

**COMMON COUNCIL PROCEEDINGS**  
**November 1, 2011**

The meeting was called to order at 6:00 PM by Councilman-at-large Dolce followed by the Pledge of Allegiance.

Present: Councilmen Michalski, Muldowney, Councilwoman Szukala and Councilman-at-large Dolce.

Also present: Mayor Frey, City Attorney Cerrie, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Curtin, Building Inspector Zurawski, Clerk, Board of Assessors Mleczo, CDBG Program Administrator Gornikiewicz, Fire Chief Ahlstrom and Police Chief Ortolano.

Councilman-at-large Dolce advised Development Director Ahlstrom is out of town attending a seminar and excused him from tonight's meeting.

Absent: Personnel Administrator Heyden.

Certification of October 18, 2011 meeting was read by City Clerk Mleczo.

**RESOLVED:** That the reading of the minutes of Tuesday, October 18, 2011 be dispensed with.

Motion by Councilman Michalski to accept the minutes as presented. Seconded by Councilman Muldowney.

Carried, all voting aye.

**PUBLIC COMMENTS:**

Arlene Langendorfer, 86 E. Pine Street, Dunkirk, New York, inquired with Public Works Director Gugino regarding the leaf picking up policy in the city, and advised it was stated in the paper on two occasions that leaves were not to be raked to the street but were to be placed in bags and barrels. Mrs. Langendorfer also asked Mr. Gugino, do we still have a vehicle with a vacuum to pick up leaves as in the previous years and if so, why is the vehicle not being utilized.

DPW Director Gugino replied they are picking up leaves in bags and barrels this week however, "there are so many leaves still on the trees we did not want to do a full blown leaf clean up yet", and stated they may be doing a full blown clean up next week or the following week.

DPW Director Gugino advised he does not have the vehicle which vacuums up the leaves, and stated they will be collecting leaves as they did last year, with his crew hand raking the leaves, using leaf brooms and loaders. Mr. Gugino advised yesterday's pickup of leaves in bags and barrels went well and encouraged the public to watch for notices in the newspaper and on the radio regarding leaf pickup, stating "it's totally reactive to when these leaves come down in greater numbers at once" and reiterated he does not want leaves raked into the streets or the curbs because it messes up the drainage. Mr. Gugino advised his crew is trying to be as efficient as possible.

Mrs. Langendorfer asked will residents be ticketed if they rake leaves into the street.

DPW Director Gugino replied he does not want to ticket people; he just wants residents to comply with the request of not raking leaves into the streets.

Skeeter Tower, 438 Swan Street, Dunkirk, New York inquired what progress has been made regarding the litter policy and grocery carts left throughout the city, if a committee has been formed regarding these issues, and if so, are they accepting citizen participation. Ms. Tower advised as a taxpayer she would prefer to see enforcement of the laws versus lawsuits where individuals get hurt or vehicles get damaged, and stated they are an eye sore.

Councilwoman Szukala advised the carts belong to Save A Lot, and they are the only ones who can file charges against individuals who take these carts off their premises. Councilwoman Szukala further advised Save A Lot's policy is not to fine an individual who takes a cart home with them after the customer has just spent \$150.00 to \$200.00 in their store and stated that she does not agree with Save A Lot's policy. Councilwoman Szukala advised she drives around the city everyday with a note pad in her vehicle obtaining addresses where grocery carts can be located, calls Save A Lot with her information and stated they have been very receptive; they send someone to those locations to pick up the carts.

Councilwoman Szukala advised they suggested to Save A Lot that they place an electronic fence on their property like Wal-Green has, but Save A Lot's response to that suggestion was they are not willing to spend the money for an electronic fence.

Councilwoman Szukala advised she has spoken with Chief Ortolano regarding this issue and reiterated the city can not press charges against individuals who take these carts; the store has the sole authority to press charges.

Councilwoman Szukala advised this is similar to the political signs that are being stolen stating the only one who can press charges against the individuals stealing these signs are the candidates who's sign are stolen.

Ms. Tower asked if the city could press charges against the store for not reinforcing these laws, stating it is litter and a danger.

DPW Director Gugino advised that Save A Lot and Dollar General have signs warning the public not to take the carts off the premises and they have the legal right to prosecute anyone who removes these carts. DPW Gugino continued Save A Lot has a more proactive attitude then the former tenants of that property and stated the manager and several dispatchers go out and retrieve these carts.

Chief Ortolano advised it is up to the store to prosecute these individuals; the police can not arrest individuals who remove these carts from the premises.

