

AGENDA - COMMON COUNCIL MEETING – March 15, 2016 - 5:30 PM
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.
 1. Communication from Mayor Rosas appointing George Condoyannis to the Dunkirk Cable TV and Communications Advisory Board effective March 16, 2016 and will expire March 16, 2018.
6. Communications from the public and petitions:
 1. Notice of Petition, Amended Petition, Supporting affidavit and Memorandum of Law from S. St. George Enterprises, Inc.
 2. Request from Delta Chi Fraternity to use Washington Park on Sunday, April 3rd, at 9:00 AM for an Easter Egg Hunt.
 3. Request from Dunkirk Lakefront 5K Committee to host the annual "Dunkirk Lakefront 5K Road Race" on August 6th beginning at 8:00 AM.
 4. Request from Harvest Chapel Church to use Washington Park on July 15th (Rain date July 22nd) from 5:00 PM until 8:30 PM, permission to bring in grills, coolers and use of electric power for their popcorn machine. Also requesting permission to bring in ponies for pony rides.
 5. Request from the Dunkirk Joint Veterans Council to hold the Annual Memorial Day Services & Parade on Monday, May 30th at 10:00 AM with parade to follow; reviewing stands & chairs at Memorial Park & City Hall and participation by the Mayor and City Officials.
 6. Request from Iglesia Cristiana Clinica Del Alma to use Washington Park for live Church Services on July 17th, August 15th and September 19th.
 7. Request from the Kosciuszko Polish Home Association to close traffic between E. Doughty Street and Courtney Street on Just 1st and July 2nd from 5:00 PM until 12:30 AM for their "Annual Street Dance". Also, requesting the support of the City Parks Department, Police Department, Streets Department and Fire Department.
 8. Communication from Fire Chief Edwards requesting to add one member to the City of Dunkirk Volunteer Fire Roll.
 9. Loudspeaker Application from:
 - a). Scott Mekus on behalf of the Marauder Trotter 5K Run/Walk to use amplifiers, loudspeakers and microphone at Wright Park on Saturday, July 2nd from 8:30 AM until 12:00 PM.

- b). Tim Wdowiasz on behalf of the First Ward Falcon Club to use microphones and speakers for a live band at Promenschenkle Stadium on July 16th from 7:00 PM until 11:00 PM.
- c) Pastor Omar Cosme on behalf of Iglesia Cristiana Clinica Del Alma to use microphones, speakers and band equipment for church services at Washington Park on July 17th, August 15th and September 19th from 5:00 PM until 9:00 PM.
- d) Harvest Chapel Church for audio equipment, speakers, amplifiers and microphones in Washington Park on July 15th (Rain date July 22nd) from 5:30 PM until 8:30 PM.
- e) Kosciuszko Polish Home Association to use microphones, amplifiers and speakers on July 1st and July 2nd from 7:00 PM until 11:00 PM for their "Annual Street Dance."

7. Reports of Standing Committees, Boards and Commissions.

8. Unfinished Business:

9. Pre-filed Resolutions:

- 30. Resolution denying Level 3 Applications for refunds/credits of Real Property Taxes form RP556 dated February 9, 2016 for the 2015-2016 school districts, 2016 City and 2016 County/Towns tax bills.
- 31. Resolution authorizing participation in Border Patrol Augmentation Program.
- 32. Resolution authorizing Professional Services Contract for the July 4th fireworks display.
- 33. Resolution authorizing consent of Lead Agency and Endorsement of Town of Dunkirk's plan to upgrade waterlines.
- 34. Resolution authorizing Agreement for Engineering services Water Treatment Facility Phase 3 under 2009 Consent Order (Hill Engineering of New York, P.C.).
- 35. Resolution authorizing Amendment to Shared Services Agreement (State of New York).

10. New Business:

11. Adjournment.

Lillian R. Divine
City Clerk



CITY OF DUNKIRK
A Chadwick Bay Community

Office of the Mayor
City Hall, Dunkirk, New York 14048

WILFRED ROSAS
MAYOR
(716) 366-9881
FAX (716) 366-2049

March 8, 2016

Dunkirk Common Council
City Hall
Dunkirk, NY 14048

Dear Council Members:

Please be advised that I hereby appoint Mr. George Condoyannis of 417 Eagle Street, Dunkirk to serve on the Dunkirk Cable T.V. and Communications Advisory Board. This appointment shall be effective March 16, 2016 and will expire March 16, 2018.

Very truly yours,

WILFRED ROSAS
Mayor

WR:co

cc: City Clerk
Personnel
Cable TV Advisory Board

2016 MR 10 PM 2:36

RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.

PAID
Spud Archer

FILED
CHAUTAUQUA COUNTY CLERK

2016 FEB 22 PM 4:19

STATE OF NEW YORK
SUPREME COURT : CHAUTAUQUA COUNTY

In the Matter of the Application of

S. ST. GEORGE ENTERPRISES, INC.
3689 Webster Road
Fredonia, New York 14063,

Petitioner,

For an Order and Judgment Pursuant to
CPLR Article 78

v.

