

## Minutes of City of Dunkirk Finance Committee held on December 10, 2012

**Present:** Councilman Mike Michalski, Chairperson  
Councilwoman Stacy Szukala, Member  
Councilwoman-at-Large Stephanie Kiyak, Member  
Councilman William Rivera  
Mark Woods, City Treasurer  
AJ Dolce, Mayor  
Ron Szot, City Attorney  
Steve Neratko, Development Director  
Guests: Gib Snyder, Rich Halas, Mark Kiyak

**Opening:** Chairman Michalski opened the meeting at 4:05pm.

### **Meeting Content:**

Michalski opened meeting stating city was officially made aware of the NYS Comptroller's Office Audit report on November 13, 2012. This audit dealt with the city's mismanagement of its CDBG program. He stated city was in a unique situation in that a NYS Agency was auditing a Federal program in which we would ultimately have to answer to both the NYS Comptroller's office and HUD.

Michalski posed the question to the committee if we wanted to dispute any allegations made by the audit? Szukala felt it would be very difficult to make any arguments against the stated allegations and prove otherwise. Halas felt to dispute the audit would be redundant in that the auditor's completed a thorough examination. Szukala recommended a mission statement should be placed in our response. Halas felt this would be an excellent opportunity for the city to implement better internal controls of the CDBG program. It was decided to accept the audit as fact and move forward with remedial action.

Michalski posed question of taking away Department of Development's ability to sign checks and require purchase requisitions. Neratko stated his department already follows this procedure.

Woods wanted to clarify stating anything directly related to the general day to day operation of the city has a set procedure to follow including the CDBG requests for reimbursement and payments. Anything other than this, the city has no direct involvement. According to Neratko, the DLDC, as a sub recipient, must remain separate from the city and proper sub recipient agreements must be in place. Szukala recommended two signatures be required on all DLDC checks. Kiyak questioned if Szot would be drafting up these agreements and their terms? Szot replied that Harry Sichertman & Associates was over-seeing a HUD approved template for sub recipient agreements.

Current authorized signers for the DLDC accounts are Neratko or Tim Gornikiewicz and then signed secondary by Dolce.

Neratko discussed the current issue of “blending of roles” such as Tim Gornikiewicz serving as both DLDC treasurer and CDBG administrator and this was set-up was highly discouraged. Neratko felt the treasurer should not be a city employee but rather a DLDC Board member. That both treasurer & secretary should be board members.

Szukala questioned if the Fiscal Affairs Officer can be on the DLDC Board and be the treasurer? Neratko felt it was not possible because of a conflict of interest (being a city employee) and the treasurer should be a DLDC board member.

The eight audit recommendations were then discussed:

**1. The Council should establish formal procedures to monitor the performance and administration of the CDBG program, including a review of periodic status reports on grant activity.**

Neratko stated IDIS reporting had been done sporadically in the past and future reports should be done on a minimum quarterly basis and presented to Council through the Economic Development Committee or Common Council meetings. IDIS is an online status report which shows the progression of CDBG funding activities. Szukala questioned if bank statements would also be part the reporting to Council? Neratko felt that was something to be determined by council.

The idea of presenting such reports to the Economic Development Committee and/or Council meetings and having their presentation reflected in the meeting minutes (received & filed) was perceived positively by the Finance Committee.

Neratko stated the sub recipients themselves should be coming in to provide updates on a quarterly basis.

**2. The Council should enter into a written agreement with the DLDC that clearly establishes the responsibilities of both parties including the work to be performed, a schedule for completion, and a budget. These documents should be in sufficient detail to allow the Council to monitor performance. Further, the agreement should specify the records the DLDC must maintain and the reports that must be submitted to the Council, including dates for submission.**

The sub recipient agreements would clearly outline the responsibilities and work to be performed.

**3. The Council should authorize all transfers of CDBG funds to the DLDC only after ensuring they comply with the Council approved Plans. Funds should not be distributed in excess of the Council's express authorized limit.**

Michalski questioned how often transfers take place other than the lump sum transfer by Council in January. Neratko stated draw downs are done on a project-by-project basis as needed and would fall in line with the sub recipient agreements. Woods recommended that each individual transfer be authorized by Council. Woods explained that once the complete allocation of the HUD funding is approved by Council, "X" amount of dollars of that is tagged for the DLDC operations. What may be considered in the future is as monies are ready to be transferred and all paperwork has been completed & signed off and a request for funding is in place – at this point Council may want to review that all steps were taken and in good order. Woods stated this process may become cumbersome, however if the steps & procedures are in place and the appropriate people have signed-off on the draw-down, this process may not really be necessary but should still come before council.