Councilwoman Szukala advised residents and city officials if they want to call Save A Lot their phone number 366-1390 and stated "we do the best that we can with what we are allowed to do to get them to take care of the carts."

Building Inspector Zurawski advised his office also lists carts locations, drops the list off at Save A Lot; the manager will then go out and retrieve the carts. Building Inspector Zurawski advised that Save A Lot is offering their customer the opportunity to use two wheel carts.

Ms. Tower again asked about the city's litter policy

Councilwoman Szukala advised she has been in contact with the Superintendent of the Schools and stated the school was looking into installing garbage receptacles around the Middle School. Councilwoman Szukala further advised the school was unsure when these receptacles would be installed but was hoping to have them in place before the end of the year, and advised Ms. Tower she would contact Mr. Cerne again, or Ms. Tower could contact Mr. Cerne and speak to him directly.

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

Mayor Frey advised residents if they had any questions regarding their voting location in the city to call the City Clerk's Office or his office.

Mayor Frey announced the following were the winners of this year's Halloween House Decorating contest: First Ward – Dick & Lisa Cieslewicz, 428 E. Cedar Street; Second Ward - Bob Peterson, 407 McKinley Avenue; Third Ward – Karie Pencek – 69 E. Seventh Street; Fourth Ward – George Civiletto, 138 Ruggles Street and all winners will receive \$25.00 in Chamber of Commerce money.

Mayor Frey advised residents if political signs are stolen from their property to contact the candidates whose signs have been stolen, not the Building and Zoning Department.

Mayor Frey announced his Public Hearing regarding the 2012 Proposed Budget will be held this Thursday, November 3<sup>rd</sup> at 11:00 AM in the conference room.

Mayor Frey advised residents November is Veteran's month and noted this is an unusual year with Veteran's Day falling on 11-11-11; advised we have military personnel all over the country and all over the world giving us this right to vote and encouraged residents to exercise their right to vote next Tuesday for the candidate of their choice.

Mayor Frey asked Fire Chief Ahlstrom to give an update on the ambulance services.

Fire Chief Ahlstrom proceeded to explain the billing system process, how many transports have occurred and have been forwarded on to billing, how many billings have to be forwarded on to billing, how many bills have been paid and advised that he can check on the status of any bill on a daily basis.

Fire Chief Ahlstrom proceeded to explain total expenses incurred to date and payments the city has received from the billing insurance company. Fire Chief Ahlstrom advised some of the fees are a one time fee; the city will not incur these fees next year. Fire Chief Ahlstrom advised residents they will be receiving a statement from their insurance company but the statement will indicate this is not a bill it is just a statement from the insurance company indicating they are providing the service. Fire Chief Ahlstrom advised there will be no cost to city residents; the city will not bill residents.

City Attorney Carrie inquired about the \$7,300.00 attorney fee.

Fire Chief Ahlstrom advised the \$7,300.00 attorney fee is a one time fee, the original Resolution was for \$25,000.00 and stated the cost was significantly lower than what we thought it would be. Fire Chief Ahlstrom stated he had nothing but good things to say about Page,

Wolfberg and Wirth, LLC (attorneys) and Enhanced Management Services and he keeps in contact with PWW.

Synopsis of Mayor Frey's Proposed Budget for 2012.

Received and filed.

#### **COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Petition from the Historical Society of Dunkirk requesting one off-duty police officer on November 12<sup>th</sup> from 7:30 PM until 11:30 PM at the Clarion Hotel, Marina and Conference Center for their annual "Celebration of Puerto Rican Traditions."

Councilwoman Szukala moved that permission be granted and referred this to the Police Department. Seconded by Councilman Michalski.

Carried, all voting aye.

Prior Notice from Stephanie Aprigliano-Kiyak informing of a dead tree on the corner of Eagle Street and 7<sup>th</sup> Avenue.

Councilman Muldowney moved to refer this to the Department of Public Works and the City Attorney. Seconded by Councilwoman Szukala.

Carried, all voting aye.

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

Councilman Michalski spoke in regards to remarks he made during the prior council meeting regarding the banning of certain breeds of dogs in the city and stated the city can not ban certain breeds of dogs. Councilman Michalski advised this was looked into several years ago and read the following from New York State Agriculture and Markets, Section 7:

"Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed."

Councilman Michalski advised he has received several phone calls and apologized to anyone to whom he may have offended with his remarks during the prior council meeting, and advised moving forward that perhaps we could look at our fee structure for any dog at large.

Councilman Muldowney had nothing to report at this time.

