

**COMMON COUNCIL PROCEEDINGS**  
**March 20, 2012**

The meeting was called to order at 6:40 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, Building Inspector Zurawski, Clerk, Board of Assessors Mleczeko, Director of Development Neratko, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Certification of March 6th, 2012 meeting was read by City Clerk Lawrence.

**RESOLVED:** That the reading of the minutes of Tuesday, March 6th, 2012 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Greg Sek, 14 Armadillo Street, Dunkirk, NY spoke relative to the Curfew Ordinance, stating that the city should take an aggressive step in complying with this now as its Spring, there are kids in the streets, and they are very defiant. He stated that they shouldn't be playing sports in the streets as we have parks and someone is going to get killed.

Edna Sek, 7 Lake Front Blvd., Dunkirk, NY spoke in regard to the Lake Front Blvd. waterline, questioning if the lines were going down the center of the road, or near the railings.

Public Works Director Gugino advised that the waterline project in the areas where they will lay pipe and be staked out by the Engineers (90% of what you see - the Lakefront Blvd. portion) is just inside the curb line, as the stakes will show that. He stated that it's pretty much that way all the way down, within the curb line and within ten feet or less. He further informed that the intrusion into yards will be minimal. He stated that any areas where the contractor has to remove trees, bushes or any ornamentals will be replaced according to the specifications in the contract. He also advised that there is open language in the bid specs which enables us to put in language so the road is not shut down for vehicular, school buses and delivery trucks.

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

Mayor Dolce advised that he prepared the "State of the City Address" pursuant to the City Code, that it was a little late, but it was prepared and is available to anyone interested. He advised that this can be done via e-mail, by calling his office, or posted on his face book, and will also be available on the website when fully operational.

Mayor Dolce felt that tonight, it was more important to focus on NRG, and thanked the public for their response to this situation, advising that the Administration put out an e-mail last Thursday which was well received by the public, and he was very appreciative of that. He therefore urged the public to continue with their letters, faxes and phone calls. He advised that he spoke to Senator Young, Assemblyman Goodell, Representatives from Congressman Higgins' Office, their chief representatives and the NY Power Authority. He stated that this has received our full attention since last Wednesday, and he has also been in contact with County Officials on this. Mayor Dolce also advised that he also sent a letter, e-mail and fax to Assembly Speaker Sheldon Silver, and followed up with a phone call today with no response. He stated that all efforts are being made, we are being optimistic, and in closing, again expressed the importance of the public reaching out to the Officials.

Communication from Mayor Dolce confirming the appointment of William Tuggle to the Planning Board extending through December 31, 2016.

Mayor Dolce advised that this was brought up earlier at an Economic Development Meeting, and this appointment was reconfirming Mr. Tuggle.

Received and filed.

#### **COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Communication from Skeeter Tower regarding a project entitled "The Main Thing" referring to neighborhood renewal.

Received and filed.

Communication from Brooks Memorial Hospital requesting a donation for the annual Auxiliary Dinner Dance/Auction on June 9th.

Received and filed.

Petition from Chautauqua Health & Fitness requesting use of city streets beginning and ending at the D&F Plaza (by Middlesex) for a 5K road race on June 30th at approximately 9:00 or 10:00 AM.

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

Carried, all voting aye.

Petition from Mike & Diane Gifford requesting to use city streets beginning at Dunkirk High School for the annual Autism Awareness Walk/Celebration on May 12th at 10:00 AM.

Councilman Rivera moved that permission be granted contingent upon insurance and loudspeaker permit, and referred this to the Police, Fire, Public Works and Law Departments. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Petition from John Cieply/SUNY Fredonia to use the city pier for filming on April 3rd & April 5th in the evening, and on March 25th or April 1st on the sidewalk outside the park at the end of Fourth Street.

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

Carried, all voting aye.

Petition from Mark Tredo requesting tree branch removal at Columbus Street between Sixth & Seventh Streets.

Councilwoman Szukala moved to refer this request to the Public Works Department. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from MAD DADS for use of Washington Park for an Easter Egg Hunt on April 6th from 4:00 to 7:00 PM. (Raindate April 7th).

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

Carried, all voting aye.

Petition from Keith Ossman on behalf of the Lake Shore Street Rod Association for partial use of the Point Gratiot parking lot, permission for vendors, extra trash barrels and trash pick-up for their Annual Harbor Cruise on Sunday July 8th.

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

Carried, all voting aye.

Loudspeaker applications from:

Lake Shore Street Rod Association for a live band & disc jockey at the large & small pavilions on July 8th from noon to 5:00 PM.

Mad Dads for radio amplifier in Washington Park on April 6th.

Frank Acquavia Post #1344 for a band on May 28th from 3:00 to 7:00 PM.

First Wad Falcons for a band at the Wright Park Stadium Field on July 20th from 7:00 to 11:00 PM.

Councilwoman Szukala moved that permission be granted for all four loudspeaker permits. Seconded by Councilman Michalski.

Carried, all voting aye.

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

Councilman Michalski advised of the discussion in the workshop with the Engineers in regard to the upgrading at the Water Filtration Plant. He assured that if there are any upcoming improvements to be done, they will try to stay in front of the cost and effects on the city. He stated that the city will bond for this in the future and they will try to stay ahead of this and be proactive for the effects on the city.