Neratko stated that by having the sub recipient agreements already in place and their related expenses approved as part of the one or five year plan - the plans are ultimately approved by Council before hand.

Szot felt that in past, the DLDC was inept in being the sub recipient and probably inept in being the recipient of tax dollars from the city and that caused what we've got now - an opportunity to get some protocol that not only complies with the HUD regulations, but with common sense oversight for tax dollars.

**4. The Council should ensure that the DLDC has effective control procedures in place to adequately safeguard grant moneys.**

The sub recipient agreements and proper controls are in place under the direction of Harry Sicherman, however they have not been followed in past years.

**5. The Director of Development should inspect the DLDC's loan files to ensure adequate documentation is on file prior to providing the DLDC with grant funds for this purpose.**

Michalski recommended a checklist for documentation should be developed & presented to the DLDC Board. Neratko stated that Nicole (Dept. of Development) has been working on a check list with a representative from Sicherman & Associates to assure all requirements of the loan are satisfied.

**6. The Council and Mayor should require documentation sufficient to support all claims against the City's CDBG funds to demonstrate how moneys are being used to meet the program's objectives.**

Neratko stated the sub recipient agreements and IDIS reports would satisfy how money is being used to meet program objectives and that HUD needs to approve IDIS reports and how CDBG national objectives are being satisfied. Neratko stated that from past activities, at least half of the one-hundred open IDIS reports have been completed. Consolidated Annual Performance and Evaluation Reports (CAPER) come out at the end of the year showing exactly how money was spent. Such reporting was three years behind since Neratko was appointed. As of right now, only the 2011 CAPER report is outstanding. Problems with past CAPER reports were not only were they not done, but there was insufficient information for HUD to accept it. CAPER reports need to be approved by Council and require a 30 comment period.

**7. The Council should discuss with the City Attorney whether the City could require the DLDC to recover unauthorized payments made to the DLDC Chairman and DLDC Treasurer.**

Szot stated that Nicole (Dept. of Development) performed a forensic audit of the DLDC check register and uncovered payments just under \$26,000 of expenditures and if there were any approvals for such expenditures - there were none. The payees were sent a letter asking them for explanations or missing paper work.

Szukala questioned if the \$26,000 figure included any 2012 expenditures to one of these individuals. Dolce stated he continued the payments until informed otherwise by the auditor. The auditor informed Dolce that the payments themselves were not improper, but the fact there was no authorization from the DLDC Board was the issue. At that point Dolce stated he stopped the payments.

Szot said the individuals have been given the opportunity to address the concerns in certified letters sent on December 7, 2012. It was decided to give 10 business days to allow a response.

**8. The Council and Mayor should establish formal procedures for selecting grant recipients through an open, competitive process that helps ensure all local businesses have an equal opportunity to apply and be considered for grants.**

Neratko stated there needs to be a procedure in place for selecting applicants. Public hearings and notices to business are already in place, however the “selecting” of submitted applications needs to be addressed. Szukala suggested a point system which is already in place. Kiyak stated that all applications be listed and those recommended by the Department of Development be high-lighted. Neratko suggested the list should go to Economic Development first and then the Council for final approval.

**9. The Director of Development should ensure all façade grant projects and recipients comply with the City’s program guidelines.**

Neratko stated there were issues with past activities with the façade program, primarily with missing information/data on past grants. It was suggested that a sub recipient run the façade program or possibly the DLDC or the Economic Development Committee make a recommendation to Council for approval. There was some confusion between the city façade program mentioned in the city charter versus the CDBG façade program. It was theorized the city charter façade program was in place prior to the CDBG façade program.

Ultimately, Neratko felt the DLDC should run the façade program and be more of a grant program for signage.

Szot felt they (city charter versus CDBG façade programs) were two separate programs.

Szukala felt the façade section of the city charter was something that needed to be addressed and/or changed in the future.

Kiyak asked who will formally be putting together the responses to the State Comptroller? Michalski said it would be the finance committee’s responsibility for constructing the audit response by the 90 day deadline of February 12, 2013.

**Meeting adjourned at 5:20pm.**