CITY OF DUNKIRK, NEW YORK
342 Central Ave.
Dunkirk, New York 14048,

HON. WILLIE ROSAS, MAYOR OF
CITY OF DUNKIRK, NEW YORK,
SUCCESSOR TO HON. ANTHONY J. DOLCE
342 Central Ave.
Dunkirk, New York 14048, and

RICH HALAS, FISCAL AFFAIRS OFFICER
CITY OF DUNKIRK
342 Central Ave.
Dunkirk, New York 14048,

Respondents.

MOTION MADE BY:

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP
Attorneys for Petitioner
S. St. George Enterprises, Inc.

RETURN DATE:

Hon. Frank A. Sedita, III 10:00
April 18, _____, 2016, at ~~9:30~~ a.m.
Chautauqua County Supreme Court
Chautauqua County Courthouse
3 North Erie St.
Mayville, New York 14757

2016 FEB 26 PM 12:02

CITY CLERK'S OFFICE
DUNKIRK, N.Y.



Gregory P. Photiadis
 James W. Gresens
 Peter G. Ruppert ++
 Michael J. Lombardo +
 Howard E. Berger
 Dennis P. Cleary
 Gary M. Kanaley *
 Robert L. Bencini
 Patricia Gillen

Charles C. Ritter, Jr.
 Matthew J. Beck
 Elizabeth A. Kraengel **
 Barbara B. Strzemeski-Haase
 John D. Celani *
 Steven W. Klutkowski +++
 Christopher M. Berloth
 Ryan G. Ganzenmuller

Anthony J. Colucci, Jr. +*
Special Counsel
 Richard A. Moore
Of Counsel
 Edwin P. Yaeger
 (1934 - 1992)
 Emanuel Duke
 (1916 - 1999)
 * Also Admitted in FL
 ** Also Admitted in MA
 + Also Admitted in PA
 ++ Also Admitted in TX
 +++ Also Admitted in NJ

March 3, 2016

VIA HAND DELIVERY

Lillian Divine, City Clerk
 City of Dunkirk
 First Floor, City Hall
 342 Central Ave.
 Dunkirk, NY 14048

**Re: S. St. George Enterprises, Inc. v.
 City of Dunkirk, New York, et al.
 Index No.: K-1-2016-180
 Our File No.: SSG.2725.1601**

2016 HR - 4 PM 12:05
 CLERK'S OFFICE
 DUNKIRK, N.Y.

Dear Ms. Divine:

Served herewith (3 copies), on behalf of petitioner S. St. George Enterprises, Inc., are the following, which were filed with the Chautauqua County Clerk's Office earlier today:

1. Amended petition, dated February 29, 2016;
2. Supporting affidavit of Steven St. George, sworn to February 29, 2016; and
3. Memorandum of law.

Pursuant to the direction of City Attorney Andrew Brautigam, we are serving these documents on you with his request that you deliver them to the respondents.

Very truly yours,

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP

s/ Faith Bauer Carberry

Faith Bauer Carberry
 Paralegal
fbcarberry@dhpqlaw.com

/dad
 Encs.

cc: Patricia Gillen, Esq.
 G:\L\SSG\Dunkirk (2725.1601)\16c\clerk0302fbc.docx

**DELTA CHI FRATERNITY
280 Central Avenue
Fredonia, New York 14063**

March 1, 2016

To: Dunkirk City Council

The Delta Chi Fraternity has held an Easter egg hunt for community children for the last seven years. Since many of the children who attend are from Dunkirk, the fraternity would like to move their venue to the Washington Park.

They propose to have this year's hunt in Washington Park on April 3, 2016, which is the Sunday after Easter.

The fraternity provides candy, face painting and other games, prizes, and then hold the actual egg hunt. Set up would begin at 9 AM or so. The games and arts and crafts would begin at 1 PM, with the egg hunt beginning at 3 PM.

This has been a nice event for the community children in the past years, and the Delta Chi Fraternity respectfully requests to hold the event in Washington Park on April 3, 2016.

Communication will be through fraternity member Brandon Bunch, 716-785-1847.

2016 MR - 1 PM 2:04

RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.

RECEIVED

FEB 24 2016

CITY CLERK'S OFFICE
DUNKIRK, N.Y.
MAYOR'S OFFICE
2016 MR -2 PM 12:25

February 25, 2016

Mr. Willie Rosas
Mayor of Dunkirk, New York
Office of the Mayor, City Hall
Dunkirk, NY 14048

To Whom It May Concern,

I, Andrew J. Burnside, am requesting the use of the facilities listed below to be used for the annual Dunkirk Lakefront 5k being held on August 6th from 8:00am to 12:00am.

- Dunkirk Boardwalk Porch Area
- Dunkirk Boardwalk Restrooms
- Grass area surrounding Dunkirk Boardwalk
- Dunkirk Pier
- Streets/areas listed on attached map

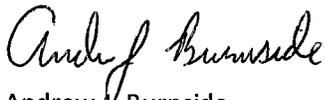
Additionally, as in years past, we are requesting a police presence near the Dunkirk Pier for the beginning and end of the race to temporarily block traffic on a "as-needed" basis. We are not asking the pier be shut off from traffic all together, rather, temporarily hold vehicles from passing through as runners pass by.

Since this event typically brings over 200 participants and observers, we will be inviting the local businesses within the Dunkirk Boardwalk to open their storefronts during our event.

