

**COMMON COUNCIL PROCEEDINGS**  
**March 18, 2014**

The meeting was called to order at 5:30 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, City Treasurer Woods, Public Works Director Gugino, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczko, Director of Development Neratko, Personnel Administrator Heyden, and Police Chief Ortolano.

Councilwoman-at-large Kiyak excused Fire Chief Ahlstrom from tonight's meeting.

Certification of March 04, 2014 meeting was read by City Clerk Joiner.

**RESOLVED:** That the reading of the minutes of Tuesday, March 4, 2014 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Minda Rae Amiran, 12 Lowell Place, Fredonia New York read the following statement on behalf of The League of Women Voters of Chautauqua County:

"The League of Women Voters of Chautauqua County, with many Dunkirk members, hopes that you will vote to pass prefiled resolution #25 now before you. In doing so, you will be showing great foresight. You will have taken steps to prevent dangerous contamination of our water, ground, and air by HVHF and its wastes. Even if this step should prove to be mainly symbolic – in the event that Governor Cuomo does not lift the current moratorium – symbolic actions are important. They express and strengthen the values of the community. You will be putting the long term economic development of the waterfront and water district and the health and safety of your constituents ahead of possible short-term financial gains and that's something rare and worth celebrating in today's world. Thank you."

Walter Rutland, 184 West Second Street, Dunkirk New York thanked Police Chief Ortolano and his Officers, Mayor Dolce, Fire Chief Ahlstrom, and Public Works Director Gugino for doing a great job in the City. Mr. Rutland advised that he is hoping to have his own show on the Cable Access station titled "Making Progress in Dunkirk with Walter Rutland" and expressed hope that local businesses will hire/continue to hire the "young people" of the City.

Harriet "Skeeter" Tower, 438 Swan Street, Dunkirk New York advised that the next Revitalize Dunkirk meeting is at 6:00 PM on Thursday, March 27<sup>th</sup> at the SUNY Fredonia Incubator and hopes that all City Officials will be present.

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

Appointment of Members to the Dunkirk Local Development Corporation.

Received and Filed.

Mayor Dolce advised there are still a couple openings in the Dunkirk Local Development Corporation if anyone is interested, he gave an abridged version of his State of the City address earlier today to the Rotary Club, and that the City is still accepting applications for Harbor Master Station and interested individuals can go to [www.dunkirktoday.com](http://www.dunkirktoday.com) for details.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Request from Chautauqua Health & Fitness for use of city streets beginning at the D&F Plaza (by Middlesex) for a 5K road race on June 21st at approximately 9:00 AM.

Councilwoman-at-Large Kiyak advised that a motion was need to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured and that all city property is left in the same condition as prior to the event.

Councilman Michalski made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Request from Dunkirk Local Development Corporation – Festivals Committee for the City’s assistance and use of City facilities for their Summer on the Lake events.

Public Works Director Gugino advised that there will be challenges with the Wreck & Roll proposed start time of 8:00 AM on Saturday July 5<sup>th</sup> as his crew’s will not be complete with all garbage/park cleanup from the July 4<sup>th</sup> Festivities while Building Inspector Zurawski expressed concern for closing the boat launch from 10:00 AM – 2:00 PM during the busy holiday weekend.

Mayor Dolce advised that the early time will be for the vendors to set up and that while this will inconvenience some, with a whole season of other events this date made the most sense for this particular event to take place.

Councilwoman Szukala advised that there has also been discussion of changing the venue from Wright Park to Point Gratiot for the Beach Bash should Seawall Construction begin.

Mayor Dolce advised that he hopes it would become an issue as he is eager for the Seawall Construction process to begin.

Councilwoman-at-Large Kiyak advised that a motion was need to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, including liquor liability insurance and proof of authority to sell, if applicable, and that the properties are left in the same condition as prior to the event.

Councilman Gonzalez made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Loudspeaker application from Hometown Insurance for a band on July 4<sup>th</sup> from 6:00 PM until 9:00 PM at 200 Lake Shore Drive West.

Loudspeaker application from Clarion Hotel for bands and DJ's from May 1st thru October 1<sup>st</sup>.

Loudspeaker application from Dunkirk Local Development Corporation – Festivals Committee for professional audio equipment and DJ on May 25<sup>th</sup> from 12:00 PM until 4:00 PM, July 4<sup>th</sup> from 4:00 PM until 11:00 PM, July 5<sup>th</sup> from 12:00 PM until 11:00 PM, August 3<sup>rd</sup> from 2:00 PM until 6:00 PM, and Thursdays June 12<sup>th</sup> thru August 28<sup>th</sup> from 6:00 PM until 9:00 PM.

Councilwoman-at-Large Kiyak advised a motion was needed to approve all loudspeaker applications.

