

COMMON COUNCIL PROCEEDINGS
March 6, 2012

The meeting was called to order at 6:07 PM by Councilmember-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 Mleczo, Director of Development Neratko, CDBG Administrator Gornikiewicz, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Certification of February 21, 2012 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, February 21, 2012 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

James Muscato, 280 Lake Shore Drive West, Dunkirk, New York advised there was a news release today by a federal magistrate judge proposing to draw up new congressional districts. Mr. Muscato stated if the courts have their way our current representative, Congressman Brian Higgins, will be removed from Chautauqua County and replaced by Tom Reed from Corning, New York. Mr. Muscato further advised Congressman Higgins has represented our area well over the years; it would be ashamed to have his representation removed from our area and stated "we are more on track with the Buffalo area because we live on the lakefront then we are with someone who is representing us from Corning." Mr. Muscato asked the Mayor and Council to contact the courts opposing this redistricting proposal.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce advised City Treasurer Woods, Fiscal Affairs Officer Briggs and himself met this morning with a representative from the State Controllers Office and stated they will be performing a general audit of the City. Mayor Dolce advised their main focus will be on the 2011 fiscal year and they will begin next week.

Mayor Dolce advised representatives from Hill Engineering will attend the next council workshop on March 20th to discuss, review and answer questions regarding the Lakefront Boulevard Waterline Project.

Mayor Dolce announced Sherwin Williams has a National Program where they go to communities and donate their paint and labor and stated the Dunkirk Lighthouse has been chosen to have its interior repainted. Mayor Dolce publicly thanked Sherwin Williams and announced Sherwin Williams will work on this project in April.

Mayor Dolce asked Police Chief Ortolano to discuss the new shopping cart plan in the city.

Police Chief Ortolano announced he has worked out a program with Kevin Connelly, owner of Save-a-Lot and Gary Damico, owner of P&G Foods regarding the removal of shopping carts from their business. Police Chief Ortolano advised both individuals have signed letters intent authorizing the Police Department to arrest and prosecute anyone who removes a shopping cart from their property and stated the District Attorney's Office and City Judge have been advised of the plan; this plan will begin April 1st. Police Chief Ortolano stated he wanted to bring this to the communities' attention tonight and announced Mr. Connelly and Mr. Damico have been advertising this plan in their stores for the past several weeks. Police Chief Ortolano advised individuals can purchase smaller shopping carts from Mr. Damico and Mr. Connelly for \$20.00.

Mayor Dolce advised he mentioned Hill Engineering tonight because he will be looking to council to take action on the waterline bond at the next council meeting.

Mayor Dolce asked Department of Public Works Director Gugino to speak in regard to Resolution #29-2012 and Point Gratiot.

Department of Public Works Director Gugino advised Resolution #29-Amendment to Service Agreement (No. County Industrial Water District No. 1) is a result of many years of confusion as to the responsibilities of each party within this water district. DPW Director Gugino stated "it was always assumed from what I found in my eight years here, right or wrong, the city was responsible for a lot of things and the city was responsible for certain things, but there were also areas where the responsibility wasn't the city's, it was the districts." DPW Director Gugino advised he has been working with the county attorneys, representatives from the North County Water District and County Executive Greg Edwards during these past two years to determine the responsibilities of the water district and the city. DPW Director Gugino stated should the district need the city's help (repair or maintenance), any expense incurred by the city will be reimbursed to the city from the water district. DPW Director Gugino advised this Resolution clarifies each parties responsibilities.

DPW Director Gugino advised due to the mild winter, effective this past Monday, March 5th, Point Gratiot will be open from 6:30 AM until 10:30 PM. DPW Director Gugino advised the Parks Department is not fully staffed; therefore full service such as restrooms will not be available to the public.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from Frank Acquavia Memorial Post No. 1344 requesting permission to hold their annual Memorial Day Activities on Monday, May 28th from Noon until 7:00 PM. Also requesting the use of picnic tables, trash barrels, and snow fencing.

Councilwoman-at-large Kiyak stated that a motion was needed to approve and refer to the Department of Public Works contingent upon a loudspeaker application.

Councilman Gonzalez moved to accept this petition and referred this to the Department of Public Works contingent upon the loudspeaker application. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Notice of Claim from John and Valerie Mackowiak, 46 Otter Street, Dunkirk, NY for repair/replacement of damaged mailbox allegedly caused by a City snowplow.

Councilwoman-at-large Kiyak stated a motion was needed to refer this to the City Attorney and Department of Public Works.