This race will benefit the Dunkirk Varsity Track and Field athletes as their primary fund raiser.

Please contact me with any additional questions or concerns.

Sincerely,



Andrew J. Burnside
11 Clark Street, Fredonia NY 14063
716-863-5062
ajburnside@gmail.com



Harvest Chapel

39 Matteson Street, Fredonia, NY 14063 Tel: 716-679-0987 Fax: 716-672-3417

February 25, 2016

Nicole Joiner
City of Dunkirk City Clerk
342 Central Ave.
Dunkirk, NY 14048

Dear Nicole,

For the last several years the City of Dunkirk has partnered with us for the benefit of the community by granting us permission to utilize Washington Park for several free, fun, family events. In 2015, we utilized the Park for our annual "5-Day Club Street JAM" closing carnival and block party cook out in July as well as for our "Courtney Street Christmas in the Park" this past December. Our events were well attended and provided a great time of food, fun and festivities with our friends in Dunkirk. We trust that the City and Parks administrators and staff were pleased with the condition in which we left the park after our events and also with the knowledge that the families of Dunkirk were able participate in several fun, safe, and free community events.

I am writing today to once again request the use of Washington Park for one evening this summer. Please consider our request to utilize the park on Friday, July 15th, 2016 (rain date July 22). Our event will run from 6:00-7:30 pm with set-up and clean up requiring another hour at each end. Our time in the park will be less than 4 hours and we will be cleaned up and gone before dark.

Here is what we have planned for the early evening of Friday, July 15, 2016. On that evening we will be holding a closing celebration Community Block Party and Carnival to wrap up our 15th annual 5-Day Club Street JAM. The carnival is not just for the children and their families that attended our program during the week, but is for any families living in the neighboring community as well. Our carnival will be fully staffed by Harvest Chapel volunteers and is entirely free to those who come.

Here is a summary of what we have planned:

- ❖ Hamburger and hot dog cookout to include drinks, cookies and chips
- ❖ Face painting
- ❖ Pony rides (as always, the "Party Pony" team cleans up after their ponies!)
- ❖ Carnival games with prizes
- ❖ Door prize drawings

2016 MR - 7 PM 12: 26

CITY CLERK'S OFFICE
DUNKIRK, N.Y.

- ❖ We will have live music and will be using a microphone for announcing the arrival of the ponies and the winners of the door prizes. No preaching or teaching will be a part of our event.

For our cookout we will have the need to bring in grills, coolers and so forth and we will also require the use of power for our microphones, sound and our popcorn machine. We will also be setting up a few pop up tents and tables and chairs for facilitating our many activities and will bring along garbage cans, bags, a first aid kit and all that is needed for our event. Lastly, I understand that we will require a permit to be granted for the use of an audio system for us to play music and to utilize a microphone. Again, there will be no preaching or teaching during our carnival but rather the playing of music and the announcing of door prize winners on the microphone that require the use of an audio system. Please grant us this permit in addition to permission for the use of Washington Park.

If you have any questions I may be reached at Harvest Chapel Church at the number above or at my home (934-2417). If you would like to speak with references about our community activities, partnerships or programs I would be happy to provide those references for you upon request. Lastly, I have included both a Loudspeaker Permit request and a copy of our current liability insurance as per years past.

Sincerely,

Lisa Leavitt

Children's Ministry Director
Harvest Chapel Church



Dunkirk Joint Veterans Council

To: Honorable Mayor Wilfred Rosas
Chief of Police David Ortolano
Members of the Common Council
Lillian Dayvine, City Clerk

March 1, 2016

2016 HR - 8
AM 11:56

CITY OF DUNKIRK
DUNKIRK, N.Y.

Subject: 2016 Memorial Day Services & Parade

The Dunkirk Joint Veterans Council is requesting permission to hold the Annual Memorial Day Services & Memorial Parade on Monday, May 30, 2016.

The Services will begin at 10:00 a.m. in Memorial Park with the Parade to follow immediately.

The DJVC has been proudly hosting the Services & Parade since 1966, making 2016 our Golden 50th year anniversary of honoring our Veterans.

The Parade will start at approximately 11:00 a.m. and proceed East on Lake Shore Drive West to Central Avenue. Parade will turn right onto Central Avenue and proceed South to Fifth Street. Parade turns East on Fifth Street and disbands at Washington Park.

In case of inclement weather, the Parade will be postponed up to one hour. Should the rain continue, Memorial Day Services will be held at the American Legion, Post 62, Central Avenue, Dunkirk, New York.

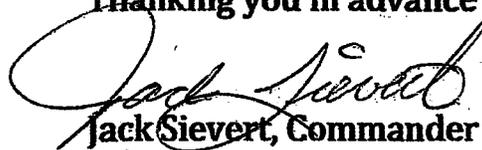
We are requesting that the Street/Parks Department set up reviewing stands and chairs at Memorial Park and in front of City Hall. Respectfully requesting the assistance of Mr. Gregory Bennice, Director of Public Works and Mr. Thomas Mleczo, Assessor City of Dunkirk.

The Joint Veterans Council is also requesting participation by the Mayor, Police Chief, Common Council and City Officials during the services at Memorial Park and the viewing of the parade from the reviewing stand at City Hall.

