

**COMMON COUNCIL PROCEEDINGS**  
**July 16, 2013**

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, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Director of Development Neratko, Personnel Administrator Heyden, Police Chief Ortolano and Fire Chief Ahlstrom.

Councilwoman-at-large Kiyak excused Clerk, Board of Assessors Mleczo from tonight's meeting.

Absent: Public Works Director Gugino

Certification of July 2, 2013 meeting was read by City Clerk Lawrence.

**RESOLVED:** That the reading of the minutes of Tuesday, July 2, 2013 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Richard Makuch, 747 Deer Street, Dunkirk, New York complimented Mayor Dolce for his speech in reference to the repowering of the NRG Plant, and voiced disapproval and questioned why members of council did not get up and also speak. He also voiced his disapproval in the monies spent at the Dunkirk Free Library "when it is needed elsewhere in this City for various departments."

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

Mayor Dolce advised that the Fire Hall Project is in the starting process and 14 Request for Qualifications (RFQs) have been received by the City for review.

Mayor Dolce thanked the public for the impressive turnout yesterday at the Public Service Commission Hearing for NRG.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Petition from Naomi Gonzalez to erect a tent (20x30) in Wright Park on July 27<sup>th</sup> from Noon until closing.

Councilman Rivera inquired if all previous questions that were asked at last meeting have been addressed.

City Clerk Lawrence advised that Ms. Gonzalez and Public Works Director Gugino were in contact and he provided her with the location for the event.

Councilwoman-at-large Kiyak asked Council if all other questions that Public Works Director Gugino needed to address were answered before approval should be given.

Councilman Gonzalez advised that Public Works Director Gugino was good at explaining everything that needed to be done for approval.

Councilwoman-at-large Kiyak advised a motion 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 the premises are left in the same condition as prior to the event.

Councilwoman Szukala moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Pillar of Fire Fellowship to host a Christian Hip-hop and R&B concert in Washington Park on August 17<sup>th</sup> from 3:00 PM until 6:00 PM.

Councilwoman Szukala advised that since Public Works Director Gugino was absent and there was still time to review before the event that this petition should be pulled for clarification.

Councilwoman-at-large Kiyak asked City Clerk Lawrence if Public Works Director Gugino had been in contact with her regarding the petition.

City Clerk Lawrence advised she had not been in contact with Public Works Director Gugino but that she did speak to petitioner Hannah Wentz asking her to attend tonight's Common Council Meeting to answer any questions. She did not see her in attendance.

Councilwoman-at-large Kiyak advised a motion to table this until next meeting.

City Attorney Szot advised that this motion and previous motion are still on the table as they were not removed.

Councilwoman-at-large Kiyak advised a motion to remove this petition from the table.

Councilwoman Szukala moved to remove from table. Seconded by Councilman Michalski.

Councilwoman-at-large Kiyak advised a motion to table this motion.

Councilman Rivera moved to table this petition. Seconded by Councilman Michalski.

Carried, all voting aye

Petition from the First Ward Falcon Club to close S. Serval Street between Lake Shore Drive and Chestnut Street on August 30<sup>th</sup>, August 31<sup>st</sup> & September 1<sup>st</sup> from 5:00 PM to midnight for their annual Labor Day activities.

Councilwoman-at-large Kiyak advised a motion to approve and refer to DPW, Fire and Law Departments.

Councilman Michalski moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye

Notice of claim from Theresa Hamlet for injuries allegedly sustained due to a fall on the sidewalk of 338 Central Avenue.

Notice of claim from Kimberly Ruiz for damages to vehicle allegedly sustained due to a softball at Wright Park Little League Field.

Councilwoman-at-large Kiyak advised a motion to refer this to the City Attorney.

Councilwoman Szukala moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Loudspeaker application from Pillar of Fire Fellowship to use a sound system in Washington Park on August 17<sup>th</sup> from 3:00 PM until 6:00 PM.

Councilwoman-at-large Kiyak advised a motion to table this application.

Councilwoman Szukala moved to table this application. Seconded by Councilman Rivera.

City Attorney Szot advised council that this should not be tabled as permits like this have been being approved by the City for years.

Councilwoman-at-large Kiyak advised that there was still no signature of approval from Public Works Director Gugino.

City Attorney Szot advised that since Public Works Director Gugino is not in attendance, objections should only come from the Council or Police Chief Ortolano.

Mayor Dolce advised that a similar event happened on the 4<sup>th</sup> of July and while the City may not like the situation, there is no reason to not approve.

Councilwoman Szukala advised her concern of not having the support of the DPW.

City Attorney Szot advised that the Council would be approving just the loudspeaker permit, not the event itself.

