

AGENDA - COMMON COUNCIL MEETING – September 17, 2013 - 5:30 P.M.
REGULAR MEETING

1. Call to order, Roll Call and Pledge of Allegiance to the flag.
2. Certification of prior meetings. Resolution dispensing with reading of minutes.
3. Reading of Privilege of the Floor Regulations.
4. Privilege of the Floor:
5. Communications from the Mayor including disapproval messages.
6. Communications from the public and petitions:
 1. Request from SUNY Fredonia FACE Center to host a New York Littoral Society beach cleanup event at Wright Park and Pt. Gratiot Beaches on Saturday, September 21st from 12:00 to 2:00pm.
 2. Notification from Pro Life Committee of Chautauqua County for a "National Life Chain" event being held on Sunday, October 6, 2013 from 2 to 3pm.
 3. Notice of Claim from:
 - a. Daniel Tilburg for damages allegedly sustained to his vehicle from an exposed rebar on the corner of Central Avenue and East Green Street.
 4. Article 7 Tax Challenges from:
 - a. Ogden Newspapers of New York, Inc.
 - b. 447 Lake Shore Drive West LLC
7. Reports of Standing Committees, Boards and Commissions.
8. Unfinished Business:
9. Pre-filed Resolutions:
 66. Resolution acknowledging SEQR Coordinated Review by Dunkirk City School District (Marauder Drive).
 67. Resolution authorizing First Amendment to Lease Agreement with Dunkirk City School District (Marauder Drive).
 68. Resolution authorizing agreement extension for Independent Contractor (Housing, Building & Zoning Enforcement Department).
 69. Resolution awarding Bids Hot-In-Place Paving Project (2013).
 70. Resolution authorizing Landlord Consent (Chadwick Bay Marina).

10. New Business:

11. Adjournment.

Nicole Joiner
City Clerk



Department of English

City of Dunkirk
342 Central Avenue
Dunkirk, NY 14048

August 30, 2013

Dear Mayor Dolce and Members of the City of Dunkirk Common Council:

I am writing to request your approval for a New York Littoral Society event that has been planned to enhance the health and appearance of specific beaches in the City of Dunkirk. Specifically, I would like to obtain permission to hold beach cleanups at Wright Park Beach and Pt. Gratiot Beach on Saturday, September 21, 2013 from 12:00 p.m. to 2:00 pm.

Both beach cleanups are sponsored by the SUNY Fredonia FACE Center. The beach cleanups are also part of the International Coastal Cleanup, and the data will be reported to the New York Littoral Society and Ocean Conservancy. In keeping with that program's requirements, all participants will be required to sign a liability waiver.

The majority of volunteers at both events will be SUNY Fredonia students, staff and faculty members, although community members will participate as well. SUNY Fredonia students from Professor Kuns' "Environmental Biology" and Dr. Sam Mason's "Environmental Chemistry" classes will be the primary participants in the beach cleanups. I estimate that approximately 40 to 50 campus volunteers will be involved in the two cleanups.

As you know, the beach cleanups are not new events. I personally have led beach cleanups at Pt. Gratiot since 2009. There have never been any injuries or problems at any of these events. On the contrary, the events have been well received by Dunkirk residents and have yielded important environmental benefits.

Thank you in advance for your assistance with these proposed projects. Should you have further questions about these cleanup events, please contact me at 716 673 3430 or jarvisc@fredonia.edu.

Sincerely,

Christina Jarvis
Community Projects Coordinator, FACE Center
Professor of English

RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.

SEP 2 2013
10:52 AM



Pro Life Committee of Chautauqua County
c/o Blessed Mary Angela Church
324 Townsend Street
Dunkirk NY 14048

September 11, 2013

City of Dunkirk

I have enclosed a flier for the National Life Chain that is held every year throughout the US on the first Sunday of October which is Respect Life Sunday.

I would like permission for our organization to participate in this event on Sunday, October 6, 2013 for 1 hour from 2 to 3 pm.