Respectfully requesting the Mayor, Police Chief and Common Council assist the DJVC in leading this year's Parade.

The DJVC will utilize monies from their fundraiser to cover the cost of chairs for Memorial Park and on the Reviewing Stand. Mr. Robert Bankowski from G & E Tents, did an outstanding job last year in providing chairs at both locations. We are requesting to meet with Mr. Bennice and Mr. Mleczko to discuss the number of chairs needed at both locations and the number of reviewing stands needed at City Hall.

Thanking you in advance for your continued support and cooperation.

A handwritten signature in cursive script that reads "Jack Sievert". The signature is written in black ink and is positioned above the printed name.

Jack Sievert, Commander

Ph: 716-366-4082

Email: sievert5594@roadrunner.com



Iglesia Cristiana Clinica Del Alma Inc.

*Cambiados y transformados por Cristo bajo
la unción del pentecoste*

325 Lynx st. Dunkirk NY 14048

Pastores Omar Cosme y Veronica Soto

(787) 407-2020

03/8/2016

Registration Number: EIN 47-4709181

Dear Mayor

We give greetings in the name of our Lord Jesus Christ.
My name is Omar Cosme, through this I turn to you as a pastor
from spanish church named Clinica del Alma Inc.
Located at 325 Lynx st. Dunkirk, NY 14048.

The reason I am writing this letter is to ask the city of Dunkirk
permission to use the Washington Park pavilion for 3 live church
services on July 17, 2016, August 15, 2016 and September 19, 2016,
all starting at 5:00PM to 9:00PM

The propuse for this live services are first to bring the souls
to Jesus, and to help live from drugs, alcohol, crimes and to help
our community be safe for our children and our future.

Thank You

God bless you.

Sincerely,

Pastor:

2016 MR 10 PM 1:16

RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.

March 07, 2016

City of Dunkirk Common Council,

The Kosciuszko Club would like to request that Nevins Street be closed to traffic from 5:00 PM until 12:00 AM between East Doughty Street and Courtney Street on Friday, July 01, 2016 and Saturday, July 02, 2016 for our Annual Street Dance to ensure the safety of everyone in attendance.

As per last year, any activities being held will be on Club property.

We are asking for support of the City Parks Department (use of picnic tables and band stands), Police Department (patrolling of area), Streets Department (closing of the street/barricades) and Loudspeaker Permit (4 hrs each day).

All required forms needed for our request have been submitted with this letter.

As in previous years, we will contact our Insurance carrier for Liability Insurance naming the City of Dunkirk as Certificate Holder.

Thank you in advance for your help and cooperation and please do not hesitate to call with any questions or concerns.

Sincerely,



James Stelmack
716-366-1044
President
Kosciuszko Polish Home Association Inc.

2016 MAR - 9 AM 9:05

RECEIVED
CITY CLERK S. CHELSE
DUNKIRK, N.Y.

March 8, 2016

City Clerk Lillian Divine and Dunkirk Common Council,

Please add the following names to the City of Dunkirk Volunteer Fire Roll.

Matthew Martinez of Dunkirk N.Y.

Respectfully Submitted,



Michael D. Edwards Jr.
Fire Chief

RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.
2016 HR - 9 AM 10:52

APPLICATION FOR LOUDSPEAKER SPECIAL PERMIT NO.
(DCC-47-6-C)

DATE OF APPLICATION (must be 30 days Prior to event): FEBRUARY 26, 2016

EVENT SPECIFICS

DATE: 7-2-2016 **TIME:** 8:30-12 NOON **LOCATION OF EVENT:** WRIGHT PARK

SPONSOR/HOST: DHS CLASS OF 1989 / EVENTZ BY SCOTT

NAME: MARAUDER TROTTER 5K RUN/WALK **PHONE NO.**

ADDRESS: see below ↓

INDIVIDUAL CORPORATE CHARITABLE COMMUNITY

RESPONSIBLE INDIVIDUAL:

NAME: SCOTT D. MEKUS **PHONE:** (716) 720-0564

ADDRESS: 80 METCALF AVENUE, JAMESTOWN, NY 14701

REASON: MUSIC/ANNOUNCING DURING EVENT

AUDIO DEVICE TO BE USED: DJ JOE GOULD → MUSIC / MICROPHONE ANNOUNCING

(716) 410-0013 SPEAKER SYSTEM

PUBLIC EVENT PRIVATE EVENT

NOTIFICATION OF AFFECTED PERSONS

YES IF YES, PROOF:

NO

I, the undersigned, have read and agree to abide by the provisions set forth in DCC 47-6-C.

Signature: Scott D. Mekus

2016 FEB 26 12:05 PM

DEPARTMENTAL REVIEW	DATE SENT	REPORT BACK
POLICE DEPT <i>alagille</i>		
DEPT OF PUBLIC WORKS <i>MB</i>		
DEPT OF LAW <i>ADS</i>		
OTHER		

COMMON COUNCIL ACTION

RECEIPT OF REVIEW

APPROVAL

CONDITIONS:

DISAPPROVED

APPLICATION FOR LOUDSPEAKER SPECIAL PERMIT NO.