Councilwoman Szukala urged city residents to dispose of their pumpkins at the city barns and not to place them in their regular rubbish.

Councilwoman Szukala advised resident's winter parking rules will go into effect this Sunday, November 6<sup>th</sup> at 5:00 PM, stated the website has been updated, Access 12 has been notified and advised residents if they had questions they could call any councilmember, or the Police Department.

Councilwoman Szukala asked DPW Director Gugino if has received any information from the railroad company as to when they will clean up the railroad tracks on Franklin Avenue.

DPW Gugino advised the railroad company will return to Franklin Avenue once they complete work at the railroad crossing on route 5.

Councilman-at-large Dolce advised polling locations for the City of Dunkirk can also be obtained by calling The Board of Elections or on their website.

Councilman-at-large Dolce advised council has meet once (last Thursday) to review the 2012 budget, there will be a Common Council Public Hearing on November 14<sup>th</sup> at 5:00 PM, after the Public Hearing council will meet again to review the budget and the public is welcome to attend.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #71-2011**  
**NOVEMBER 1, 2011**

**BY: COUNCILWOMAN SZUKALA**

**AWARDING 2012 SLUDGE AND GRIT HAULING AT THE  
DUNKIRK WATER POLLUTION CONTROL FACILITY**

**WHEREAS**, sealed bids for 2012 hauling of sludge and grit from the City Water Pollution Control Facility were opened and read aloud in the Dunkirk City Clerk's Office at 10:00 a.m. on October 24, 2011, with two (2) bids being received, now, therefore, be it

**RESOLVED**, that the low bid of Bestway Container Service, 202 East Main Street, Fredonia, New York 14063, be accepted for 2012 Sludge & Grit Hauling at the following unit costs:

Item 1 – Sludge Hauled to Ellery \$ 10.96 per ton

Item 2 – Grit Hauled to Ellery \$ 30.00 per ton

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, for the Year 2012 Sludge and Grit Hauling, and be it finally

**RESOLVED**, that the City Clerk is hereby authorized to return the bid deposits of the bidders in accordance with the contract specifications.

Carried, all voting aye.

**RESOLUTION #72-2011**  
**NOVEMBER 1, 2011**

**BY: ENTIRE COUNCIL**

**AUTHORIZING LEASE AGREEMENT WITH  
CHAUTAUQUA COUNTY FAIR ASSOCIATION**

**WHEREAS**, the Chautauqua County Fair Association (“Fair”) is the owner of the premises known as the Chautauqua County Fair Association Agricultural and Expo Building (“Premises”), formerly the Roll Arena, which is located on the Chautauqua County Fairgrounds; and,

**WHEREAS**, the City wishes to lease the premises from the Fair in order to utilize it for recreational programs and activities; and,

**WHEREAS**, the Fair is willing to lease the premises to the City for the sum of \$700.00 per month for the period from January 1, 2012 through April 1, 2012; now, therefore, be it

**RESOLVED**, that the Mayor be and hereby authorized to execute an agreement with the Chautauqua County Fairgrounds Association, Central Avenue, Dunkirk, NY 14048, to lease the premises at the Fairgrounds from January 1, 2012 through April 1, 2012, at the rate of \$700.00 per month; and, be it further

**RESOLVED**, that the funds for such rental payments be made from Account No. 001-7140-4150-000 (Rent/Lease).

Carried, all voting aye.

**RESOLUTION #73-2011**  
**NOVEMBER 1, 2011**

**BY: COUNCILWOMAN SZUKALA**

**AUTHORIZING ANNUAL RENEWAL AGREEMENT WITH  
STATE OF NEW YORK UNIFIED COURT SYSTEM  
FOR CITY COURT SECURITY SERVICES CONTRACT NO. C200440  
(APRIL 1, 2011 TO MARCH 31, 2012)**

**WHEREAS**, the City’s five-year contract with the New York State Unified Court System reimburses the City’s Police Department for security services in City Court was renewed in 2009 and terminates in 2014; and

**WHEREAS**, an annual Renewal Agreement between the parties is provided for each period (State fiscal year) which new period commenced on April 1, 2011 and terminates on March 31, 2012, and during which reimbursement has been allocated to not exceed Two Hundred Twenty-Three Thousand Three Hundred Dollars (\$223,300.00): and now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized and directed to execute the Annual Renewal Agreement on behalf of the City of Dunkirk, with the NYS Unified Court System, covering the period (April 1, 2011 to March 31, 2012) for which reimbursement shall be in an amount not to exceed Two Hundred Twenty-Three Thousand Three Hundred Dollars (\$223,300.00) to compensate the Police Department for City Court security services.

