

COMMON COUNCIL PROCEEDINGS**June 16, 2015**

The meeting was called to order at 5:30 PM by Councilman-at-large Rosas followed by the Pledge of Allegiance.

Present: Councilmen Michalski, Rivera, Gonzalez, Councilwoman Szukala and Councilman-at-large Rosas.

Also present: Mayor Dolce, City Attorney Szot, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Director of Development Neratko, Clerk, Board of Assessors Mleczo, Personnel Administrator Heyden, Recreational Program Coordinator Gornikiewicz, Fire Chief Edwards and Police Chief Ortolano.

Excused: Public Works Director Gugino

Certification of Tuesday June 02, 2015 meeting was read by City Clerk Joiner.

RESOLVED: That the reading of the minutes of Tuesday, June 02, 2015 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Walter Rutland, 184 West Second Street, Dunkirk, thanked everyone who attended the Juneteenth Celebration, advised he would like to see local businesses provide summer jobs to the kids in the community and congratulated Mayor Dolce, Police Chief Ortolano, Fire Chief Edwards, Council and City Clerk Joiner on doing an excellent job in the City.

Edziu Kaus, 396 Lake Shore Drive East and Vice President of the Sons of Liberty, advised Council of a Motorcycle Run as well as a chicken barbeque and live music to benefit the Dunkirk Disabled American Veterans to be held at the Post 1017 VFW and apologized to Council for not submitting the correct paperwork before today's meeting.

City Clerk Joiner advised Mr. Kaus to stop by the City Clerk's Office tomorrow morning to fill out the appropriate forms needed.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Communication appointing Joe Carrus and Donna Brisky to the Dunkirk Housing Authority Board.

Received and filed.

Mayor Dolce advised that there is still one more opening left for the Housing Authority and thanked City Engineer Woodbury for his work on the emergency seawall repair as it has been completed and came in under budget.

Mayor Dolce advised that there will be a meeting Thursday with Dr. Reinelt to go over issues with the Water Agency and that they are “just about there” with live programming for Cable Access 12.

Mayor Dolce thanked Police Chief Ortolano and the Streets Department for their work on getting the stop signs up at Millennium Parkway and Lincoln Avenue as well as Building Inspector Zurawski, Director of Development Neratko and CDBG Administrator Gawronski for their work with the Land Bank properties demolition.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Request from Tim Gornikiewicz, Youth and Recreation Program Coordinator, to use city picnic tables, trash cans, trash bags and electronic police sign on Thursday, June 25th at 9:00 AM for the 14th Annual Senior Sweep Program.

Councilman-at-large Rosas advised a motion was needed to refer to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

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

Carried, all voting aye.

Loudspeaker application from Henry Hooten, Sr. for a band at 212 Webster Road on July 3rd from 8:00 PM until 10:00 PM.

Loudspeaker application from Apostolic House of Prayer Church for PA system and other musical instruments at 212 Park Avenue on August 30th from 5:00 PM until 8:30 PM for their annual Family & Friends Day.

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

Carried, all voting aye.

Notice of claim from Howard Falco for damages allegedly sustained to his vehicle while driving on Franklin Avenue.

Notice of claim from Andrea Diaz for damages allegedly sustained to her vehicle while driving on Franklin Avenue.

Councilman Gonzalez made a motion to refer to the Law Department. Seconded by Councilman Rivera.

Carried, all voting aye.

Notice of Summons from Jonie Lasecki.

Councilman Rivera made a motion to refer to the Law Department. Seconded by Councilman Michalski.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised that at last week's Finance Committee Meeting City Officials met with City auditor firm Johnson & Mackowiak, will be scheduling a meeting in early July to review the City's shortfalls as well as how to address these issues moving forward and inquired to City Treasurer Woods if the property at 209 Lake Shore Drive was still able to dispose of trash as he has seen garbage in front of the property.

City Treasurer Woods advised that they are currently still able to dispose of the garbage.

Councilman Rivera thanked Public Works Director Gugino and City Engineer Woodbury for the work on the seawall behind the Water Treatment Plant as he has received positive feedback on it and Police Chief Ortolano for his work on getting the stop signs placed on Millennium Parkway.

