

**PUBLIC HEARING  
October 18, 2011**

Councilman-at-large Dolce called the Public Hearing to order at 5:51 PM.

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

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

Notice of Public Hearing was read by City Clerk Mleczo.

Public Hearing was held for the purpose of giving interested persons an opportunity to comment on Local Law #7-2011 amending Chapter 76 "Vehicle and Traffic", Article VIII "Parking, Standing and Stopping" - Section 76-85 entitled: "Overnight Parking Prohibited" of the Dunkirk City Code.

Councilwoman Szukala advised that according to the Charter, Overnight and Alternate Parking start on different dates; one starting on Sunday and the other on a different day. She advised to make it easier on everyone they will both start on the first Sunday in November.

Arlene Langendorfer questioned if the dates coincide with the time change.

Councilwoman Szukala stated they did not, and Police Chief Ortolano advised that presently, Overnight Parking is from November 1st to April 1st, and Alternate changes on the first Sunday in November to the first Saturday in April. He advised that this change would make parking dates the same for both and simplify the matter.

**Public Hearing adjourned at 5:55 PM** **Tom Mleczo, City Clerk**  
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**COMMON COUNCIL PROCEEDINGS  
October 18, 2011**

The meeting was called to order at 6:02 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, Director of Development Ahlstrom, and Police Chief Ortolano. Absent: Personnel Administrator Heyden and Fire Chief Ahlstrom.

Certification of October 4, 2011 meeting was read by City Clerk Mleczo.

**RESOLVED:** That the reading of the minutes of Tuesday, October 4, 2011 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Dominic DeSanto, 418 Swan Street spoke in regard to the recent dog attack on October 7th. He stated that he used to walk his dog on Eagle Street, but since his dog was attacked by a dog from 417 Eagle and talked to the Police Department, he was asked to take a different route. He advised he went around the school area, a dog at 503 Swan attacked his Yorkie, and an occupant from the house came and pulled the dog away. Mr. DeSanto then advised that on October 7th, the same dog came out attacked his dog, and he had to rush to the Vet Clinic in Buffalo. He therefore stated that he would like to see something done in regard to unleashed dogs, suggesting fines after the second complaint, and for the Council to come up with a solution for muzzling, leashes and chained up. Mr. DeSanto also advised that the dog at 417 is still in the house.

Skeeter Tower of the Academy Heights Neighborhood Group supported Mr. DeSanto as she was a witness along with eight adults and motorists driving by. She advised they could not separate the pit bull from Mr. DeSanto's tiny dog, as there was no collar on the dog to control it. She stated the Mr. DeSanto was part of the neighborhood where they know him, his dogs, it's a friendly encounter, and did not want their neighborhood to include huge pit bulls and attack dogs. She stated that the city should have a better policy to handle this, and insist on insurance for these big dogs.

Mr. DeSanto advised Councilwoman Szukala that his dog is doing well now, and Police Chief Ortolano also informed that our ACO issued a ticket for being unlicensed, the dog is quarantined for ten days, and a court date was scheduled for next week.

Ann Bingham, Greco Lane, Dunkirk, NY spoke in regard to her cat being shot, having to be euthanized and the traumatic effect on the family. She stated that she has lived throughout our United States, Europe, and came back here to retire. She further stated that there was a "dog park" in almost all of the places she lived, keeping a dog confined or on a leash is not always kind, and a dog park would put us ahead of many communities. She asked the Administration to think about this as it was not very expensive, and again, put us ahead of a lot of communities.

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

Mayor Frey informed that a dog park was being worked on, and will probably be named after Dick VanWey within the next year.

Mayor Frey advised that notification from CSX was received today in regard to repairing the tracks on Route 5, and congratulated Councilwoman Szukala for the great job her son Josh does for the Cross Country Team and making our community proud.

Mayor Frey also offered condolences on behalf of the City Administration to Tom Mleczo for the loss of his uncle, Tony Mleczo. He also stated that it was nice to see the family business still there under Mike Mleczo.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Communication from Councilwoman Floramo dated September 20, 2011 tendering her resignation. Received in City Clerk's Office October 6th.

Received and filed.

Mayor Frey questioned this communication relative to the dates, stating that the letter was received on the 20th, notification on October 4th and filed on October 6th.

Councilman-at-large Dolce advised that this was correct.

Petition from Lisa Leavitt on behalf of Harvest Chapel Church requesting to use Washington Park on Saturday, December 10th from 2:00 to 4:00 PM (additional hour for set up and clean-up) for their "Courtney Street Christmas".

Councilman Michalski moved that permission be granted and referred this to the Public Works Department. Seconded by Councilman Muldowney.

Carried, all voting aye.

Loudspeaker application from Harvest Chapel Church for microphone/audio equipment for "Courtney Street Christmas" on Saturday, December 10th from 2:00 to 4:00 PM in Washington Park.