Councilwoman Szukala advised that she wanted to make sure the DPW was aware that there will be an event there that day and that Public Works Director Gugino had no concerns about manpower.

Mayor Dolce advised he believed the issue was not with manpower but with the music.

Loudspeaker application from the First Ward Falcon Club for live music on August 30<sup>th</sup>, August 31<sup>st</sup> & September 1<sup>st</sup> from 5:00 PM to midnight for their annual Labor Day Street Dance.

Councilwoman-at-large advised a motion to approve both loudspeaker requests.

Councilwoman Szukala moved to approve these applications. Seconded by Councilman Gonzalez.

Carried, all voting aye.

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

Councilman Michalski thanked the residents for the impressive showing at the Public Service Commission Hearing for NRG and also thanked Mayor Dolce for his speech. He was also pleased to see other Department Heads from the City in attendance.

Councilman Michalski advised that after the Finance Committee Meeting last week an email was sent out to the Department Heads reminding of the City's Procurement Policy. This reiterated the proper method of getting/receiving quotes and the steps for any Resolutions that pertain to receiving or expending funds.

Councilman Rivera apologized for not being able to attend the Public Service Commission Hearing for NRG but stated that he did help put out signs across the city.

Councilman Rivera advised that the next Personnel Meeting will be held on Tuesday, August 6<sup>th</sup>, 2013 at 4:00 PM in the Mayor's Conference Room.

Councilman Rivera thanked Mr. Makuch for his comments and advised that he will reach out to him and address his concerns.

Councilman Gonzalez expressed thanks to Mayor Dolce and Assemblyman Goodell for their speeches at the Public Service Commission Hearing for NRG.

Councilman Gonzalez advised that the next Public Works Meeting is scheduled for Tuesday, August 6<sup>th</sup>, 2013 at 11:00am in the Conference Room.

Councilwoman Szukala advised that while she did not get up to speak at the Public Service Commission hearing, both she and Councilwoman-at-large Kiyak were in attendance. They chose not to speak as she felt it was the residents turn for their voices to be heard.

Councilwoman Szukala advised that the next Public Safety Meeting will be held on Tuesday, July 23<sup>rd</sup>, 2013 at 1:30pm in the Conference Room.

Councilwoman Szukala inquired about the payment status of Harry Sicherman. He has received his allotted amount set forth by Resolution.

Mayor Dolce advised that Director of Development Neratko has been working to arrange a conference call. Since Mr. Sicherman is out of town, no formal plan is set in place at the moment.

Councilwoman Szukala asked Mayor Dolce the status of contract negotiations in regards to the two Unions remaining.

Mayor Dolce advised that he has not had much cooperation from one of the two Unions.

Councilwoman Szukala asked Building Inspector Zurawski about a zoning situation and a letter that one of the 4<sup>th</sup> Ward residents brought to her attention.

Building Inspector Zurawski stated he will review but feels it should remain the same.

Councilwoman Szukala advised that she hopes to meet with Building Inspector Zurawski and City Attorney Szot to go over this and help advise the resident how to proceed.

Councilwoman-at-large Kiyak advised “Last night I attended the NRG Repowering Hearing with Councilwoman Szukala that was held at the Williams Center at SUNY Fredonia. It was wonderful to see such a huge turnout from the community, and that over 80 residents waited for their turn to speak on the issue. Council has submitted a letter to the Public Service Commission, which I intended to read last night, but decided that it was more important that the PSC hear directly from the residents. So I’d like to take this time to read our letter for the record:

On behalf of the City of Dunkirk Common Council, we would respectfully submit that the Commission endorse and approve the NRG “re-powering” proposal for the City of Dunkirk generating facility.

The benefits of the NRG proposal are significant, for local residents and taxpayers, for businesses and industries, for electric consumers across the region and for the environment.

As the Commission is aware, the National Grid proposal relies significantly on out-of-state coal-generated electricity. The future uncertainties of the availability and costs for production/transmission of such electricity, subject to a myriad of regulatory authorities, should place the National Grid proposal under increased scrutiny. The variables that are out of National Grid’s control make their proposal substantially more suspect than those of NRG’s re-powering design, which has so many more local, regional and state benefits than does the National Grid counter-proposal.

We appreciate the Commission taking the time and effort to provide a local venue for the public statement hearing. We trust that the evidence and testimony that will be received at the hearing will provide sound and rational basis for the Commission to endorse NRG’s re-powering.

Thank you for your kind attention and consideration.”

Councilwoman-at-large Kiyak advised that the letter was signed by all 5 members of Council and a copy was also submitted to the Observer.