Councilman Rivera concurred with Councilman Michalski, and wanted the city residents to know in terms what the city is doing with this project, and that he was very comfortable with the situation we are in. He stated that he was Chairman of the Personnel & Public Safety Committees, and will be scheduling a meeting for mid April.

Councilman Gonzalez had nothing to report at this time.

Councilwoman Szukala advised that there will be a Public Safety Meeting on April 24th at 9:00 AM in the Conference Room, and there will be a Public Works Committee Meeting on April 10th at 10:00 AM in the Conference Room.

Councilwoman Kiyak advised that there will be an Economic Development Committee Meeting on March 27th at 11:00 AM in the Conference Room, and also the Dunkirk Citizen's Dialogue Meeting would also be held on March 27th at 6:00 PM in the Conference Room.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #31-2012**  
**MARCH 20, 2012**

**BY ENTIRE COUNCIL:**

**A BOND RESOLUTION, DATED MARCH 20, 2012, OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "CITY"), AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE CITY WATER SYSTEM, AT AN ESTIMATED MAXIMUM COST OF \$1,800,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,800,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.**

**WHEREAS**, it has been determined by the City's retained consultant, Hill Engineering, Inc., that there is a need for the installation, reconstruction and

replacement of water lines in the general area along Lakefront Boulevard from North Main Street easterly to North Serval Street including, but not limited to, the installation of a new line along Lakefront Boulevard, and the replacement of existing intersecting side street water lines north of East Pine Street; and

**WHEREAS**, the Common Council of the City of Dunkirk, Chautauqua County, New York (the "City"), has, based upon recommendations by Hill Engineering, determined that such a project will improve both the quality and quantity of water and will also improve fire-protection in such area; and

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

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

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

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

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

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

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

**SECTION 6.** The faith and credit of the City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient

to pay the principal of and interest on such bonds becoming due and payable in such year. Unless paid from other sources (including without limitation, user charges paid by the owners of properties on which water meters are installed), there shall annually be levied on all the taxable real property of the City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

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

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

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

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

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

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

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

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

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

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

Carried, all voting aye.

**RESOLUTION #32-2012**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING MAYOR TO RELEASE CITY OF DUNKIRK LOCAL SHARE (2011)  
CHADWICK BAY REGIONAL DEVELOPMENT CORPORATION**

**WHEREAS**, the City of Dunkirk has been a participant in the Chadwick Bay Regional Development Corporation (the "CBRDC"); and

**WHEREAS**, each participating municipality is levied an annual *per capita* local share for membership in the CBRDC; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized and directed to release the City of Dunkirk's local share (2011) for the Chadwick Bay Regional Development Corporation, per invoice #1-2011, July 1, 2011, in the amount of \$6,565.50.

Carried, all voting aye.

**RESOLUTION #33-2012  
March 20, 2012**

**By Councilwoman Szukala:**

**AWARDING BID FOR YEAR 2012 REQUIREMENTS OF AQUA AMMONIA  
FOR USE AT THE WASTEWATER TREATMENT FACILITY**

**WHEREAS**, sealed bids for the furnishing of aqua ammonia for use at the wastewater treatment facility were opened and read aloud in the Dunkirk City Clerk's Office at 10:00 a.m. on March 7, 2012, with three (3) bids being received, and

**WHEREAS**, bids have been reviewed by Public Works Director Gugino, now, therefore, be it

**RESOLVED**, that the low bid of Amrex Chemical Company, 117 East Frederick Street, P.O. Box 642, Binghamton, NY 13902, be accepted for furnishing 2012 requirements of aqua ammonia treatment chemical, at a unit cost of \$0.275 per pound of NH<sub>4</sub>OH in the required percentage solution, and, be it further

**RESOLVED**, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, for the purchase of such treatment chemical for the wastewater treatment facility, and, be it finally

**RESOLVED**, that the City Clerk is hereby authorized to return the bid deposits of the bidders in accordance with the contract specifications.

Carried, all voting aye.

**RESOLUTION #34-2012**

**By Councilwoman Szukala:**

**AUTHORIZING MAYOR TO EXECUTE AGREEMENT WITH  
CHAUTAUQUA COUNTY FOR STOP-DWI PROGRAM**

**WHEREAS**, the City has participated in the STOP-DWI Program with Chautauqua County for several years, and

**WHEREAS**, the County has requested that the City execute an agreement to participate with the program for the term from January 1, 2011 to December 31, 2015, and

**WHEREAS**, the County will reimburse the City, a sum not to exceed an amount equivalent to forty percent (40%) of the total of fines levied and paid to the City of Dunkirk Court resulting from the arrest and prosecution of DWI and related offenses, now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized and directed to execute the Agreement, on behalf of the City of Dunkirk, with the County of Chautauqua, for the City's participation in the STOP-DWI Program for the term January 1, 2011 through December 31, 2015.

Carried, all voting aye.

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.



Carried, all voting aye.

**Adjourned at 7:07 PM**

**Lacy Lawrence, City Clerk**

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