Councilman Muldowney moved that permission be granted. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Carol A. Smith on behalf of St. Elizabeth Ann Seton Catholic Youth Organization requesting permission to use the intersections of Central Avenue & Fifth Street, Central Avenue & Fourth Street, and Doughty Street near Rt. 60 on Saturday, November 26th from 10:00 AM to 1:00 PM for their annual "Fill the Stocking" drive.

Councilman Michalski moved that permission be granted and referred this to the Public Works Department & PBA. Seconded by Councilman Muldowney.

Carried, all voting aye.

Communication from Eades & Militello, P.C. on behalf of Richard J. & Mary Jo Scienza requesting a Quit Claim Deed from the City to Stacy J. Bautista of the easterly one-half of Lynx Street which borders the Scienza property.

Councilman Muldowney moved to refer this to the City Attorney. Seconded by Councilman Michalski.

Carried, all voting aye.

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

Councilman Michalski spoke relative to the discussion on the dog attack, stating that he also experienced his dog being attacked, and now walks with mace. He stated that he had no problem outlawing pit bulls, as an owner is eventually asking for trouble, and he would support this but did not know where you draw the line.

Councilman Muldowney stated that he shared a similar experience at his relative's home in Williamsville. He stated that his sister-in-law and her dog were attacked by a pit bull, people tried to help, but the pit bull was locked on to her dog. He stated that we keep hearing more and more about similar incidences, and would be interested in some sort of legislation as this keeps appearing more and more.

Councilman Muldowney also thanked former Councilwoman Floramo for her four years of service to the City. He stated that although they haven't always gotten along, they had many good discussions, and she would drive her own car some nights to Council meetings in winter weather. He thanked her again for her service and stated that he had a lot of respect for her.

Councilman Muldowney also addressed the City Attorney in regard to an update on union negotiations.

City Attorney Carrie advised that they were at a halt right now, as the city was supposed to meet with #2693 last Thursday, but their negotiator had a conflict. He further advised that Chuck DeAngelo (Union negotiator for the PBA and Local #912) called this morning and due to a conflict with the PBA had to cancel, and therefore cancelled the meeting with #912 as well. He stated it appears they (both unions) do not want to come back to the table until the middle of November (after the election). He further advised that they will be meeting with #2693 this Thursday at 1:30.

Councilman Muldowney also addressed the Public Works Director relative the wind/rain storms this past weekend.

Public Works Director Gugino advised that we lost two trees at Point Gratiot, three signs on the bike path, but no significant damage in the City other than branches and limbs, and no personal injuries or flooding.

Councilwoman Szukala encouraged city residents to drop off their pumpkins at the City Barns after Halloween to cut down on the weight for the landfill.

Councilwoman Szukala stated that she had a different opinion on the dog situation. She advised that she had a 12 lb. miniature pinscher which would attack anything that walks by when walking with her because he's very protective. She therefore stated that it's not the breed but the way the animal is raised. She further stated that she knew owners of pit bulls, and they were the sweetest, smartest dogs she's ever seen. Councilwoman Szukala advised that it comes down to ticketing when needed, responsible ownership, and making sure they're not let go with just a warning in certain situations. She also stated that she experienced an attack with her son, it wasn't a pit bull, but a German Shepherd, and therefore you can not blame it on the breed only the irresponsible owners. She stated this is something they need to work on, but we need to enforce what we have on the books.

Councilman-at-large Dolce also addressed the dog attack issue, stating that when this was looked at in previous years, there were issues with the State Law superseding what we wanted to do at that time, but will have to look at this again.

Councilman Muldowney stated he did not know if there was more media coverage on this, but it seemed like a hot issue and a dangerous situation.

Councilman-at-large Dolce stated that when studied approximately four years ago, Councilman Makuch brought up a situation in Denver, Colorado and the millions it cost to eradicate the city of pit bulls.

Councilman-at-large Dolce advised that Council will be discussing meeting to get moving on the budget and the public hearing, all department heads and anyone interested are invited to the meeting(s) with the time and date announced shortly.

Public Works Director Gugino advised that one of our employees at the City Barns saw someone drive off after dumping illegal building material in the brush pile. He advised that the employee got the license plate number and that he along with Police Chief Ortolano did an incident report. He reported that the Chief called the individual who confessed, and will be charged with illegal dumping and littering.

Police Chief Ortolano reminded everyone that the pile is for the good of the community for composting brush, not for building or demolition material. He advised everyone that if they get information on illegal dumping and can prove it, there will be an arrest. He also reminded that tires are not to be dropped off there, and the same procedure for an arrest would be followed.

Building/Zoning Inspector Zurawski advised that political signs can not be erected before three weeks prior to election, removed seven days following the election, and not in the city right-of-way. He further advised if the sign is not removed, the owner of the property in question would be notified, and this is part of the Zoning Code. He further stated that he did not know what the Public Works Director could do regarding the signs.