Councilman Rivera advised that he hopes to see the 4 houses currently getting demolished down by the next meeting with the process for the next 8 to be faster than the previous 4 and thanked Mayor Dolce for his work with Cable Access 12's live programming.

Councilman Gonzalez advised that he will have a Personnel Meeting next month, is glad the emergency seawall repair is complete and apologized to the Juneteenth Committee for missing their celebration as he was out of town.

Councilwoman Szukala thanked Police Chief Ortolano and the DPD as well as Fire Chief Edwards and his Department for their hard work in regards to recent drug busts and house fires and inquired to Director of Development Neratko for an update on the Wright Park Amenities Grant.

Director of Development Neratko advised that he was working on getting the contract approved by the State as he had to get additional information, has not received any notifications of any issues with the Grant, has been in contact with the appropriate departments and hopes to get a contract soon.

Councilwoman Szukala read a prepared statement on behalf of the Dunkirk Library:

"Thank you for the opportunity to speak with you tonight about the Dunkirk Library's District Initiative.

The Library has spent the last few months educating the public through public presentations to community groups, a website dedicated to the initiative and mailings that clearly spell out what we're trying to accomplish.

In a nutshell, the voters of the school district will decide whether or not to create a library district. The new district would serve the same community the library presently serves—the school district. We are not joining the school district. The Library would have a separately elected board of trustees and our governance and operations would be totally separate. That's the way state education law spells it out.

As you know, the Library has lost 25% of its City funding since 2011. We understand we're just one of many competing financial priorities for the City—you provide the bulk of the Library's funding. We only receive \$10,250 from the Town of Dunkirk and nothing from the Town of Sheridan. Our goal is to be financially independent of the City and no longer a burden to you.

Yes, we're asking for more money than we presently receive. We're asking for what we need in order to provide the level of library programs and services the community wants and needs. Right now, our operation is bare bones. We've cut 208 open hours. More times than not, we only have one person working the desk. We've cut maintenance staff. We've reduced computer classes and other programming. And, our new materials budget is practically non-existent.

Creating a district will mean the library will be financially secure and sustainable. We'll be able to do so much more for the people you serve and the rest of the school district. With stable funding, we'll be able to

- Increase open hours
- Create new and enhance existing children's programming
- Increase adult programming including computer classes and establish a Book Club as well as a Crafting Club
- Increase new materials budget for books, magazines, DVDs and audio books
- Enhance staffing to develop computer classes, community outreach and other new programming and services

The Library will be able to create a strong partnership with the schools to help our children thrive. We'll have new resources for job search and small business development. We'll be a partner in helping you revitalize downtown and the rest of the City."

Councilman-at-Large Rosas inquired to Director of Development Neratko about the Wright Park Amenities Grant and inquired to Mayor Dolce for an update on a scale needed at the Waste Water Treatment Plant as well as the dollar amount the emergency seawall repair was under budget.

Director of Development Neratko advised that the original target date was for the end of this summer and explained that the grant process is taking longer than anticipated as well as details involved with the grant process.

Mayor Dolce advised that the emergency seawall repairs were approximately \$15,000 under budget and that they are in the process of purchasing a new scale for the WWTP that will cost at least \$5,000 but not to exceed \$10,000.

Councilman-at-large Rosas inquired as to if the water rates, which have already increased once this year, will be going up again to cover the remaining Consent Order.

City Attorney Szot advised that once the money needed to finish the WTP Consent Order is known then the proposed dollar amount would need to be bonded and the money to pay the bond back would come most likely in another increase in fees.

City Treasurer Woods advised that there has been rate increases in January of 2014 and 2015 and would not expect to see another until at least January 2016 or soon after.

Councilman-at-large Rosas advised that there is a Water District Meeting scheduled for Thursday and is optimistic that any issues can be resolved and inquired to Mayor Dolce for an update with the CDBG/COI Funds that the City will be utilizing.

Mayor Dolce advised that the approximately \$200,000 in CDBG Funds that the City will be taking back from COI's unutilized contract dollars is being proposed for infrastructure improvements such as waterline, drainage and street repairs and will be up for public comment.

Director of Development Neratko advised that a Public Hearing will be scheduled in regards to the COI Funds, Colburn Block work has to be completed by the end of July, is currently looking to apply for an additional NYS Main Street Grant and there will be a community meeting to discuss possible target areas.