Councilman Rivera motioned to refer this to the City Attorney and Department of Public Works. Seconded by Councilman Michalski.

Carried, all voting aye.

Loudspeaker application from Demetrios Tsirtsakis and Jeralyn Kubasik on behalf of Demetris Restaurant for live music on the patio bar from May 20th thru September 15th from 1:00PM until 1:00 AM (times may vary).

Councilwoman-at-large Kiyak advised a motion was need to approve this loudspeaker application.

Councilman Gonzalez motioned to accept this loudspeaker application. Seconded by Councilman Rivera.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski announced the next Finance Committee Meeting will be held on Monday, March 26th at 5:00 PM in the Mayor's Conference Room. Councilman Michalski advised there was discussion during the last finance meeting to make adjustments or modifications to the budget, however on the recommendation of City Treasurer Mark Woods the committee has decided to wait until the city's internal auditors, Johnson, Mackowiak, finish with their audit. Councilman Michalski advised City Treasurer Woods reported the budgeted sales tax revenue for the year came in \$171,000.00 higher then what was budgeted.

Councilman Michalski advised the city will be looking to finance or bond for the Fire Departments rescue vehicle as well as the Lakefront Boulevard Project and stated the city could possibly finance these projects at a loan rate of approximately one percent.

Councilman Rivera advised his next committee meeting will be held in April and is debating whether he will hold a meeting or hold a public forum pertaining to absentee landlords and neglected properties.

Councilman Gonzalez advised the next Public Works Meeting will be held on Tuesday, April 4th at 11:00 AM in the Mayor's Conference Room.

Councilwoman Szukala asked Department of Public Works Director Gugino if he has heard a response in regards to the application on the extension for the seawall permits.

DPW Gugino advised he will receive an answer from the Army Corps. on March 18th.

Councilwoman Szukala asked City Attorney Szot when the computer and cell phone policy be ready for council to review.

City Attorney Szot replied he is hoping to have a policy for the employees and the unions to review and finalize within the next few days before presenting to council.

Councilwoman Szukala inquired again, how will the city proceed regarding the stipend for Clerk, Board of Assessors Tom Mleczko.

Mayor Dolce advised nothing has changed since the last time she asked; the stipend is being withheld and advised the State would not give a written ruling regarding this issue stating this is a local issue.

Councilwoman Szukala asked Mayor Dolce what is the next step to be taken.

Mayor Dolce advised further discussion needs to be taken regarding this issue.

Councilwoman-at-large Kiyak advised the next Economic Development Committee Meeting will be held on Tuesday, March 27th at 11:00 AM in the Mayor’s Conference Room.

Councilwoman-at-large Kiyak advised the next Dunkirk Citizens’ Dialogue Committee Meeting will be held on Tuesday, March 27th at 6:00 PM in the Mayor’s Conference Room.

PRE-FILED RESOLUTIONS:

RESOLUTION #26-2012
MARCH 6, 2012

BY: COUNCILMAN RIVERA

AUTHORIZING BOARDWALK LEASE AGREEMENT
(ERIKA FINAMORE d/b/a YUMMY’S LAKESIDE ICE CREAM)

WHEREAS the City of Dunkirk has developed and marketed the **Dunkirk Boardwalk Project** (the “Boardwalk”) 8-22 Central Avenue, Dunkirk, New York, to help create and to encourage the vibrancy of the City’s harbor district; and,

WHEREAS, the City of Dunkirk has available space in the Boardwalk and desires to enter into an agreement with **Erika Finamore d/b/a Yummy’s Lakeside Ice Cream**, to lease a portion of the Boardwalk for retail sales of ice cream to the general public; now, therefore, be it

RESOLVED, that the Mayor, Anthony J. Dolce, is hereby authorized to execute a lease agreement with **Erika Finamore d/b/a Yummy’s Lakeside Ice Cream**, for rental of 16 Central Avenue, Dunkirk, New York 14048, for a one-year period (April 1,

2012 through March 31, 2013) at an annual rental of Three Thousand Six Hundred Dollars and Zero Cents (\$3,600.00).

Councilman Rivera advised he sponsored this Resolution and stated "I do believe in the best interest of the city this maintains a good business atmosphere as well as a good lease contract agreement that's been worked out by the city."

Councilwoman Szukala advised there has been much discussion between the Mayor, City Attorney, Councilmembers and some owners who lease space on the Boardwalk and stated there has been much confusion regarding these lease agreements. Councilwoman Szukala stated this is the first of many steps that need to be taken to make sure these lease agreements are not only fair to the business owners, but it also protects the city and does not become such a burden to the taxpayers of the city. Councilwoman Szukala advised city residents "please know that we're not just sitting here tonight just voting under a couple minutes of discussion; there has been a lot of discussion that has taken place."