Councilwoman Szukala made a motion to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Notice of Claim from Louis Ziegler for damages to his vehicle allegedly due to hitting a pot hole on Lincoln Avenue and Doughty Street.

Councilwoman-at-large Kiyak advised a motion was needed to refer to City Attorney.

Councilwoman Szukala made a motion to refer to City Attorney. Seconded by Councilman Gonzalez.

Carried, all voting aye.

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

Councilman Michalski inquired about the status of the Seawall Funding and if there was a drop dead date on when the Seawall Construction could begin.

Mayor Dolce advised that he has two meetings on Thursday and should receive a progress report at that time and that nothing can happen until the Contracts from the state are executed.

Public Works Director Gugino advised that the process can take anywhere from 6 to 12 months to complete dependant on the weather.

Councilman Michalski asked City Treasurer Woods about the status of the \$12,000,000 bond rate information previously discussed at the Finance Committee meeting.

City Treasurer Woods advised that everything is finalized and all rate information will be distributed tomorrow morning.

Councilman Rivera advised that there is a Public Safety Meeting scheduled for April with date to be determined and inquired to Mayor Dolce as to the status of the Cable Access Station.

Mayor Dolce advised that everything is progressing nicely and if all goes according to plan a resolution authoring the new Station Manager will be brought through to Council at the next Meeting scheduled for Tuesday April 1<sup>st</sup>.

Councilman Gonzalez advised he had a great Personnel Meeting yesterday where he received some good information from City Attorney Szot in regards to pothole/claims and the grants available/received to update the benches and waste receptacles to start sprucing up the City.

Councilwoman Szukala asked Director of Development Neratko for an update from the Industrial Development Agency in regards to the Marina.

Director of Development Neratko advised that in was not on the agenda so no action was taken but it is expected to be on next months agenda.

Councilwoman Szukala inquired to Public Works Director Gugino as to the status of the priority list/project scope that was to be completed from Siemens.

Public Works Director Gugino advised that he spoke to Siemens yesterday and the details should be available shortly.

Councilwoman Szukala thanked Public Works Director Gugino for taking care of some issues that she had called him about earlier in the morning and advised that her next Public Works Meeting is scheduled for March 24<sup>th</sup> at 3:00 PM in the Mayor's Conference Room.

Councilwoman-at-large Kiyak inquired to Public Works Director Gugino when a written timeline for pavement (including sealant) bidding for new work and prior year's work would be completed.

Public Works Director Gugino advised City Engineer Woodbury was compiling this information and that he should have the list shortly.

Councilwoman-at-large Kiyak asked Public Works Director Gugino for an update at the Water Treatment Plant and if the project is still on time for completion.

Public Works Director Gugino advised that as of last Wednesday the Contractors, after turning in all the required paperwork, will have 400 days to complete the contract and should begin construction shortly while finishing on time by summer 2015.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #25-2014**  
**MARCH 18, 2014**

**BY: THE ENTIRE COUNCIL**

**ENCOURAGING CHAUTAUQUA COUNTY LEGISLATION  
IN REGARD TO HYDRO-FRACKING**

**WHEREAS**, the wastewater that resurfaces from horizontal hydro-fracking operations and the brine that subsequently rises have been shown to have levels of

bromine and radium hundreds of times that permitted by U.S. drinking water standards; and

**WHEREAS**, the brine has been shown to have concentrations of dissolved solids that may easily become toxic to aquatic life and damage water treatment equipment; and

**WHEREAS**, horizontal hydro-fracking in Marcellus shale may use three to eight million gallons of fresh water within a week, with 300,000 to 800,000 gallons of wastewater per well resurfacing during the following thirty days; and

**WHEREAS**, such wastewater and brine are already being transported through parts of Chautauqua County for disposal in disused vertically-drilled wells in Pennsylvania; and

**WHEREAS**, the current moratorium on horizontal hydro-fracking in New York State may be lifted in the foreseeable future; and

**WHEREAS**, pollution of water supplies in Chautauqua County would endanger our drinking water and all agricultural production and related industries and all tourism dependent on lakes and streams; and

**WHEREAS**, such pollution has already developed elsewhere as a result of failures in the production, transport and/or disposal of the wastewater and brine in question; now, therefore, be it

**RESOLVED**, that the City of Dunkirk Common Council expresses support for County action to prevent damage to the water table, lakes, streams, wildlife, agriculture, tourism and water purification plants in our county by enacting proactive regulations to limit the withdrawing of fresh water from lakes and streams and to prohibit throughout our county the transport, disposal, sale or processing of wastewater and brine from horizontally hydro-fracked gas wells; and, in addition, the Council is enacting a citywide ban from any activity that involves the process of hydraulic horizontal fracturing drilling.