Councilman-at-large Rosas thanked Police Chief Ortolano for his work on the stop sign at Millennium Parkway and Lincoln Avenue.

UNFINISHED BUSINESS:

RESOLUTION #41-2015
JUNE 2, 2015

BY: THE ENTIRE COUNCIL

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK: (1) ISSUING A NEGATIVE DECLARATION WITH RESPECT TO APPROVING DISPOSITION OF CERTAIN REALTY; (2) APPROVING THE DISPOSITION OF CERTAIN REALTY; (3) APPROVING THE FORMATION OF A LOCAL DEVELOPMENT CORPORATION UNDER SECTION 1411 OF NEW YORK NOT-FOR-PROFIT CORPORATION LAW TO HOLD TITLE TO SAID REALTY

WHEREAS, pursuant to Section 1411(a) of the New York Not-for-Profit Corporation Law (the "Act"), the City of Dunkirk (the "City") is empowered to establish a local development corporation (the "Corporation") for charitable and public purposes, as identified in the Act, including: (i) relieving and reducing unemployment; (ii) promoting and providing for additional and maximum employment; (iii) bettering and maintaining job opportunities; (iv) assisting individuals to improve or develop their capabilities for such jobs; and (v) lessening the burdens of government and acting in the public interest; and

WHEREAS, the Act also authorizes the legislative body of the City, by resolution, to determine that certain real property of the City, not required for use by the City, may be sold or leased to a not-for-profit local development corporation, as described above, for purposes that include lessening the burdens of government and acting in the public interest; and

WHEREAS, Section 1411(d) of the Act further provides that the sale or lease may be on such terms as may be agreed upon by the City and a local development corporation, without appraisal or public bidding; and

WHEREAS, the City desires to facilitate the rehabilitation and redevelopment of certain real property owned by the City located at 66-80 Lake Shore Drive East and 5-15 Deer Street, Dunkirk, New York, as more accurately described on Schedule A attached hereto (the "Development Property"), for use by retail, commercial, and/or industrial businesses and to promote and provide for additional and maximum employment opportunities consistent with the Act (the "Project"); and

WHEREAS, the City does not desire to involve itself directly in the redevelopment and/or remediation of the Development Property but rather is willing to make the Development Property available for the Project, through a Corporation formed under Section 1411(a) of the Act; and

WHEREAS, the Act authorizes the Common Council of the City of Dunkirk (the "Common Council") to form the Corporation, with the City acting as the sole member thereof, by and through the Mayor of the City, such that activities of the Corporation, permitted pursuant to the Act, are through an entity which is separate and distinct from the City, and a bankruptcy remote entity, for the exclusive purposes of acquiring an interest in the Development Property from the City and undertaking activities permitted by the Act; and

WHEREAS, it is contemplated that the City will transfer the Development Property to the Corporation (the "Action") for the Project; and

WHEREAS, the City has caused an Environmental Assessment Form (the "EAF") to be prepared; and

WHEREAS, the City has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation and accordingly does not require a coordinated review; and

WHEREAS, the City has reviewed the EAF, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects; and

WHEREAS, prior to the City conveying the Development Property to the Corporation, pursuant to Section 1411(d) of the Act, a public hearing on ten days' notice is required to be conducted by the City Council prior to the adoption of a resolution authorizing any such sale or lease.

NOW, THEREFORE, BE IT RESOLVED, that the City hereby determines that the Development Property is not required for use by the City; and, be it further

RESOLVED, that the Action entails merely the future transfer of the Development Property to a Corporation, as described herein, and that the transfer of the Development Property to the Corporation will only occur at the point in time when the Corporation undertakes all applicable real property disposition procedures as required under the Act and by New York State Law, including a request for proposal process, a preferred developer is identified, and the preferred developer obtains any and all necessary approvals to develop the Development Property, such that the Action contemplated herein will not adversely affect any water body nor result in any significant adverse impact to existing air quality from the Action, there will be no substantial adverse environmental impacts to plants and animals from the Action, the Action will not cause a significant adverse affect on aesthetic resources in the area, the Action will not adversely impact any site or structure of historic, prehistoric or paleontological importance, the Action will not entail any adverse impact on transportation, and there will be no adverse impact from the Action or on the growth and character of the community or neighborhood; and, be it further