Councilwoman-at-large Kiyak asked Mayor Dolce if the City was represented by Cable Access Channel at the Public Service Commission Hearing for NRG as well as the 4<sup>th</sup> of July festivities.

Mayor Dolce advised that the V3 broadcasted live all 5 ½ hours of the PSC Hearing but did not record anything from the 4<sup>th</sup> of July.

Councilwoman-at-large Kiyak asked Director of Development Neratko what the progress is for the CDBG 1 and 5-year resubmittal.

Director of Development Neratko advised that the Department had its Public Hearing a few weeks ago and that a plan is in place. He is asking for comments in writing prior to July 26<sup>th</sup>. Once that is complete they will submit their plans to HUD by August 1<sup>st</sup>.

Police Chief Ortolano thanked DPW, Fire Police, and his Officers for their help with the Firework Festivities, and commended Mayor Dolce for putting on a good show.

**UNFINISHED BUSINESS:**

**RESOLUTION #42-2013**  
**JULY 2, 2013**

**BY COUNCILMEN MICHALSKI and RIVERA**

**AUTHORIZING CITY OF DUNKIRK LOCAL SHARE (2013)**  
**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 (\$.50 *per capita*) 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 (2013) for the Chadwick Bay Regional Development Corporation in the amount of \$6,281.50.

Councilman Rivera made a motion to take this Resolution off the table. No Second.

Councilwoman-at-large Kiyak advised that without a second motion, this resolution will remain on the table.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #44-2013**  
**JULY 16, 2012**

**BY: COUNCILWOMAN SZUKALA**

**AUTHORIZING CHANGE FOR  
FIRST AUGUST 2013 COMMON COUNCIL MEETING**

**WHEREAS**, the Common Council wishes to change the date of their first meeting in August, and

**WHEREAS**, the Tuesday, August 6<sup>th</sup> meeting will be changed to Monday, August 5<sup>th</sup> in order to enable participation in the **National Night Out** program, now, therefore, be it

**RESOLVED**, that the August 6, 2013 Common Council Meeting shall be re-scheduled to August 5, 2013, in order to enable participation in the **National Night Out** program, with the pre-file date to be Wednesday, July 31, 2013.

Carried, all voting aye.

**RESOLUTION #45-2013**  
**JULY 16, 2013**

**BY: THE ENTIRE COUNCIL**

**AUTHORIZING SHARED SERVICES AGREEMENT EXTENSION  
FOR POLICE SERVICES  
(TOWN OF DUNKIRK)**

**WHEREAS**, the City of Dunkirk, by Resolution No. 68-2012 (August 6, 2012), and the Town of Dunkirk entered in to a shared services agreement for certain police services, which was extended by Resolution No. 117-2012 (December 2012); and

**WHEREAS**, the City and Town desire to extend the mutually-beneficial agreement through 2014; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized and directed to execute any and all documents necessary for a shared services agreement with the Town of Dunkirk for police services, from July 1, 2013 through December 31, 2014, at a cost of One Thousand Six Hundred Dollars and Zero Cents (\$1,600.00) per

month for July-December, 2013 and One Thousand Seven Hundred Dollars and Zero Cents (\$1,700.00) per month for January-December, 2014.

Carried, all voting aye.

**RESOLUTION #46-2013**  
**JULY 16, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZE AGREEMENT FOR INDEPENDENT CONTRACTOR  
(Housing, Building & Zoning Enforcement Department)**

**WHEREAS**, the City of Dunkirk, through its Housing, Building & Zoning Enforcement Department (the "Department") has a need for assistance with various projects; and

**WHEREAS**, it would be in the best interest of the City to contract for such services; and

**WHEREAS**, Wendy Spinuzza is ready, willing and able to provide such services as an independent contractor for the City, and in a good and workmanlike manner; now, therefore, be it

**RESOLVED**, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of **WENDY SPINUZZA**, 175 Eagle Street, Fredonia, New York 14063, as an independent contractor to provide independent contracting services and assistance with various projects commencing August 1, 2013, and extending through September 30, 2013, with payment of Seventeen Dollars and Fifty Cents (\$17.50) per hour up to thirty-five (35) hours per week, contingent upon such being made available, with such funds drawn from Account No. 001-3620-4440.

Councilwoman-at-large Kiyak advised that there was a clerical error in the account number and it should read 001-3620-4036.

