

COMMON COUNCIL PROCEEDINGS
April 17, 2012

The meeting was called to order at 6:05 PM by Councilwoman-at-large Kiyak followed by the Pledge of Allegiance.

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

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

Certification of March 20th & April 3rd meetings was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, March 20th & April 3rd, 2012 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Jim Muscato, 280 Lake Shore Drive West, Dunkirk, NY spoke in regard to resolution #37 authorizing the City of Dunkirk Community Garden Program, stating that there are 181 properties in the city; including buildings, and questioned if there were any specific areas or amount of city properties to be utilized for this community project. He questioned if adjacent property owners have a say if it's decided that a piece of property is used, protection such as fencing due to the critters getting into it, and that being close to residential areas should be taken into consideration before it's approved.

Mayor Dolce advised that he, along with the Director of Development and the City Clerk will be reviewing applications to see if the specifications are in order, if the location is suitable, and not give them all up. Mayor Dolce further stated that as far as adjacent property owners, this would be within reason, and if it's used for edible food vs. flowers. He further advised that comments from the neighbors would be considered before final determination, and if anything does come up through the course, the city has the right to pull it.

Mr. Muscato further questioned the responsibility of liability insurance; as several people in the community would be involved, and if this would be individual or as a group.

City Attorney Szot advised that whether individual or as a group it was subject to the insurance requirement providing the city with a policy protecting the city naming it as additional insured for that parcel.

Mr. Muscato also spoke in regard to resolution #40, stating that the Building Inspector explained the procedure in the workshop, and this may not come down in the near future. He therefore stated that if taxes are not paid and foreclosure follows, the city will eventually make

payment of abatement & demolition (\$7,500) and this may end up being a \$20,000 bill that the County will not reimburse to the City.

Building Inspector Zurawski explained that this was paid through CDBG funding, not city money.

Michelle Bradley, 33 W. Howard Avenue, Dunkirk, NY questioned when her street would be repaired as it's been this way for seven to eight years, that where the bridge is going over the street, it's crumbling, there's big holes and cracks in the street, and two years ago when the street was blocked off they thought it would be repaired, but it stayed that way for six months. She proceeded to explain that the residents moved the barriers, the street is still the same way and someone could get hurt. She also stated that she sees different cracks and potholes being repaired and wants to know when her street will be repaired.

Councilwoman-at-large Kiyak stated that our Public Works Director would be looking into this, and advised that there are several committees that meet throughout the month, and they do get a report of pothole repairs. She further advised that the CHIPS program has not yet started.

Mrs. Bradley stated that this was not just potholes, but the entire street needed to be repaired, and that she's been there for ten years with the entrance to the plant closing at that time.

Councilwoman-at-large Kiyak stated that specifics about this street can be brought to our attention in another fashion, and there was always the workshop before the Council Meeting to address this.

Public Works Director Gugino advised that it has been eight years, and that the culvert running under Howard Avenue which carries the major drainage aquifer collapsed in 2004. At that time, the street was closed, and they diverted trucks to the Brigham Road entrance stopping all truck traffic on West Howard Avenue. He stated that they looked for funds, engineering thoughts on replacing it, and also contacted Mr. Spanos with the County Department of Public Facilities who came in to do a shared service to remedy the problem for approximately \$150,000 to fix it. He advised that from 2004 and every year thereafter, there was never any money in the budget to fix it, and over time, the condition of the street degraded further. He further advised that there was a lot of manpower and effort made by his department and the police, but this situation became frustrating due to the residents moving traffic control devices. He also explained that a huge effort was made in 2009 by stimulus money applications going out, we were 99% approved with Federal stimulus funds to get this done, but then the DOT stepped in, the project did not develop, and now eight years later, this could cost \$250,000. Mr. Gugino questioned where the money would come from, in the meantime the street is closed, should not be traveled by residents or anyone else, and the barricades have been thrown in the creek and woods. In summary, he advised that there was no fix right now, and no plan unless we find some "miracle" funds or budgeting for this, and stated that if more barricades are put out, not to break the Vehicular/Traffic Law.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce thanked the Police Chief and his department for making quick work relative to the recent burglaries, the Public Works Director along with the Streets/Water Departments for their quick response to the accident causing the recent water gush, and thanked all the

Departments involved with resolutions #37 through #40, as this took a lot of collaboration, thanking them for bringing this forward to the Council. Mayor Dolce also invited everyone to the DLDC Meeting this Thursday at 11:00 AM in the Conference Room.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Communication from the Village of Fredonia advising of their Local Law & Public Hearing amending the Zoning Law relative to signage.