RESOLVED, that the City hereby determines, for the foregoing reasons, that the Action will not have a significant potential adverse environmental impact in accordance with New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law, including pursuant to the implementing regulations found at 6 N.Y.C.R.R. Part 617, and accordingly, does issue a negative declaration; and, be it further

RESOLVED, that the City hereby determines that the involvement of a Corporation as permitted by the Act and the Corporation's undertaking of the Project and the transfer of the Development Property from the City to the Corporation will relieve the burdens of government and are consistent with and in furtherance of the public purposes and powers set forth within the Act, and, be it further

RESOLVED, that the formation of the Corporation pursuant to the Act is hereby approved and that the City shall serve as the sole member of the Corporation, acting by and through the Mayor of the City; and, be it further

RESOLVED, that the City hereby appoints the following individuals to serve as Directors of the Corporation:

1. Anthony J. Dolce, City Mayor, *ex officio*
2. Willie Rosas, Councilman-at-large, *ex officious*
3. Steven Neratko, Director of Development, *ex officio*

And, be it further

RESOLVED, that the Mayor, or the Mayor's designee, in consultation with the City Attorney, is authorized to execute or cause to be executed the filing of a Certificate of Incorporation for the Corporation; and, be it further

RESOLVED, that the Directors and Officers of the Corporation be, and the same hereby are, authorized, empowered and directed to do all things and acts and to execute all documents as may be necessary or advisable and proper to carry on the business of the Corporation; and, be it further

RESOLVED, that, in accordance with Section 1411(d)(3) of the Act, and prior to finally authorizing the conveyance of the Development Property to the Corporation as contemplated herein, the City Clerk is hereby authorized to undertake the publication of a notice of a public hearing to consider the proposed sale, such notice to be published in the City's official newspaper at least 10 days prior to the date upon which the Common Council shall convene again and provide final authorization of the sale of the Development Property to the Corporation; and, be it further

RESOLVED, that these resolutions shall take effect immediately.

Appendix A - Resolution No. 41-2015

ALL THAT TRACT OR PARCEL OF LAND, SITUATE IN THE CITY OF DUNKIRK, COUNTY OF CHAUTAUQUA, STATE OF NEW YORK, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF DEER STREET WITH THE NORTH LINE OF LAKE SHORE DRIVE EAST,

THENCE NORTH ALONG THE WEST LINE OF DEER STREET AND ITS EXTENSION NORTH, A DISTANCE OF 379.70 FEET TO THE NORTH LINE OF DEER STREET;

THENCE WEST ALONG THE NORTH LINE OF DEER STREET, THE NORTH LINE OF LANDS CONVEYED TO BARONE AND STEGER BY DEED RECORDED IN THE CHAUTAUQUA COUNTY CLERK'S OFFICE IN LIBER 823 AT PAGE 487, THE NORTH LINE OF LANDS CONVEYED TO KAZMIERSKI BY DEED RECORDED IN THE CHAUTAUQUA COUNTY CLERK'S OFFICE IN LIBER 494 AT PAGE 157 AND THE NORTH LINE OF SAMMARTINO BY DEED RECORDED IN THE CHAUTAUQUA COUNTY CLERK'S OFFICE IN LIBER 242 AT PAGE 433, SAID LINE ALSO BEING PARALLEL WITH THE NORTH LINE OF LAKE SHORE DRIVE EAST, A DISTANCE OF 260.89 FEET TO THE WEST LINE OF SAMMARTINO AS RECORDED IN THE CHAUTAUQUA COUNTY CLERK'S OFFICE IN LIBER 242 AT PAGE 433;

THENCE SOUTH ALONG THE WEST LINE OF SAID LANDS OF SAMMARTINO, A DISTANCE OF 379.70 FEET TO SOUTHWEST CORNER OF SAID LANDS OF SAMMARTINO, SAID CORNER ALSO BEING THE SOUTHEAST CORNER OF LANDS CONVEYED TO THE CITY OF DUNKIRK IDA BY DEED RECORDED IN THE CHAUTAUQUA COUNTY CLERKS OFFICE IN LIBER 2191, PAGE 232, SAID CORNER ALSO BEING ON THE NORTH LINE OF LAKE SHORE DRIVE EAST;

THENCE EAST ALONG THE NORTH LINE OF LAKE SHORE DRIVE EAST, A DISTANCE OF 260.89 FEET TO THE POINT OR PLACE OF BEGINNING.