(DCC-47-6-C)

DATE OF APPLICATION (must be 30 days Prior to event): 3-7-16

*No more than 3 days TOTAL per Individual or Group - per year **EVENT SPECIFICS** * EXCLUDES HARBORFRONT AREA

DATE: July 15th - **TIME:** 7-11 PM **LOCATION OF EVENT:** Stadium (Wright Park)
 July 17th 2016

SPONSOR: First Ward Falcons Club

NAME: Tim Wdowiasz **PHONE NO.** 366-5797

ADDRESS: 341 Lake Shore Drive East

INDIVIDUAL CORPORATE CHARITABLE COMMUNITY

RESPONSIBLE INDIVIDUAL:

NAME: Tim Wdowiasz **PHONE:** 679-6797

ADDRESS: 112 Otter Street

REASON: Softball Tournament

AUDIO DEVICE TO BE USED: Band Equipment

PUBLIC EVENT PRIVATE EVENT

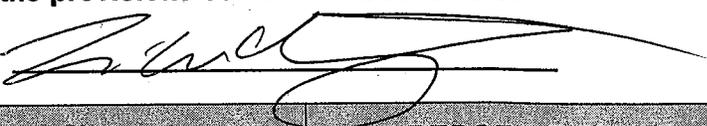
RECEIVED
 CITY CLERK'S OFFICE
 DUNKIRK, N.Y.
 2016 MR - 7 PM 4:42

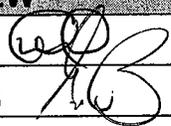
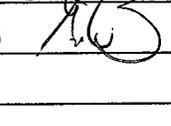
NOTIFICATION OF AFFECTED PERSONS

YES **IF YES, PROOF:**

NO

I, the undersigned, have read and agree to abide by the provisions set forth in DCC 47-6-C.

Signature: 

DEPARTMENTAL REVIEW	DATE SENT	REPORT BACK
POLICE DEPT <i>OK 3/8/16</i> 		
DEPT OF PUBLIC WORKS 		
DEPT OF LAW <i>ADR</i>		
OTHER		

COMMON COUNCIL ACTION

RECEIPT OF REVIEW	
APPROVAL	
CONDITIONS:	
DISAPPROVED	

APPLICATION FOR LOUDSPEAKER SPECIAL PERMIT NO.

(DCC-47-6-C)

DATE OF APPLICATION (must be 30 days Prior to event):

*No more than 3 days TOTAL per Individual or Group - per year **EVENT SPECIFICS** * EXCLUDES HARBORFRONT AREA

DATE: ~~7/17-8/15~~ ^{9/19} TIME: 5:PM to 9:00PM LOCATION OF EVENT: WASHINGTON PARK

SPONSOR: IGLESIA CRISTIANA CLINICA DEL ALMA INC.

NAME: "PASTOR" OMAR COSME PHONE NO. 787-407-2020

ADDRESS: 33 E 6th St Apt 1
Dunkirk N.Y. 14048

INDIVIDUAL CORPORATE CHARITABLE COMMUNITY

RESPONSIBLE INDIVIDUAL:

NAME: "PASTOR" OMAR COSME PHONE: 787-407-2020

ADDRESS: 33 E 6th St Dunkirk N.Y. 14048

REASON: A LIVE CHURCH SERVICE. TO SAVE THE SOUL FOR GOD.
TO ALSO HELP THE COMUNITY, FROM DRUGS, ALCOHOL, AND HELP PEOPLE CHANGE.

AUDIO DEVICE TO BE USED: Two Tower speakers, 4 microphones, 1 Reiver. 1 set of Drums, guitar, bass guitar, Bongos, congas, timbales, Keyboard.

PUBLIC EVENT PRIVATE EVENT

NOTIFICATION OF AFFECTED PERSONS

YES IF YES, PROOF:

NO

I, the undersigned, have read and agree to abide by the provisions set forth in DCC 47-6-C.

Signature: Pastor Omar Cosme

DEPARTMENTAL REVIEW

DATE SENT

REPORT BACK

POLICE DEPT ^{3/3/10} ADB

DEPT OF PUBLIC WORKS ADB

DEPT OF LAW ADB

OTHER

2016 FEB 26 AM 10:53



COMMON COUNCIL ACTION

RECEIPT OF REVIEW

APPROVAL

CONDITIONS:

DISAPPROVED

APPLICATION FOR LOUDSPEAKER SPECIAL PERMIT NO.

(DCC-47-6-C)

DATE OF APPLICATION (must be 30 days Prior to event):		March 1, 2016	
* No more than 3 days TOTAL per Individual or Group - per year		* EXCLUDES HARBORFRONT AREA	
EVENT SPECIFICS		DATE: 7/15/16 7/22 10:00am	
TIME: 5:30pm - 8:30pm		LOCATION OF EVENT: Washington Park	
SPONSOR: Harvest Chapel Church			
NAME: Lisa Leavitt		PHONE NO. 679-0987	
ADDRESS: 39 Matteson St. Fredonia, NY 14063			
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATE <input checked="" type="checkbox"/> CHARITABLE <input type="checkbox"/> COMMUNITY			
RESPONSIBLE INDIVIDUAL:			
NAME: LISA Leavitt		PHONE: 679-0987	
ADDRESS: 39 Matteson St. Fredonia, NY			
REASON:			
AUDIO DEVICE TO BE USED: Audio equipment, microphone, speakers for live or pre-recorded music			
<input checked="" type="checkbox"/> PUBLIC EVENT		<input type="checkbox"/> PRIVATE EVENT	
NOTIFICATION OF AFFECTED PERSONS			
<input type="checkbox"/> YES		IF YES, PROOF:	
<input type="checkbox"/> NO			
I, the undersigned, have read and agree to abide by the provisions set forth in DCC 47-6-C.			
		Signature: <i>Lisa Leavitt</i>	
DEPARTMENTAL REVIEW		DATE SENT	REPORT BACK
POLICE DEPT <i>ok 3/9/16</i>			
DEPT OF PUBLIC WORKS <i>GB</i>			
DEPT OF LAW <i>ADB</i>			
OTHER			
COMMON COUNCIL ACTION			
RECEIPT OF REVIEW			
APPROVAL			
CONDITIONS:			
DISAPPROVED			