**RESOLUTION #46-2013**  
**JULY 16, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZE AGREEMENT FOR INDEPENDENT CONTRACTOR  
(Housing, Building & Zoning Enforcement Department)**

**WHEREAS**, the City of Dunkirk, through its Housing, Building & Zoning Enforcement Department (the "Department") has a need for assistance with various projects; and

**WHEREAS**, it would be in the best interest of the City to contract for such services; and

**WHEREAS**, Wendy Spinuzza is ready, willing and able to provide such services as an independent contractor for the City, and in a good and workmanlike manner; now, therefore, be it

**RESOLVED**, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of **WENDY SPINUZZA**, 175 Eagle Street, Fredonia, New York 14063, as an independent contractor to provide independent contracting services and assistance with various projects commencing August 1, 2013, and extending through September 30, 2013, with payment of Seventeen Dollars and Fifty Cents (\$17.50) per hour up to thirty-five (35) hours per week, contingent upon such being made available, with such funds drawn from Account No. 001-3620-4036.

Carried, all voting aye.

**RESOLUTION #47-2013**  
**JULY 16, 2013**

**BY COUNCILWOMAN SZUKALA:**

**AUTHORIZING SHARED SERVICES AGREEMENT FOR FIREARM SAFE-KEEPING  
(VILLAGE OF SILVER CREEK)**

**WHEREAS**, the Village of Silver Creek (Village) no longer actively maintains a local police department, with primary law enforcement duties being fulfilled by the Sheriff of the County of Chautauqua; and

**WHEREAS**, the Village desires, in the interest of public safety, to have certain firearms which the Village owns stored in a safe and secure location; and

**WHEREAS**, the City of Dunkirk and its municipal Police Department has available and adequate space for the safe and secure storage of such firearms for the Village; and

**WHEREAS**, under Article 5-G of the General Municipal Law of the State of New York, both the City and Village are authorized to enter into a municipal cooperation agreement; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized and directed to execute any and all documents necessary for a shared services agreement with the Village of Silver Creek, New York, for the temporary storage and safe-keeping of certain firearms owned by the Village.

Councilman Michalski asked Police Chief Ortolano how many items would be stored along with the value of the firearms should anything become damaged or stolen for insurance purposes.

Police Chief Ortolano advised that he does not have the exact number.

City Attorney Szot advised that inventory will be taken and the Village will indemnify the City against any and all damaged/losses for their firearms.

Councilman Gonzalez inquired to the inventory of the firearms.

Police Chief Ortolano advised that he has been in contact with City Attorney Szot and stated that all firearms will be inventoried when brought in and that he will have not have access to the firearm safe.

Carried, all voting aye.

**RESOLUTION #48-2013**  
**JULY 16, 2013**

**BY COUNCILWOMAN SZUKALA:**

**SUBMISSION OF FY 2013 CDBG ANNUAL ACTION PLAN (Amended) TO HUD**

**WHEREAS**, the City of Dunkirk receives funding each year from the United States Department of Housing and Urban Development (HUD) through the Community Development Block Grant (CDBG) program; and

**WHEREAS**, the City develops an *Annual Action Plan* each year which identifies and further describes the City's anticipated allocation of CDBG funds to various programs and activities for the next fiscal year; and

**WHEREAS**, by Resolution No. 11-2013 (February 5, 2013), this Council approved submission to HUD a FY 2013 CDBG Annual Action Plan which has been amended; and

**WHEREAS**, according to the City's approved CDBG Citizen Participation Plan, the City's proposed allocations have been presented to the public and interested elected representatives via three public meetings, two technical assistance sessions, and a thirty-day public review and comment period has been afforded City residents; now, therefore, be it

**RESOLVED**, the following activities have been included in the 2013 Annual Action Plan (amended) submitted to the public pursuant to the City's Citizen Participation Plan for review and are to be submitted to HUD for its approval.

<b>Public Facilities/ Infrastructure Improvements</b>				
	Infrastructure		\$ 169,925.00	\$ 179,925.00
	Sr Ctr Repairs		\$ 10,000.00	

<b>Housing</b>	Housing	\$ 132,500.00	\$ 132,500.00
<b>Other</b>	Demolition	\$ 77,500.00	\$ 77,500.00
<b>Public Service</b>	Meals On Wheels	\$ 6,000.00	\$ 6,000.00
<b>Admin/Planning</b>	Administration	\$ 90,000.00	\$ 90,000.00
<b>Total</b>			<b>\$ 485,925.00</b>

Councilwoman-at-large Kiyak asked Director of Development Neratko to verify where the additional monies were distributed.

Director of Development Neratko advised that they made some changes but the majority of extra funds went to Infrastructure Improvements.

Carried, all voting aye.