Carried, all voting aye.

**RESOLUTION #74-2011**  
**NOVEMBER 1, 2011**

**BY: ENTIRE COUNCIL**

**AUTHORIZING AMENDMENT OF AGREEMENT BETWEEN THE  
CITY OF DUNKIRK AND THE  
DUNKIRK PROFESSIONAL FIREFIGHTER'S ASSOCIATION, INC.  
LOCAL 616 FOR THE CONTRACT PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013**

**WHEREAS**, the Common Council of the City of Dunkirk ratified and approved a Collective Bargaining Agreement between the City of Dunkirk and the Dunkirk Professional Firefighter's Association, Inc. Local 616 ("Local 616") on August 31, 2011; and

**WHEREAS**, in the Memorandum of Understanding, Buyout Option – it states that the member must submit their retirement application for service retirement within ninety (90) days of the execution, ratification and approval of the Tentative Collective Bargaining Settlement, which would be December 2, 2011; and

**WHEREAS**, the proposed extension will not cost the City of Dunkirk any additional monies; and

**WHEREAS**, the City is willing to extend the December 2, 2011 deadline to December 16, 2011; now, therefore, be it

**RESOLVED**, that the Dunkirk Common Council hereby extends the deadline for a member of the Local 616 to submit their retirement application for service retirement to December 16, 2011.

Councilwoman Szukala asked City Attorney Cerrie to explain to city residents the purpose for this extension.

City Attorney Cerrie advised Mike Edwards, President of the Firefighters Union, contacted his office requesting a two week extension in which firefighters can exercise the option of early retirement. City Attorney Cerrie advised one firefighter will be retiring effective November 27<sup>th</sup> and another firefighter is interested in retiring, however, he needs a little extra time to get the paperwork in order for his pension to New York State along with giving the City the required 30 days notice. City Attorney Cerrie stated this will not cost the city any additional funds, this will save the city money if this second firefighter retires because we won't have to rehire anyone for that position, otherwise the city will have to wait until the next firefighter decides to retire in order to see any additional savings; it's a win-win for the city.

Carried, all voting aye.

**RESOLUTION #75-2011**  
**NOVEMBER 1, 2011**

**By: ENTIRE COUNCIL**

**AUTHORIZING AGREEMENT FOR  
INFORMATION TECHNOLOGY DIRECTOR**

**WHEREAS**, the City has been using the services of a local computer business for their computer needs; and

**WHEREAS**, the City has an opportunity to engage the services of Douglas D. Rector, as an Information Technology Director (IT Director), at a rate of \$250.00 per week, beginning November 2, 2011 and ending on November 1, 2012, and

**WHEREAS**, Mr. Rector is familiar with the City's computers and is willing and able to perform maintenance on the servers and computers, provide computer education to employees, and perform network maintenance, on a weekly basis; and

**WHEREAS**, Mr. Rector will submit an itemized invoice to the Fiscal Affairs Office on a weekly basis; and

**WHEREAS**, Fiscal Affairs Officer Curtin has suggested an Employment Contract between the City and Mr. Rector, as it will be an average savings to the City of \$3,000 per year; now, therefore, be it

**RESOLVED**, that the Common Council hereby authorizes and directs the Mayor to execute an Employment Contract with Douglas D. Rector, as an IT Director, at the rate of \$250.00 per week, beginning on November 2, 2011 and ending on November 1, 2012; and, be it further

**RESOLVED**, that the payments for the weekly billing of Douglas D. Rector will be made from Account No. 001-1680-4036 (Contracted Services).

Councilman-at-large Dolce advised this was discussed during workshop and asked Fiscal Affairs Officer Curtin to briefly explain this Resolution.

Fiscal Affairs Officer Curtin explained the city will be gaining more maintenance through this contract at a minimum of 5 hours a week or 260 hours for the year at a reduced hourly rate resulting in a savings to the city and more maintenance on our system.

Councilman-at-large Dolce asked the big savings is that Mr. Rector is no longer on call.

City Attorney Carrie advised Mr. Rector will not be an employee of the city, but an independent contractor; therefore, he will not be receiving benefits such as pension, health care, unemployment insurance, etc.

Councilman Muldowney asked “were looking at a savings of about?”

City Attorney Carrie replied there will be a savings of \$3,000.00 based upon the figure that was paid out to him last year.

Carried, all voting aye.

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Michalski.

Carried, all voting aye.

**Adjourned at 6:29 PM**

**Tom Mleczko, City Clerk**

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