Councilwoman Szukala made a motion to remove Resolution #41-2015 from the table. Seconded by Councilman Michalski.

Vote to remove Resolution #41-2015 from table:

Ayes: Councilman Michalski, Councilman Rivera, Councilwoman Szukala and Councilman-at-large Rosas

No: Councilman Gonzalez

Carried, 4-1. REMOVED.

Councilman-at-large Rosas advised he does not agree with the entire Resolution as it is written so he will not support it as this is the last piece of prime property and feels the board should be made up of people who answer to the residents who should be made aware of anything that would possibly be built there.

Councilman Gonzalez advised he does not have confidence in this and will be voting no.

Councilwoman Szukala advised that everyone has worked tirelessly to be on the same page and is all for progress and development but feels that it is not right to proceed with this at this time as Council only has one chance to get this right.

Councilman Rivera advised that this is a very big task to take on and would like to see more public opinion on what residents would like to see at the site.

Councilman Michalski advised that he was in favor of this as all questions were made clear at the last meeting and that this is a vehicle used to establish and determine a future project by establishing an LDC.

Director of Development Neratko explained the 2 legal avenues that would allow the city to relinquish control of the property.

Discussion was had between Council Members, Mayor Dolce, City Attorney Szot and Director of Development Neratko in regards to the legalities of how the property became owned by the city as well as details and opinions on this Resolution.

Vote on Resolution:

Ayes: Councilman Michalski, Councilman Rivera.

No: Councilman Gonzalez, Councilwoman Szukala, Councilman-at-large Rosas.

Resolution DEFEATED, 2-3.

PRE-FILED RESOLUTIONS:

RESOLUTION #42-2015

JUNE 16, 2015

BY: THE ENTIRE COUNCIL:

**AUTHORIZING AGREEMENT FOR INDEPENDENT CONTRACTOR
(ANIMAL CONTROL OFFICER)**

WHEREAS, the City of Dunkirk requires from time to time the services of an Animal Control Officer; and

WHEREAS, Steven A. Purol, has been appropriately providing such services for the City and is ready, willing and able to continue providing such services on an Independent Contractor basis, in a good and workmanlike manner; now, therefore, be it

RESOLVED, that the Mayor is hereby directed and authorized to execute an independent contractor agreement with **Steven A. Purol, 17 University Park, Fredonia, New York 14063**, for Animal Control Officer and certain parking enforcement services, effective July 1, 2015 through June 30, 2016, for Twenty-Four Thousand Dollars and Zero Cents (\$24,000.00), payable at the rate of Two Thousand Dollars and Zero Cents (\$2,000.00) per month, with fuel reimbursement up to Eight Hundred Dollars and Zero Cents (\$800.00) per year.

Carried, all voting aye.

RESOLUTION #43-2015

JUNE 16, 2015

BY: THE ENTIRE COUNCIL

**AUTHORIZING BUDGET MODIFICATIONS
(June 2015)**

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 2015, ending December 31, 2015; now, therefore, be it

RESOLVED, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2015 budget:

Fund 1

Account No.	Department	Line	Change
001.1325.4002	Treasury	Supplies	\$ 2,500
001.1325.4036	Treasury	Fiscal Agent Fees	\$ (2,500)
		TOTAL	\$ -

Fund 1

Account No.	Department	Line	Change
001.3410.4001	Fire	Travel & Training	\$ 1,000
001.3410.4020	Fire	Uniform Allowance	\$ (1,000)
		TOTAL	\$ -

Fund 2

Account No.	Department	Line	Change
002.8340.4125	Water Distribution	Water Main Maintenance	\$ 3,000
002.8340.4150	Water Distribution	Rent / Lease	\$ (3,000)
		TOTAL	\$ -

Carried, all voting aye.

ADDITIONAL COMMENTS:

Building Inspector Zurawski advised that demolition work has started on 101 Park, will then be moving on to 66 East Second Street and finishing at 42 East Swan Street.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:28 PM

Nicole Joiner, City Clerk