The Life Chain would begin at Blessed Mary Angela Church (St. Hyacinth site) 295 Lake Shore Drive E. (Route 5), Dunkirk and head west to Central Ave. The Life Chain will continue south on Central Ave to Fredonia State College.

We would sit or stand for 1 hour quietly holding signs to pray for our country and for the unborn. A complete description is on the flier.

Thank you for your consideration.

Sincerely,

Pat Morelle, 207 6509
Co Chairperson

RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.
SEP 11 PM 12:42

22nd Annual

 *Life
Chain*

Respect Life Sunday

October 6, 2013

2:00 pm - 3:00 pm

RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.
OCT 11 PM 12:42

LIFE CHAIN is a peaceful and prayerful public witness of pro-life individuals standing for 60 minutes praying for our nation and for an end to abortion. It is a visual statement of solidarity by the Christian community that abortion kills children and that the Church supports the sanctity of human life from the moment of conception until natural death.

- Be a public witness to life in the silent prayerful Life Chain!
You'll be a light in a darkened world as you help put an end to abortion through prayer!
- Stand with thousands of pro-lifers throughout the USA!
- Bring your whole family!
- Water, lawn chairs, umbrellas and strollers are welcome & encouraged.
- Rain or Shine.
- Please stand 25-30 feet apart. Do not park in front of an open business.
- Signs will be furnished upon request.

Life Chain will begin at Blessed Mary Angela Church (St. Hyacinth site) 295 Lake Shore Drive E. (Route 5), Dunkirk and head west to Central Ave. The Life Chain will continue south on Central Ave to Fredonia State.

Where will you stand?

We invite you, your church, your family, your friends, and your organization!

Call us and let us know which area of our route you will be covering!

Please call Pat Morelle 965-2738, Phil & Sue Scherer 673-1237

N. Chautauqua Life Chain sponsored by the Pro Life Committee of N. Chautauqua.

Visit us at www.prolifechautauqua.org

Notice of Claim
City of Dunkirk, N.Y.

PLEASE TAKE NOTICE, that the undersigned, pursuant to the applicable NY State statutes, hereby makes claim against the CITY OF DUNKIRK, NEW YORK for injuries and/or damages sustained by me as hereinbelow detailed:

Claimant Name: Daniel Tilburg
Claimant Address: 104 Matteson St.
Fredonia N.Y.
Claimant Telephone Number: (716) 680-3190

This claim is for (injuries/damages alleged): Flat Tire caused By
Re bar Exposed through the concrete curb on
The corner of Central Ave and East Green st.

This claim is alleged to have arisen on the 26 day of August, 2013 at approximately 8:10(a.m.) p.m. on that date at East Green st.

The injuries and/or damages sustained by the Claimant arose in the following manner: I was traveling North on Central, a car was turning left
on west Green st. which is slightly earlier than East Green
and waiting for a car to pass going south on central. cont. on Back ➔

The amount and type of injuries and/or damages sustained by the Claimant consist of the following: ONE Tire mounted + Balanced \$168.03

WHEREFORE, the undersigned respectfully requests that the within claim be allowed and paid to me.

Respectfully yours,
Daniel J. Tilburg 9/6/13
Claimant (Date)

State of New York)
County of Chautauqua) ss.:

Daniel J. Tilburg being duly sworn, deposes and say that he/ is the claimant herein; that he/ has read the foregoing claim and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to matters therein stated to be alleged upon information and belief, and, as to those matters, he/ believes it to be true.

Sharon A. Ricotta
Notary

RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.

Sworn to before me this
1th day of September, 2013.
SHARON A. RICOTTA
NOTARY PUBLIC, STATE OF NEW YORK
NO. 4917133
QUALIFIED IN CHAUTAUQUA COUNTY
COMMISSION EXPIRES DECEMBER 28, 2012

Damages Sustained cont.

I moved to the Right to Pass him and made my turn on East Green. my Rear Passenger tire was Damaged By the Rebar on the corner. It punctured the sidewall and Ripped a 3" hole in it. my VAN is a 2012 E250 Ford, Tires are in EXcellent condition.