2016 MAR - 7 PM 12: 25
 DEPARTMENT OF PUBLIC WORKS
 FREDONIA, NY

APPLICATION FOR LOUDSPEAKER SPECIAL PERMIT NO.

(DCC-47-6-C)

DATE OF APPLICATION (must be 30 days Prior to event): March 07, 2016

*No more than 3 days TOTAL per Individual or Group - per year **EVENT SPECIFICS** *EXCLUDES HARBORFRONT AREA

DATE: 7/1-7/2/16 **TIME:** 7-11:00 PM **LOCATION OF EVENT:** 252 Nevins Street

SPONSOR: Kosciuszko Polish Home Association

NAME: James Stelmack **PHONE NO.** 716-366-1044

ADDRESS: 252 Nevins Street
Dunkirk, NY 14048

INDIVIDUAL CORPORATE CHARITABLE COMMUNITY

RESPONSIBLE INDIVIDUAL:

NAME: James Stelmack **PHONE:** 716-366-1044

ADDRESS: 252 Nevins Street, Dunkirk, New York 14048

REASON: Annual Street Dance

AUDIO DEVICE TO BE USED: Microphones/Amplifiers/Speakers

PUBLIC EVENT PRIVATE EVENT

NOTIFICATION OF AFFECTED PERSONS

YES **IF YES, PROOF:**

NO

RECEIVED
 CITY CLERK'S OFFICE
 DUNKIRK, N.Y.
 2016 MAR -9 AM 9:05

I, the undersigned, have read and agree to abide by the provisions set forth in DCC 47-6-C.

Signature: *James Stelmack*

DEPARTMENTAL REVIEW	DATE SENT	REPORT BACK
POLICE DEPT <i>OK 3/11/16 (initials)</i>		
DEPT OF PUBLIC WORKS <i>GB</i>		
DEPT OF LAW <i>ADB</i>		
OTHER		

COMMON COUNCIL ACTION

RECEIPT OF REVIEW

APPROVAL

CONDITIONS:

DISAPPROVED

RESOLUTION #30-2016
MARCH 15, 2015

BY: ENTIRE COUNCIL

**DENIAL OF LEVEL 3 APPLICATIONS FOR REFUNDS/CREDITS OF REAL
PROPERTY TAXES FORM RP556 DATED FEBRUARY 9, 2016 FOR THE 2015-2016
SCHOOL DISTRICTS, 2016 CITY AND 2016 COUNTY/TOWNS TAX BILLS**

WHEREAS, Level 3 has filed applications for refund/credit of real property taxes pursuant to Real Property Tax Law Section 556 for the 2015-2016 school districts, 2016 city and 2016 county/towns tax bills

WHEREAS, the Chautauqua County Real Property Tax Director has transmitted a written report of such investigation and his recommendations for action thereon; and

WHEREAS, the Chautauqua County Real Property Tax Director has determined that the applications are without merit and recommends that the applications be denied for multiple reasons; and

WHEREAS, the Chautauqua County Real Property Tax Director has recommended that the applications be denied for the following specific reasons:

1. The fiber optic cable constitutes taxable real property under multiple sections of Section 102 of the Real Property Tax Law as follows:
 - A. Fiber optic cable has been interpreted and taxed as real property for more than thirty (30) years, and should continue to be taxed as real property;
 - B. The fiber optic cable meets the definition of real property pursuant to Real Property Tax Law Section 102(12)(i) and is taxable under that section;
 - C. The fiber optic cable constitutes property for the distribution of light and is taxable real property pursuant to Real Property Tax Law 102(12)(f);
 - D. The fiber optic cables constitute fixtures and are taxable real property pursuant to Section 102(12)(b) of the Real Property Tax Law;
 - E. The Real Property Tax Law does not provide any tax exemption for fiber optic cable;
 - F. Real Property Tax Law Section 102 does not contain any express or implied exclusion for fiber optic cable from the definition of taxable real property;
 - G. The Legislative History of Real Property Tax Law Section 102 does not support Level 3's position that fiber optic cable does not

constitute taxable real property and is not subject to real property taxation;