Carried, all voting aye.

RESOLUTION #27-2012
MARCH 6, 2012

BY: COUNCILWOMAN SZUKALA

AUTHORIZING CONTRACT FOR JULY 4TH FIREWORKS DISPLAY

WHEREAS, the City has solicited proposals for the annual July 4th fireworks display with two (2) proposals being received and reviewed, 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, P.O. Box 1463, New Castle, PA 16103-1463, in the amount of \$30,000 for the July 4, 2012 (rain date July 5, 2012) fireworks display in accordance with proposals as opened on February 15, 2012, and, be it finally

RESOLVED, that funds for this display will be available through City Budget Account #001-7550-4036, Fireworks.

Carried, all voting aye.

RESOLUTION #28-2012
MARCH 6, 2012

BY: COUNCILMAN RIVERA

DIRECTING BUILDING INSPECTOR TO SERVE NOTICE TO

REPAIR OR REMOVE 209 SWAN STREET (79.14-4-65)

WHEREAS, by Resolution #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 has provided to the Common Council an inspection report, dated February 22, 2012, and this Council has received and reviewed such report of such inspection; and,

WHEREAS, the Building Inspector reports 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, it would be in the best interests of the public for the City's Building Inspector, to serve a notice to repair or remove upon the owner and all other persons having an interest in such property or structure; now, therefore, be it

RESOLVED, that the Building Inspector is hereby 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, be it further

RESOLVED, that the Building Inspector is hereby 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.

Councilman Rivera advised city residents this is the second step of a three step process in having this public issue, nuisance, and problem taken care of. Councilman Rivera reiterated the comment made by Councilwoman Szukala and stated "were just not sitting here in two minutes making these snap decisions; there has been a lot of discussion put into this and this is the second step of a three step process."

Carried, all voting aye.

RESOLUTION #29 -2012
March 6, 2012

BY: Councilman Gonzalez

AUTHORIZING AMENDMENT TO WATER SERVICE AGREEMENT
(No. County Industrial Water District No. 1)

WHEREAS, the City of Dunkirk and the North County Industrial Water District No. 1 are parties to a certain Water Service Agreement (the "Agreement"), dated September 29, 1980; and,

WHEREAS, the parties wish to amend the Agreement in order to provide for the North County Industrial Server District No. 1 to be a party to the Agreement; to confirm that the water and sewer lines of each respective District are such District's property and maintenance responsibility; and, to provide the City of Dunkirk with flexibility in refusing or accepting a request to provide maintenance or repair services to such water and sewer lines; now, therefore, be it

RESOLVED, that the Mayor, Anthony J. Dolce, is hereby authorized to execute contracts and agreements to so amend the Water Service Agreement (September 29, 1980) between the City of Dunkirk and the North County Industrial Water District No. 1.

Councilman Michalski asked Mayor Dolce if he serves on the North County Industrial Water District Committee.

Mayor Dolce advised he serves on the North County Industrial Water District Committee and will be resigning from the committee prior to the signing of this agreement.

Councilman Gonzalez advised this needed to be done for clarification purposes as explained earlier by Director of Public Works Gugino.

Carried, all voting aye.

RESOLUTION #30-2012
NEW BUSINESS
MARCH 6, 2012

BY: COUNCILWOMAN SZUKALA, SECONDED BY COUNCILMAN MICHALSKI

AUTHORIZING CITY OF DUNKIRK COMMUNITY PAINT PROGRAM

WHEREAS, it is in the best interests of the community's health, safety and welfare to restore and/or to preserve homes throughout the City; and

WHEREAS, a program to help eligible residents restore and maintain their homes by providing a monetary grant toward the purchase of paint would serve the interests of the community; and

WHEREAS, certain funds in the FY 2012 budget were delineated toward such a Community Paint Program; now, therefore, be it

RESOLVED, that the Common Council hereby authorizes the City of Dunkirk Community Paint Program, and authorizes and directs the Mayor and Department of Development to formulate and to administer the application and review process to assist eligible residents participate in the Program, with the funds for such Program authorized in Account No. 001-8020-4246 (\$5,000.00).

Councilwoman Szukala proceeded to explain this program and thanked CDBG Administrator Tim Gornikiewicz and Development Director Steve Neratko for their work.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:34 PM

Lacy L. Lawrence, City Clerk