Public Works Director Gugino stated that they try to reach out and remind residents to keep back from the city right-of-way according to the Charter, this was no different than a contractor, and if not sure of the right-of way; assume fifteen feet away from the curb.

**UNFINISHED BUSINESS:**

**RESOLUTION #61-2011**  
**OCTOBER 4, 2011**

**BY: COUNCILWOMAN SZUKALA**

**LOCAL LAW #7-2011**  
**CITY OF DUNKIRK, NEW YORK**

**A LOCAL LAW TO AMEND CHAPTER 76 "VEHICLE AND TRAFFIC",  
ARTICLE VIII "PARKING, STANDING AND STOPPING"  
SECTION 76-85 ENTITLED "OVERNIGHT PARKING PROHIBITED"  
OF THE DUNKIRK CITY CODE**

**BE IT ENACTED** by the City Council of the City of Dunkirk, New York as follows:

**Section 1**     **Intent.**

It is the intent of this Local Law to amend Chapter 76, Article VIII, Section 76-85 entitled "Overnight parking prohibited," to commence and end on the same dates as Alternate Parking.

**Section 2**     **Amendment of City Code.**

Chapter 76, Article VIII, of the Dunkirk City Code is hereby amended as follows:

**§ 76-85. Overnight parking prohibited. [Amended 12-2-1997 as L.L. #16-1997 lto change "Third Street from Main Street to Robin Street" to "Third Street from Main Street to Central Avenue"); Amended 10-6-1998 as L.L. #5-1998 (to delete "Eagle Street from Third Street to Fourth Street")]**

**DELETE**

- A. It shall be unlawful to park any vehicle on any of the following listed streets between the hours of 3:30 A.M. and 7:00 A.M. during the period commencing **November 1 and ending March 31**. This provision shall not apply to any street subject to the alternate parking regulations of § 76-82 of this article.

**AMEND**

- A. It shall be unlawful to park any vehicle on any of the following listed streets between the hours of 3:30 A.M. and 7:00 A.M. during the period commencing **the first Sunday in November and ending the first Saturday in April**. This provision shall not apply to any street subject to the alternate parking regulations of § 76-82 of this article.

**Section 3**     **Effective Date.**

This Local Law shall take effect immediately upon filing with the Secretary of State.

Councilman Michalski motioned to remove Local Law #7-2011 from the table for vote. Seconded by Councilman Muldowney.

Carried, all voting aye.

Vote on Local Law #7-2011: Carried, all voting aye.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #65-2011**  
**OCTOBER 18, 2011**

BY: COUNCILWOMAN SZUKALA

**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; and

**WHEREAS**, the previous agreement is set to expire as of October 31, 2011; and

**WHEREAS**, there has been a new agreement proposal from Mid American Natural Resources, L.L.C., for a reduction of the basis price from \$0.986 for each dekatherm (Dkth) down to \$0.519/Dkth; now, therefore, be it

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

Carried, all voting aye.

**RESOLUTION #66-2011  
October 18, 2011**

By: ENTIRE COUNCIL

**RESCINDING RESOLUTION #49-2011 ENTITLED  
A BOND RESOLUTION, DATED AUGUST 16, 2011, OF THE COMMON COUNCIL OF  
THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "CITY"),  
AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF  
IMPROVEMENTS TO THE CITY WATER SYSTEM, AT A MAXIMUM ESTIMATED  
COST NOT TO EXCEED \$1,800,000 AND AUTHORIZING THE ISSUANCE OF  
SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$1,800,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID  
PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY  
AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE  
BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS  
TO THE CITY TREASURER.**

**WHEREAS**, it was recommended by the City's Bond Counsel, that this Resolution #49-2011 be rescinded, due to the question on the vote at the August 16, 2011 meeting; now, therefore, be it

**RESOLVED**, that Resolution #49-2011 is hereby rescinded.

Carried, all voting aye.

**RESOLUTION #67-2011  
OCTOBER 18, 2011**

**BY: COUNCILWOMAN SZUKALA**

**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, 2011, and

**WHEREAS**, the existing agreement contains a mutual annual 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, 2012, 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, 2012, in accordance with the original bid specifications with the following mutually agreed revisions:

1. Add recently repaired Water Treatment Plant chemical building elevator unit to monthly maintenance schedule at an additional monthly cost of \$150.
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	\$150.00	Building City Hall–Contracted Services
002-8320-4736	\$300.00	Water Purification & Pumping–Contracted Services
003-8130-4036	\$400.00	Wastewater Treatment–Contracted Services

Carried, all voting aye.

**RESOLUTION #68-2011**  
**October 18, 2011**

**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 Monday, October 31, 2011, which is Halloween, from 4:00 P.M. to 8:00 P.M., in the City of Dunkirk.