- H. The research articles submitted by Level 3 in the prior court case have no foundation, are not authoritative, were written many years after the New York State Legislature enacted the language contained in Real Property Tax Law Section 102, and there is no evidence the New York State Legislature considered those articles when the Legislation was enacted; and
 - I. The RCN case, which applicant references in its applications, is factually and legally distinguishable from the circumstances involving Level 3's property located in Chautauqua County. The RCN case involved property in New York City, in a building, and not underground cables connected to taxable fiber optic cable in the right of way, as is the situation in Chautauqua County. In addition, the RCN case is in a different department and is not binding on the Courts in the Appellate Division, Fourth Department.
2. The applications are procedurally improper. The applicant's claims do not fall within the scope of the Correction of Errors procedure contained in Section 556 of the Real Property Tax Law. The applications fail to establish a clerical error, unlawful entry, or an error in essential fact as those terms are defined by Section 550 of the Real Property Tax Law. Numerous Town tax assessors have also analyzed Level 3's claims and concluded that its allegations do not constitute an "unlawful entry" as that term is defined in Real Property Tax Law Section 550(7);
 3. Level 3 failed to pay the taxes under a protest. The Voluntary Payment Doctrine bars Level 3 from recovery of taxes paid without protest. See *City of Rochester v. Chiarella*, 65 N.Y.2d 92, 98 (1985); *City of Rochester v. Chiarella*, 98 A.D.2d 8, 9, 12 (4th Dept., 1983) aff'd 63 N.Y.2d 857 (1984).
 - A. Level 3's argument that Real Property Tax Law Section 556 allows recovery without protest is without merit since Section 556 does not state or provide an affirmative right to recover taxes without protest. *Level 3 Communications, LLC v. Essex County*, 129 A.D.3d 1255 (3rd Dept., 2015); *Community Health Plan v. Burkard*, 3 A.D.3d 724, 725 (3rd Dept., 2004).
 4. The RP556 applications are time barred and untimely on the basis that they were filed after the expiration of the tax warrants. See; *Level 3 Communications v. Essex County*, supra.
 5. The applicant's proper remedy is to bring a tax certiorari proceeding under Article 7 of the Real Property Tax Law challenging the assessments prospectively. The applications improperly seek retroactive tax refunds under inapplicable sections of the Real Property Tax Law.

6. The applications should be denied on public policy grounds because Level 3 voluntarily deferred its challenges to the public assessments for multiple years and exposed the municipalities and school districts to unnecessary retroactive disruption of their budgets. *Press v. County of Monroe*, 50 N.Y.2d 695 (1980); *Solnick v. Whalen*, 49 N.Y.2d 224 (1979).
7. The applications are untimely and barred by the four-month statute of limitations because they were filed more than four (4) months after the assessment rolls became final and binding. See *Press v. County of Monroe*, 50 N.Y.2d 695 (1980).
8. The applications contain only conclusory allegations with respect to fiber optic cables, and fail to contain detailed and sufficient evidence with respect to the identity, location, composition and usage of its property and lines. The application fails to contain any information from any engineer, expert, person, or employee with personal knowledge with respect to the cable lines in question, and
9. The applicant incorrectly used the wrong application with respect to the 2016 county, town, and city taxes. The proper form with respect to those taxes is RP-554.

WHEREAS, the City of Dunkirk has carefully considered and fully agrees with the investigation and recommendations of the Chautauqua County Tax Director; now, therefore, it is

RESOLVED, that all of the Applications for Refunds/Credits of Real Property Taxes Form 556 for the 2015-2016 school districts, 2016 city and 2016 county/town tax bills are hereby denied in their entirety for the reasons set forth above.

RESOLUTION #31-2016
MARCH 15, 2016

BY: COUNCILWOMAN SZUKALA

AUTHORIZING PARTICIPATION IN BORDER PATROL AUGMENTATION PROGRAM

WHEREAS, the County of Chautauqua has received certain grant funds in order to enhance law enforcement preparedness and operational readiness, along the borders of the United States among federal, State, local and tribal enforcement agencies; and

WHEREAS, the County of Chautauqua, through Resolution No. 137-13, is authorized to enter into an agreement with the City for such border patrol augmentation services for the period September 1, 2015 through September 30, 2016, with payment in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), for overtime wages, and an amount not to exceed Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00), for fringe benefits; and

WHEREAS, the City is ready, willing and able to provide such augmented border patrol services, through overtime details on land and on water, in the form of roving patrols, surveillance of marinas and crewing of Sheriff's Office boats; now, therefore, be it

RESOLVED, that the Mayor, Wilfred J. Rosas, is hereby authorized to execute contracts and agreements with the County of Chautauqua, for the City to provide augmented border patrol services through overtime Police Department details on land and on water, in the form of roving patrols, surveillance of marinas and crewing of Sheriff's Office boats, for the period September 1, 2015 through September 30 2016; and, be it finally

RESOLVED, that the Fiscal Affairs Officer and City Treasurer be directed to create General Ledger to record these funds as follows:

Stone Garden Grant Account No. 001-0001-2288; and, further

Reimburse Police Department appropriation line:

Overtime Account No. 001-3120-1001,

as such funds are received from the County of Chautauqua.