Councilwoman Szukala read the following statement:

“Horizontal Hydro fracking has become a very controversial issue. This type of fracking is not the same as the conventional vertical type of drilling. The amount of water needed in this type of drilling is significantly higher. There are approximately 600 different types of chemicals used and may of them contaminate surrounding areas of land and waterways. The structural integrity of the land is compromised in this process. I support the ban of horizontal hydro fracking at this time. It is my hope that education and extensive research will continue and this type of drilling may become much more environmentally friendly in the future. It is our job to protect our drinking water supply and the land that grows much of New York States fruits and vegetables. I’m sure we will all continue to educate ourselves and stay aware of the dangerous issues that this type of drilling is causing. I look to our County Officials to make their voices heard on this topic as well.”

Councilwoman-at-large Kiyak read the following statement:

“Horizontal gas drilling is undoubtedly the most controversial and contentious issue for residents living in NY state, as well as other parts of the country. Not to be confused with vertical fracking, which has been done for more than 50 years in NY State, horizontal fracking is

a relatively new way of extracting natural gas from the ground. It is so hotly debated by opponents due to the nature of poisonous chemicals used in the process, the enormous amount of water needed, the issues with storing the used, contaminated water, the extensive damage to road infrastructure due to the high volume of trucking traffic, and most importantly the very real potential of irreversibly contaminating our water supply. Proponents of this type of gas extraction will claim that there are regulations in place to protect the public's interest. This is simply not true. In 2005, a bill was passed that included several exemptions or exclusions for hydraulic fracturing under United States federal law. These laws range from protecting clean water and air to preventing the release of toxic substances and chemicals into the environment. Horizontal fracking is exempt from the Clean Air Act, Clean Water Act, Safe Drinking Water Act, National Environmental Policy Act, Resource Conservation and Recovery Act, Emergency Planning and Community-Right-to-Know Act, and the Comprehensive Environmental Response, Compensation and Liability Act, also known as Superfund.

Until these exemptions to these laws that protect citizens of the source of all life – fresh potable water – are restored, we cannot be guaranteed that this process will not do irreversible damage to our watershed. Without our watershed, we have no agriculture. We will lose whatever value we have in our homes, since the water supply will be tainted – if we can't drink the water, why would anyone else relocate here? If this industry is truly safe, then why are they exempt from all of the laws that protect our water and air?

Even those closely involved in the process truly understand what's at stake – the CEO of Exxon Mobil has recently joined a lawsuit to stop construction of a water tower near his home that would be used in the fracking process to drill for oil. So it's ok in our backyard, but not his?

Until this industry is compelled, by law, to comply with the Acts that have been enacted through the years to protect our water and air, then I believe we must be proactive at the local level and pass a local law that prohibits horizontal fracking, in the event the state moratorium is lifted. We have a duty to protect the environment for everyone's sake.”

Councilman Rivera thanked Councilwoman Szukala, Councilwoman-at-large Kiyak, and Ms. Amiran for their statements and showed his own support on the importance of the passing of this Resolution.

Councilman Michalski inquired to City Attorney Szot what would happen if the State lifts their ban on this process.

City Attorney Szot advised that he would have to wait and see what the State Law actually stated.

Councilman Michalski advised that he is not willing to take a chance on the chemicals being put in the ground without knowing the long-term effects and can not put a dollar amount before the environment.

Councilman Gonzalez advised that while he was once in support of the fracking for the economic benefits there are currently too many unknown factors to consider and would rather proceed with caution for the time being.

Carried, all voting aye.

**RESOLUTION #26-2014****MARCH 18, 2014****BY: THE ENTIRE COUNCIL:****AUTHORIZING BUDGET MODIFICATIONS  
(March 2014)**

**WHEREAS**, it is anticipated that some expenses will exceed their entire budgetary essentials, and it is anticipated that some appropriations will have surpluses for Fiscal Year 2014, ending December 31, 2014; now, therefore, be it

**RESOLVED**, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2014 budget:

**FUND 3**

Description: Replace 4 tires on Service Truck

<u>ACCOUNT NUMBER</u>	<u>DEPARTMENT</u>	<u>LINE</u>	<u>CHANGE</u>
003.8135.4023	Waste Water Treatment	Repair to Vehicles	\$500
003.8130.4036	Waste Water Industrial	Contracted Services	\$(500)
<b>TOTAL</b>			<b>\$ -</b>

**FUND 1**

Description: Replace Commercial Vacuum Cleaner

<u>ACCOUNT NUMBER</u>	<u>DEPARTMENT</u>	<u>LINE</u>	<u>CHANGE</u>
001.1620.2005	Building –City Hall	Equip Non-Capital	\$ 200
001.1410.4017	City Clerk Office	Central Off Supplies	\$(200)
<b>TOTAL</b>			<b>\$ -</b>

Carried, all voting aye.

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

**Adjourned at 6:03 PM****Nicole Joiner, City Clerk**

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