Received and filed.

Petition from the Dunkirk Joint Veterans Council requesting to hold the annual Memorial Day Services & parade on Monday, May 28th at 10:00 AM with parade to follow, reviewing stands and chairs at Memorial Park & City Hall, and participation by the Mayor & City Officials.

Councilman Gonzalez moved that permission be granted, and this was referred to the City Clerk, Public Works, Police, Fire and Law Departments contingent upon liability insurance. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Petition from Section VI - NYS Public High School Athletic Association to use Promenshenkle Stadium on May 30th at 5:00 PM & 7:00 PM, and on June 2nd at 2:30, 4:30 & 7:00 PM (rain dates May 31st & June 3rd), Wright Park Drive closed by the creek and Pine Street and North Warsaw by the basketball courts at 3:00 PM on May 30th, and 12:30 PM on June 2nd.

Councilman Michalski moved that permission be granted, and this was referred to the Public Works, Police and Law Departments. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Loudspeaker application from the Clarion Hotel for live bands starting May 20th from 8:00 PM to 1:00 AM.

Loudspeaker application from the Moose Club for a band from 1:00 to 5:00 PM at the large shelter on August 19th.

Councilman Rivera moved that these two loudspeaker applications be approved. Seconded by Councilwoman Szukala.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski spoke in regard to the last Finance Committee Meeting, stating that there was a concern in the revenue account fund #3 for sewer treatment funds. He reported that the waste hauling fee last year ended \$98,100 in the negative, and this year being only three months into it, there is no revenue even though it's budgeted at \$150,000 for this year. He stated that the Committee felt that we should be reaching out to customers such as Cott, Fieldbrook & Carriage House, and requested that the Mayor reach out to them as to the reason why this is happening if they are taking their waste elsewhere.

Public Works Director Gugino advised that in 2006 or 2007 the former Mayor asked him to reach out to then Cliffstar at that time, to see if they would bring their juice tankers to our Wastewater Treatment Plant instead of hauling to off-site premises. The city did enter into an agreement for \$350 a tanker per load, thus creating a \$98,000 revenue at that time, and every year after that, revenue increased due to the economic feasibility of bringing it to us. Mr. Gugino then explained that due to offset costs in 2010 at the plant, the cost went from \$350 to \$500 to \$600 per tanker, which was unacceptable to them, and the last year we took in tankers was 2010, realizing a gross revenue of \$168,000. He further advised that after Cott bought out Cliffstar, the budgets were already set for 2012 in 2011, we assumed to have that ongoing agreement, but Cott chose to go off-site with DEC permission to Northeast. Mr. Gugino further explained that this revenue source was therefore gone for 2011, right now they are not bringing us anything, and the revenue is back to reality as we do not have that source anymore, we offset that by coming under budget last year with operating expenditures, and therefore do not feel the net loss.

As Chairman of the Personnel, Judicial & General Welfare, Recreation, Library and Regional Planning Committee, Councilman Rivera advised of the meeting today covering different subjects, and advising of the absentee landlord situation. He stated that his notes will be made public, the next meeting may possibly be held in June with the possibility of a public forum to see what the public feels relative to adopting a landlord/tenant policy. He stated that this would be representation as far as landlords living out of the city.

Councilman Gonzalez advised of the Public Works Committee Meeting held the other day with Public Works Director Gugino giving information on the progress of Lake Front Boulevard and the Willowbrook Project with everything moving ahead. He further advised that the next meeting would be held on the second week in July.

Councilwoman Szukala advised that there will be a Public Safety Committee Meeting on April 24th at 9:00 AM in the Conference Room. She further advised that the deadline for applications for the city "paint program" was April 20th in the Development Office, requesting a separate article in the newspaper for this to remind the residents.

Councilwoman-at-large Kiyak advised of the 11:00 AM meeting of the Economic Development Committee on April 24th, and of the Dunkirk Citizens' Dialogue on the same day at 6:00 PM, with both held in the Conference Room.