RESOLUTION #32-2016
MARCH 15, 2016

BY: COUNCILMAN WILLIAMS

**AUTHORIZING PROFESSIONAL SERVICES CONTRACT FOR
THE JULY 4TH FIREWORKS DISPLAY**

WHEREAS, the qualified and licensed professional services company, **Zambelli Fireworks Internationale**, which has supplied quality fireworks to the City of Dunkirk in the recent prior years, proposes a fireworks show of equal quality and length at no increase in cost to that of 2015, and said company has a consecutive multi-year history of good performances with the City of Dunkirk, in the opinion of the Department of Public Works, now, therefore, be it

RESOLVED, that the Mayor be, and hereby is, authorized to execute a contract, on behalf of the City of Dunkirk, with **Zambelli Fireworks Internationale**, PO Box 1463, New Castle PA 16103-1463, in the amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) for the July 4, 2016 (rain date July 5, 2016) fireworks display, in accordance with the proposal to match last year's quality and duration of service at the same cost.

RESOLUTION #33-2016
MARCH 15, 2016

BY COUNCILMAN WILLIAMS:

**AUTHORIZING CONSENT OF LEAD AGENCY AND
ENDORSEMENT OF TOWN OF DUNKIRK'S PLAN TO UPGRADE WATERLINES**

WHEREAS, Town of Dunkirk officials met with City of Dunkirk officials about extending and improving its waterlines in several Town areas that are fed by City of Dunkirk water; and

WHEREAS, by notification letter of February 26, 2016, the Town's design professional for these improvements has requested that the City of Dunkirk execute the State Environmental Quality Review Act (SEQRA) Lead Agency Consent Form; now, therefore be it

RESOLVED, that the City of Dunkirk endorses the Town of Dunkirk's plan to improve its waterlines and that the Mayor be and hereby is authorized and directed to execute the SEQRA Lead Agency Intent Consent Form and any other necessary documents, naming the Town of Dunkirk as Lead Agency for environmental review of these Town waterline improvements.

RESOLUTION #34-2016

MARCH 15, 2016

BY COUNCILMAN WILLIAMS:

**AUTHORIZING AGREEMENT FOR ENGINEERING SERVICES
WATER TREATMENT FACILITY – Phase 3 – under 2009 Consent Order
(Hill Engineering of New York, P.C.)**

WHEREAS, the City of Dunkirk, in 2009, entered into a Consent Order with the Chautauqua County Department of Health (CCDOH) to address certain inadequacies related to the City's water treatment plant and water distribution system, and the Phase 3 items of the Consent Order are now ready to address according to the schedule dictated by CCDOH; and

WHEREAS, by notification letter of December 17, 2015, the City of Dunkirk's application for Phase 3 funding was granted by Governor Cuomo through the New York State Environmental Facilities Corporation (EFC) in the amount of \$2 million of grant funds and \$7 million in low-interest loan funds for this Phase 3 reconstruction of and construction of improvements to the City's water system pursuant to such Consent Order; and

WHEREAS, the 2016 Phase 3 includes, as listed in the EFC grant application:

- New high lift pump station with clear well modifications and new backwash tank
- Supervisory Control and Data Acquisition system and other electrical upgrades
- Benton tank system improvement completion (Fourth Ward tank and pumps)
- Replacement of coagulant feed system and rapid mixers and flocculators
- Replacement of a sludge pump
- New chlorine system; and

WHEREAS, engineering services are required for the timely completion of such 2016 Phase 3 items, and Hill Engineering of New York, P.C., is ready, willing and able to provide such services for the City in a good and workmanlike manner as determined by the Director of Public Works under his responsibility and authority by the City Code, and with the further consideration that Hill Engineering of New York P.C. is in-place completing Phase 2 of the Consent Order as authorized and directed by Council Resolution 21-2013; now, therefore be it

RESOLVED, that the Mayor be and hereby is, authorized and directed to execute an agreement of services, on behalf of the City of Dunkirk, with HILL ENGINEERING OF NEW YORK, P.C., 8 Gibson Street, North East, PA, for water treatment facility Phase 3 work in regard to the 2009 Consent Order:

- Final design engineering and construction administration and resident inspection services for Phase 3 (including all design components) with a cost not to exceed a total of \$950,000, said cost being as City-submitted for the EFC grant and loan application for Phase 3, which submittal named Hill Engineering of New York P.C. for this Phase 3 Consent Order engineering; and be it further

RESOLVED, that the EFC funds, and EFC fund administration requirements, for Phase 3 be set up by Fiscal Affairs as an income and expense City Fund, and that Phase 3 engineering services be paid from the engineering expense line of said City Fund for Phase 3.

RESOLUTION #35-2016
MARCH 15, 2016

BY: COUNCILWOMAN SZUKALA

**AUTHORIZING AMENDMENT TO SHARED SERVICES AGREEMENT
(STATE OF NEW YORK)**

WHEREAS, The State of New York Department of Transportation (NYSDOT) is authorized to provide emergency assistance to municipalities under New York State Highway Law §55 if a Shared Services Agreement (SSA) is in place; and

WHEREAS, Services or Materials valued at less than ten thousand dollars (\$10,000) can be obtained by the City of Dunkirk upon the execution of a SSA,

WHEREAS, it is hereby determined that it will be in the best interest of the City of Dunkirk to be a party to a shared services program with the NYSDOT; now, therefore, be it

RESOLVED, that the Mayor of the City of Dunkirk is hereby authorized to execute an agreement to participate in the NYSDOT Shared Services Agreement.