I am a Licensed Master Electrician in the City and was over an hour Late For a Job. Also required an hour to have the tire mounted/Balanced.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF CHAUTAUQUA

In the Matter of the Application of Under
Article 7 of the Real Property Tax Law

OGDEN NEWSPAPERS OF NEW YORK, INC.,

Petitioner,

v.

CITY OF DUNKIRK,

Respondent.

To Review Real Property Assessment
Pursuant to Article 7 of the
Real Property Tax Law (2013).

**NOTICE OF
VERIFIED PETITION**

Index No.:

14120130001236

FILED
CHAUTAUQUA COUNTY CLERK
2013 AUG 30 PM 12:41

RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.
2013 SEP 11 AM 9:26

PLEASE TAKE NOTICE, that upon the annexed Verified Petition of Ogden
Newspapers of New York, Inc., application will be made at a Special Term of the Supreme Court
of the State of New York, to be held at the Chautauqua County Courthouse, 3 North Erie Street,
Mayville, New York 14757, on the 18th day of October, 2013 at 9:30 a.m., or as soon thereafter
as counsel can be heard, for review and reduction pursuant to Article 7 of the Real Property Tax
Law of the State of New York, of the tax assessment of real property appearing upon the
assessment roll of the City of Dunkirk for the year 2013, as set forth in the annexed verified
petition; and for such other relief as the Court deems appropriate, including refunds and interest,
together with the costs and disbursements of this proceeding.

In the Matter of the Application of

447 LAKE SHORE DRIVE WEST LLC

Petitioner(s)

-against-

THE BOARD OF ASSESSORS AND/OR THE ASSESSOR
OF THE CITY OF DUNKIRK, AND THE BOARD OF
ASSESSMENT REVIEW.

Respondents.

PETITION

Index No.

K2013001157

FILED
CHAUTAUQUA COUNTY CLERK'S OFFICE
DUNKIRK, N.Y.
2013 AUG 15 PM 3:24
2013 SEP 11 AM 9:56

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petitioner above-named by his attorney, Herman Katz Cangemi & Cane, respectfully alleges as follows:

1. At all times herein mentioned, petitioner was and still is an aggrieved party with respect to the assessment or assessments described below within the meaning of Section 706, Real Property Tax Law, State of New York, and the Board of Assessors and/or Assessor is the respondent herein (hereinafter referred to as 'the assessing jurisdiction').
2. The respondents have heretofore prepared, completed and perfected, purportedly according to law, an assessment roll for the assessing jurisdiction, for the assessment year 2013, which assessment roll included an assessment for petitioner's real property, set forth in Schedule A.
3. Petitioner duly made and filed with respondents a written application and statement under oath, to have said assessed valuation and exemption, if applicable, of said real property corrected and revised, specifying therein the respect in which the assessment complained of was incorrect, and which application and statement sought to reduce the assessment complained of as set forth in Schedule A. The application and statement are hereby referred to and made part hereof as though fully set forth herein.
4. Upon information and belief, a final decision and determination on the application and statement were duly rendered by respondents who failed to reduce the assessment as requested and confirmed or set the assessed valuation of petitioner's property as set forth in Schedule A.
5. Thirty days have not elapsed since the filing of the certified copy of the completed and verified assessment roll with notice thereof, or law day, whichever is later, as permitted by R.P.T.L. Sec. 702.

RESOLUTION #66-2013
SEPTEMBER 17, 2013

BY THE ENTIRE COUNCIL:

ACKNOWLEDGING SEQR COORDINATED REVIEW BY DUNKIRK CITY SCHOOL DISTRICT
(Marauder Drive)

WHEREAS, the City of Dunkirk owns certain premises bordered roughly by Marauder Drive and Lucas Avenue (designated as s/b/l 96.06-2-1) that have been utilized for and as sports and recreation facilities; and

WHEREAS, on March 19, 2013 (No. 19-2013), the Common Council acknowledged that the Dunkirk City School District (the "District") wished to enter into an agreement to memorialize the use of such property for athletic fields for practices and games for various sporting events, including but not necessarily limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way; and

WHEREAS, the District wishes to enter in to a First Amendment to the Lease in order to obtain additional real property to re-orient certain athletic fields and to extend the term of the Lease; and

WHEREAS, the District wishes to act as lead agency for any SEQR review necessary in regard to the proposed First Amendment to the Lease arrangement with the City; now, therefore be it

RESOLVED, that the City of Dunkirk through its Common Council hereby acknowledges that the **Dunkirk City School District**, 620 Marauder Drive, Dunkirk, New York 14048, has acted as lead agency for a SEQR review which was undertaken by the District as part of a coordinated review in regard to the proposed First Amendment to the Lease with the City.