Police Chief Ortolano spoke relative to the Prescription Drop-Off Program held a couple of years ago, and stated that this year it will be held on April 28th from 10:00 AM to 2:00 PM at the AllStar North Ambulance headquarters. He encouraged everyone to drop-off any of their unused or old prescriptions instead of flushing them down the toilet or having small children getting into it. He stated this was a great program, this was the third time we are doing this, and a press release will be following.

Clerk, Board of Assessors Mleczo advised that the deadline for the Star Program was May 1st, and if a home was purchased within the last year you would need to come in by that date. He further informed that if a person turned 65 during the last calendar year or this year, they need to apply for the enhanced version. If a senior citizen and not filing NYS income tax, statements must be brought in every year for files in that office.

PRE-FILED RESOLUTIONS:

RESOLUTION #37-2012
APRIL 17, 2012

BY COUNCILMAN GONZALEZ AND COUNCILMAN RIVERA:

AUTHORIZING CITY OF DUNKIRK COMMUNITY GARDEN PROGRAM

WHEREAS, the City of Dunkirk owns and maintains various parcels of vacant land located at various sites throughout the City; and,

WHEREAS, in order to provide an opportunity to the public to enhance the character of our community, it would be in the best interests of the community's health, safety and welfare to allow interested City individuals and groups to utilize various parcels of City-owned property to establish and to maintain community gardens; now, therefore, be it

RESOLVED, that the Common Council hereby authorizes the City of Dunkirk Community Garden Program, and authorizes and directs the Mayor, City Clerk and Department of Planning & Development to formulate and to administer the application and review process to assist eligible individuals and groups participate in such Program.

Councilwoman Szukala advised that she had concerns through this process, thanked the Mayor and City Attorney for including information in the resolution, and hopefully it will work to beautify the city.

Councilman Gonzalez stated we should give this a shot, it needs to be done if people want to beautify and take care of these parcels, a lot of community organizations want to participate in this, and thanked everyone that worked on this.

Vote on resolution: Carried, all voting aye.

RESOLUTION #38-2012
APRIL 17, 2012

BY COUNCILMAN RIVERA:

AUTHORIZING BID ACCEPTANCE – 2010 FIRE RESCUE VEHICLE

WHEREAS, bids for the purchase of a New and Unused 2010 or Newer Model Year Type III Ambulance were let, received and opened in the City Clerk's Office on March 27, 2012 at 10:00 a.m.; and

WHEREAS, the Fire Chief has reviewed and compiled the returned bids and has determined that the lowest responsible bid that materially complies with the bid specifications, waiving any technical non-compliance, that was received for this vehicle was received from WNY Bus Parts, Inc. d/b/a Gorman Emergency Vehicles, 691 Bullis Road, Elma, New York 14059, in the amount of One Hundred Nineteen Thousand, Eight Hundred and Fifty Dollars and Zero Cents (\$119,850.00); and

WHEREAS, funds for such purchase include Sixty-five Thousand Dollars and Zero Cents (\$65,000.00) from Fire Department Equipment Account (001-3410-2000) that has been allocated in the 2012 City budget; now, therefore, be it

RESOLVED, it is in the best interests of the City to accept such lowest responsible bid that materially complies with the bid specifications, and the Mayor is hereby authorized and directed to enter into an agreement, on behalf of the City of Dunkirk, with WNY Bus Parts, Inc. d/b/a Gorman Emergency Vehicles, 691 Bullis Road, Elma, New York 14059, for the purchase of one (1) new 2010 McCoy Miller Medic 170 Fire Rescue Vehicle in the amount of One Hundred Nineteen Thousand, Eight Hundred and Fifty Dollars and Zero Cents (\$119,850.00), with funds for such purchase to be made as follows:

Fire Department Equipment Account	001-3410-2000	\$119,850.00
Revenue Account (Emergency Med Services)	001-0001-2018	as revenues are available in the account, \$54,850.00 shall be transferred to 001-3410-2000 to off-set budget allocation for this purchase; and, be it finally

RESOLVED, that the City Clerk is authorized to return the bid deposits of the unsuccessful Bidder and the successful Bidder upon unit delivery.

Councilman Gonzalez advised that he was against this in the beginning, but according to information received today as far as no borrowing, he would be voting for this and thanked everyone for putting this together.