Carried, all voting aye.

**RESOLUTION #69-2011**  
**OCTOBER 18, 2011**

**BY: COUNCILMAN MICHALSKI**

**PROCLAIMING NOVEMBER VETERANS' REMEMBRANCE MONTH**

**WHEREAS**, many men and women who have served in the Armed Forces of the United States of America have made the supreme sacrifice by giving their lives in services to our Country, and

**WHEREAS**, many have become permanently disabled while preserving and defending our nation's freedom, and

**WHEREAS**, recent world events have once again vividly demonstrated these sacrifices our military personnel are prepared to make, now, therefore, be it

**RESOLVED**, that this Dunkirk City Common Council expresses appreciation, on behalf of the City, to the men and women who have served in the Armed Forces and to those who continue to serve, and that this Dunkirk City Common Council hereby

**PROCLAIMS** the month of November, 2011, as "**VETERAN'S REMEMBRANCE MONTH**" in the City of Dunkirk, and respectfully urges all citizens to acknowledge and be mindful of the sacrifices our members of the Armed Forces have made, and continue to make, to protect and preserve our liberty.

Carried, all voting aye.

**RESOLUTION #70-2011**  
**OCTOBER 18, 2011**

**BY ENTIRE COUNCIL:**

**A BOND RESOLUTION, DATED OCTOBER 18, 2011, OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "CITY"), AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE CITY WATER SYSTEM, AT A MAXIMUM ESTIMATED COST NOT TO EXCEED \$1,800,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,800,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.**

**WHEREAS**, it has been determined by the City's retained consultant, Hill Engineering, Inc., that the installation and replacement of water lines in the area along Lakefront Boulevard from North Main Street easterly to North Serval Street including, but not limited to, the installation of a new line along Lakefront Boulevard, and the replacement of existing intersecting side street water lines north of East Pine Street, and any associated work as found necessary; and

**WHEREAS**, the Common Council of the City of Dunkirk, Chautauqua County, New York (the "City"), has identified that the reconstruction of and construction of improvements to the City water distribution system including, but not limited to, replacement and construction, and all preliminary work and necessary equipment, materials and site work and any preliminary costs and costs incidental thereto (collectively, the "Project") is in the public welfare, safety and well being, since current system conditions in this area have resulted in low water pressure, poor water quality, and possible fire protection issues, which all jeopardize the water distribution in this area; and

**WHEREAS**, the Common Council desires to issue obligations of the City to finance the costs of the Project; now, therefore, be it

**RESOLVED**, by the Common Council (by the favorable vote of not less than two-thirds of all the members of the Council) as follows:

**SECTION 1.** The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the reconstruction of and construction of improvements to the City water system including, but not limited to, the installation and replacement of water lines in the area along Lakefront Boulevard from North Main Street easterly to North Serval Street including, but not limited to, the installation of a new line along Lakefront Boulevard, and the replacement of existing intersecting side street water lines north of East Pine Street, and any associated work as found necessary, and all preliminary work and necessary equipment, materials and site work and any preliminary costs and costs incidental thereto. The maximum cost of said purpose will not exceed \$1,800,000.

**SECTION 2.** The Common Council plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$1,800,000 of said City, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. The cost of the project is to be paid from Water Fund Revenue. Unless paid from other sources (including without limitation, user charges paid by the owners of properties on which water meters are installed), the cost of such acquisition is to be paid by the levy and collection of taxes on all real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

**SECTION 3.** It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

**SECTION 4.** Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

**SECTION 5.** It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

**SECTION 6.** The faith and credit of said City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Unless paid from other sources (including without limitation, user charges paid by the owners of properties on which water meters are installed), there shall annually be levied on all the taxable real property of the City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

**SECTION 7.** Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Common Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Treasurer, the chief fiscal officer of the City.

**SECTION 8.** The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds.) This resolution shall constitute the declaration of the City's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

**SECTION 9.** The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

**SECTION 10.** The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

**SECTION 11.** The City has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

**SECTION 12.** The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) such obligations were authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or
- (2) such obligations were authorized in violation of the provisions of the Constitution of New York.

**SECTION 13.** The City Clerk is hereby authorized and directed to publish this resolution or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said City and hereby designated as the official newspaper of said City for such publication.

**SECTION 14.** This Project will fulfill requirements outlined in a Consent Order dated October 7, 2009, from the Chautauqua County Department of Health.

**SECTION 15.** This Resolution shall take effect immediately.

Councilman-at-large Dolce advised that his vote changed due to the agreement at the last Council Meeting where this can be worked on at budget time.

Vote on resolution: Carried, all voting aye.

Councilwoman Szukala moved to adjourn. Seconded by Councilman Michalski.

Carried, all voting aye.

**Adjourned at 6:35 PM**

**Tom Mleczo, City Clerk**

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