RESOLUTION #67-2013
SEPTEMBER 17, 2013

BY THE ENTIRE COUNCIL:

**AUTHORIZING FIRST AMENDMENT TO LEASE AGREEMENT
WITH DUNKIRK CITY SCHOOL DISTRICT
(Marauder Drive)**

WHEREAS, the City of Dunkirk owns certain premises bordered roughly by Marauder Drive and Lucas Avenue (designated as s/b/l 96.06-2-1) that have been utilized for and as sports and recreation facilities; and

WHEREAS, on March 19, 2013 (No. 20-2013), the Common Council authorized and directed entering in to a Lease Agreement with the Dunkirk City School District (the "District") to memorialize the use of such property for athletic fields for practices and games for various sporting events, including but not necessarily limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way; and

WHEREAS, the District wishes to enter in to a First Amendment to the Lease in order to obtain additional real property to re-orient certain athletic fields and to extend the term of the Lease; and

WHEREAS, the District has acted as lead agency for a SEQR review which was undertaken by the District as part of a coordinated review in regard to the proposed lease with the City; and

WHEREAS, it would be in the best interests of the City of Dunkirk to enter into a First Amendment to the Lease Agreement with the District for such use; now, therefore be it

RESOLVED, that the Common Council hereby authorizes and directs the Mayor to execute any required documents to enter into a First Amendment to the Lease Agreement with the **Dunkirk City School District**, 620 Marauder Drive, Dunkirk, New York 14048, for the District's use of and improvement to certain property of the City, bounded roughly by Marauder Drive and Lucas Avenue (being a part of s/b/l 96.06-2-1), from April 1, 2013 through December 31, 2031, for the cost of One Dollar and Zero Cents (\$1.00) per year, with the use of such property as athletic fields for practices and games for various sporting events, including but not necessarily limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way.

RESOLUTION #68-2013
SEPTEMBER 17, 2013

BY COUNCILWOMAN SZUKALA:

AUTHORIZE AGREEMENT EXTENSION FOR INDEPENDENT CONTRACTOR
(Housing, Building & Zoning Enforcement Department)

WHEREAS, the City of Dunkirk, through its Housing, Building & Zoning Enforcement Department (the "Department") has a need for assistance with various projects; and

WHEREAS, it would be in the best interest of the City to contract for such services; and

WHEREAS, Wendy Spinuzza is ready, willing and able to provide such services as an independent contractor for the City, and in a good and workmanlike manner; now, therefore, be it

RESOLVED, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of **WENDY SPINUZZA**, 175 Eagle Street, Fredonia, New York 14063, as an independent contractor to provide independent contracting services and assistance with various projects commencing October 1, 2013, and extending through December 31, 2013, with payment of Seventeen Dollars and Fifty Cents (\$17.50) per hour up to thirty-five (35) hours per week, contingent upon such being made available, with such funds drawn from Account No. 001-3620-4036.

RESOLUTION #69-2013
SEPTEMBER 17, 2013

BY THE ENTIRE COUNCIL:

AWARDING BIDS HOT-IN-PLACE PAVING PROJECT (2013)

WHEREAS, the City, by resolution no. 59-2013 (September 3, 2013) engaged the services of Nussbaumer & Clarke, Inc., to undertake bid specification services to enable the City to undertake a comprehensive program of paving various streets throughout the City utilizing a pool of funds accumulated over two years; and

WHEREAS, sealed bids were let and were opened and read aloud in the Dunkirk City Clerk's Office at 10:00 a.m. on September 11, 2013;