**RESOLUTION #49-2013**  
**JULY 16, 2013**

**BY COUNCILWOMAN SZUKALA:**

**AUTHORIZING A FIVE YEAR CONSOLIDATED PLAN (Amended) TO HUD**

**WHEREAS**, the City of Dunkirk is required to submit a Consolidated Plan to HUD every five years laying out proposed activities to address a variety of community needs; and

**WHEREAS**, by Resolution No. 10-2013 (February 5, 2013), this Council authorized submission of the City's 2013-2018 Consolidated Plan to HUD, which has been amended; and

**WHEREAS**, the City conducted a series of community meetings and focus groups to assess those needs and gather information on how to address community needs, now, therefore, be it

**RESOLVED**, that the Common Council hereby authorizes the Mayor to submit the 2013-2018 Consolidated Plan (Amended) to HUD.

Carried, all voting aye.

**RESOLUTION #50-2013**  
**JULY 16, 2013**

**BY COUNCILMEN MICHALSKI, RIVERA, GONZALEZ:**

**SUPPORT FOR REGIONAL WATER DISTRICT**

**WHEREAS**, Governor Andrew Cuomo, as part of his strategy to jumpstart New York State's economy and create jobs, has created ten Regional Economic Development Councils; and

**WHEREAS**, as part of the Regional Economic Development strategy, a unified funding process, the Consolidated Funding Application, has been developed and made available to distribute grant funds for job creation and regionally significant economic development projects; and

**WHEREAS**, in 2008 a comprehensive municipal water supply needs assessment was conducted by the Chautauqua County Department of Health for all the northern Chautauqua County communities (except for the Village of Silver Creek and the Town of Hanover), which found that immediate improvements are needed at the water filtration plants and storage and distribution facilities in every one of the region's communities; and

**WHEREAS**, in a 2010 Regional Water Feasibility Report and subsequent updates, funded by the Chadwick Bay Regional Development Corporation and contributions from the seven participating municipalities (not including the Village of Silver Creek and the Town of Hanover), it was determined that future upgrades to the region's water treatment plants and major storage and transmission lines to be in excess of \$70 million, if pursued separately by each community; and

**WHEREAS**, the 2010 Regional Water Feasibility Report estimated a regional water approach to delivering water service to the area, including expanded service to the Village of Silver Creek and the Town of Hanover, could reduce the costs of needed improvements, by an estimated \$32 million to \$35 million; and

**WHEREAS**, the combined northern Chautauqua municipalities supply water to approximately 43,000 residential users and a unique cluster of commercial tourist related industries, major Western New York food processors, and colleges, all whom are large water users with a combined direct labor workforce of over 5,000 employees, and who have repeatedly stressed the critical need for a stable, cost effective and reliable supply of water to ensure their continued presence and, in some cases, possible expansion in the area in the future; and

**WHEREAS**, the delivery of safe, dependable, good quality water is vital to the economy of northern Chautauqua County, and will support agricultural producers and agricultural-related and supporting industries throughout Western New York; and

**WHEREAS**, after much deliberation, the City of Dunkirk Common Council has determined it is advantageous to join together, with the assistance of Chautauqua County, to seek to create a northern Chautauqua County regional county water district; now, therefore, be it

**RESOLVED**, that the City of Dunkirk hereby supports the County of Chautauqua as the lead applicant to submit a grant application, on behalf of the County of Chautauqua and the northern Chautauqua County communities, in the

amount of \$38 million to the New York State Consolidated Funding Application of the Western New York Regional Economic Development Council for the purpose of exploring the establishment of a northern Chautauqua County regional water district, and it is further

**RESOLVED**, that the City Clerk is hereby authorized and directed to forward a certified copy of this adopted resolution to the Office of the Chautauqua County Executive and the Clerk of the Chautauqua County Legislature.

Councilman Michalaski asked if there was a deadline for the application.

Director of Development Neratko advised that the application is due by August 12<sup>th</sup>.

Councilman Gonzalez advised that there is still time for the Resolution to be reviewed once more before a decision has to be made.

Councilwoman Szukala advised that she still had concerns and unanswered questions she would like answered before proceeding and would like to see it tabled for further discussion.

Councilwoman Szukala motioned to table this Resolution. Seconded by Councilman Rivera.

Carried, all voting aye.

Councilwoman Szukala motioned to meet in Executive Session to discuss the employment history of a particular person or matter leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person, it is expected that no new business will be taken after the Executive Session concludes. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Executive Session called to order at 6:02 PM.

Councilwoman Szukala moved to adjourn the Executive Session at 6:29 PM and reconvene to the regular Council Meeting. Seconded by Councilman Rivera.

Carried, all voting aye.

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Rivera.

Carried, all voting aye.

**Adjourned at 6:30 PM**

**Lacy Lawrence, City Clerk**

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