the city has three basic needs: increasing the tax base, increasing revenue and creating entry-level jobs and does not see that occurring if the city puts that building on that piece of property.

Councilwoman Szukala advised she has concerns about the language of the grant application and stated once the application is submitted and accepted you are bound to the grant and feels there are too many unknowns she would like worked out before submitting the application. Councilwoman Szukala advised she will not be supporting this Resolution.

Councilman Michalski advised clarification regarding the grant was needed and stated it was his understanding that this vote was a vote to show support for the grant submission and was not a go-ahead for the project. Councilman Michalski asked the people involved with the grant submission keep the Council informed regarding the project plans.

Mayor Dolce read the following from the Resolution "and is committed to working cooperatively to support such grant submission and developing the project, should the submission be successful" and stated we are not agreeing to turn over this piece of property tonight; the location is a suitable location for this project and Councilwoman Szukala's three concerns for the city will be addressed if this project is successful. Mayor Dolce advised this is a 10 million dollar project and will create jobs in our area.

Councilwoman Szukala advised she believes this project will not create entry-level blue-collar jobs but will create jobs for highly-educated individuals who will be transferring into the area. Councilwoman Szukala further advised she meant no disrespect towards anybody and stated "let's agree to disagree and I will stand corrected if it all falls into place, but we cannot afford to keep giving away property as tax exempt without having certain things in line to make sure that we're protecting the city's best interests."

Councilman Gonzalez advised he has a concern about the location of the project and stated we are only approving the collaboration and the go-ahead on the grant application; location of this project could be discussed in a future meeting.

Councilman Rivera advised there are issues with this project that need to be addressed, stated he will be supporting this Resolution and asked SUNY officials to keep the city and council members informed.

Councilwoman-at-large Kiyak stated this project will be beneficial and set a positive direction for the city; is excited about partnering with SUNY; asked that council be kept informed and advised she will be supporting this Resolution.

Vote on Resolution: Ayes: Councilman Michalski, Councilman Rivera, Councilman Gonzalez, Councilwoman-at-large Kiyak.

No: Councilwoman Szukala.

Resolution Carried, 4-1.

**RESOLUTION #81-2012**  
**October 2, 2012**

**BY: ENTIRE COUNCIL**

**CHANGING THE COMMON COUNCIL  
MEETING DATE FOR THE FIRST MEETING IN NOVEMBER, 2012**

**WHEREAS**, Election Day (November 6, 2012) falls upon a regularly-scheduled date for a meeting of the Common Council; and

**WHEREAS**, in order to accommodate the public's opportunity to both exercise their right to vote and to attend the Common Council meeting, it would be appropriate to change the day of the 1<sup>st</sup> meeting in November, 2012; now, therefore, be it

**RESOLVED**, that the Common Council meeting scheduled for Tuesday, November 6, 2012 be changed to Monday, November 5, 2012 due to Election Day.

Councilman Rivera advised tonight's meeting went well.

Carried, all voting aye.

**RESOLUTION #82-2012**  
**October 2, 2012**

**By: COUNCILWOMAN SZUKALA**

**ESTABLISHING HALLOWEEN TRICK-OR-TREAT HOURS**

Now, therefore, be it

**RESOLVED**, that house-to-house trick-or-treat hours shall be on Wednesday, October 31, 2012, which is Halloween, from 4:00 P.M. to 8:00 P.M., in the City of Dunkirk.

Carried, all voting aye.

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye

**Adjourned at 6:54 PM**

**Lacy L. Lawrence, City Clerk**

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