WHEREAS, such bids were reviewed by Nussbaumer & Clarke, Inc., in order to determine the sufficiency of such bids and Nussbaumer & Clarke, Inc., have recommended the lowest responsible bidder be awarded such bid; now, therefore, be it hereby

RESOLVED, that the following lowest responsible bid be accepted for furnishing 2013 hot-in-place paving project:

<u>Bidder</u>	<u>Cost</u>
Highway Rehabilitation Corp. 2258 Route 22 Brewster, New York 10509	\$133,900.00

and, be it finally

RESOLVED, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with **Highway Rehabilitation Corp.**, in accordance with the contract specifications, for such 2013 hot-in-place paving project.

RESOLUTION #70-2013
SEPTEMBER 17, 2013

BY: ENTIRE COUNCIL

RESOLUTION AUTHORIZATION LANDLORD CONSENT
(CHADWICK BAY MARINA)

WHEREAS, the City of Dunkirk (the "City") entered into a contract dated July 16, 1985, whereby Metal Craft Company, Inc., was authorized to develop, construct and operate a full-service marina on the Dunkirk Harborfront, commonly known as Chadwick Bay Marina (the "Marina"); and

WHEREAS, pursuant to the terms of such Contract, the right to lease the Marina was assigned to Chadwick Bay Marina, LP; and

WHEREAS, the City later consented to the assignment of the Marina lease to Donald F. Ryan and Richard W. Ryan, and subsequently to Ryan Marine Services; and

WHEREAS, the City later approved the assignment of leasehold rights located at 30 Central Avenue, Dunkirk, New York 14048, from Ryan Marine Services, LP, to JSG Marina Holdings, LLC, and its subsequent assigns Chadwick Bay Marina Holdings, Inc. (Resolution 54-2011); and

WHEREAS, the City later approved the assigned of the Lease interest currently held by Ryan Marine Services, LP to JSG Marina Holdings, LLC, or an entity to be formed with the same principal ownership (Resolution 88-2011); and

WHEREAS, Chadwick Bay Marina Holdings, Inc. ("Chadwick") is re-structuring its ownership participation and as a result is seeking funding through Loeb Term Solutions, LLC ("Loeb"), 4131 South State Street, Chicago, IL 60609; and

WHEREAS, Loeb is requesting that the City of Dunkirk, as Landlord of the Marina, enter into a Landlord Consent to induce Loeb to provide financing to Chadwick; now, therefore, be it

RESOLVED, that the Mayor be and hereby is authorized and directed to enter into a Landlord Consent with Loeb Term Solutions, LLC ("Loeb"), 4131 South State Street, Chicago, IL 60609, and the City:

- Consents to the creation of Loeb's security interest in certain Collateral and agrees that Loeb's security interest is prior to the City's;
- Agrees to notify Loeb in writing at least thirty (30) days before commencing any proceedings or otherwise taking any action to terminate the lease or to enforce the City's remedies thereunder;

- Disclaims and waives to Loeb any interest in the Collateral, and acknowledges that the Collateral will at all times be personal property and not real estate fixtures, and will be subject to Loeb's prior security interest;
- Advise Loeb if any payments are not received on time;
- Acknowledges that, to the City's knowledge, Chadwick is not in default under the Lease;
- Consents to Loeb's entry upon the Premises at all reasonable times to inspect, dispose of or remove the Collateral so long as all areas of egress will be left in a safe, workmanlike manner with proper OSHA level barriers and fall protections in place. Loeb is not, however, liable for any diminution in the value of the Premises caused by the absence of the Collateral or the necessity of replacing it
- Agrees that upon any default under the Lease by Chadwick and in the event that the City takes action against Chadwick as a result of such default, Loeb has the right to enter into and remain in possession of the Premises for a period of not to exceed one hundred twenty (120) days ("Initial Period"), for the purpose of enforcing its liens on the Collateral, including detaching, selling, auctioning from the Premises and removing the Collateral from the Premises. The City shall promptly provide notice to Loeb of a default under the Lease as well as notice of the receipt of an eviction judgment in favor of the City.