Councilwoman-at-large Kiyak stated that she was also against this if there was a bonding issue involved, we do not have to bond for this, and will be paid by third party billing coming in for this as well as funds coming from medicare, and she will be voting in favor of this.

Vote on resolution: Carried, all voting aye.

RESOLUTION #39-2012
APRIL 17, 2012

BY COUNCILMAN MICHALSKI:

**AUTHORIZING AWARD OF BID FOR ELECTRICAL WIRING FOR FILTERS
AT THE WATER TREATMENT FACILITY**

WHEREAS, sealed bids for **Contract 1-2012 – Electrical Wiring for Filters at the City of Dunkirk Water Treatment Plant** were received and opened on April 11, 2012 at 10:00 AM local time, with two (2) bidders responding, now, therefore, be it

RESOLVED, upon the review and recommendation of Director of Public Works Gugino and the City’s retained consultant, Hill Engineering, Inc., that the low bid of **O’Connell Electric Company, Inc., 830 Phillips Road, Victor, New York 14564,** be accepted in the amount of **\$106,400** for the above noted bid, and, be it further

RESOLVED, that the Mayor is hereby authorized and directed to execute any necessary documents on behalf of the City of Dunkirk with O'Connell Electric Company, Inc., for the above described work in accordance with the bid documents and that funding shall be allocated from Fund Account 015-8320-5041-8048, and, be it further

RESOLVED, that the City Treasurer and Fiscal Affairs Officer be directed to create the necessary credit/debit accounts necessary for this work, and, be it finally

RESOLVED, that the City Clerk is hereby authorized to return the bid deposits in accordance with the contract documents.

Carried, all voting aye.

RESOLUTION #40-2012

APRIL 17, 2012

BY COUNCILMAN RIVERA:

**DIRECTING BUILDING INSPECTOR TO REPAIR OR REMOVE
(209 SWAN STREET (79.14-4-65))**

WHEREAS, by Resolution No. 23-2012, the Building Inspector was directed to inspect the building or structure situate at premises designated as 209 Swan Street, Dunkirk, NY 14048 (79.14-4-65), and to report the results of such inspection to this Common Council in accordance with the provisions of Chapter 18 of the City of Dunkirk Code; and

WHEREAS, the Building Inspector provided to Council an inspection report (dated February 22, 2012), which this Council has received and reviewed; and

WHEREAS, the Building Inspector reported that, in his opinion, the building or structure at premises designated as 209 Swan Street, Dunkirk, NY 14048 (79.14-4-65), is a danger to the health, safety or welfare of the public and should be repaired or removed; and

WHEREAS, by Resolution No. 28-2012, the Building Inspector was directed to service a notice to repair or remove upon the owner and all other persons having an interest in the building or structure situate at premises designated as 209 Swan Street, Dunkirk, NY 14048 (79.14-4-65), either personally or by registered mail, addressed to his/their last known address(es) as such appears on the current tax roll of the City of Dunkirk, in compliance with the conditions of Chapter 18 of the City of Dunkirk Code; and, the Building Inspector was further directed to report his determination and recommendation within five (5) days of any hearing held in accordance with the provisions of Chapter 18 of the City of Dunkirk Code; and

WHEREAS, the Building Inspector provided to the owner an opportunity to be heard as to whether a reasonable basis exists for the owner (or other interested parties) to be relieved of an order to repair or remove the building or structure under consideration; and

WHEREAS, the owner (or other interested parties) failed to utilize the opportunity to be heard and did not appear at such opportunity to be heard, and the

owner failed to comply with the notice to repair or remove within the time provided or any extension thereof; and

WHEREAS, the Building Inspector has reported to the Common Council his determination, dated March 30, 2012, and this Common Council has received and reviewed such determination; now, therefore, be it

RESOLVED, that the Building Inspector is hereby directed to take all appropriate steps and procedures as directed by Chapter 18 of the Dunkirk City Code, to repair or remove the building or structure at premises designated as 209 Swan Street, Dunkirk, NY 14048 (79.14-4-65) in that such is a danger to the health, safety or welfare of the public and should be repaired or removed.

Councilman Rivera stated that anyone can drive by this property and see why this is happening, as it's not getting the attention from the property owner. He also stated that we have the well-being of the residents at interest, and we have the opportunity to do so.

Vote on resolution: Carried, all voting aye

Adjourned at 6:37 PM

Lacy Lawrence, City Clerk
