

**PUBLIC HEARING
September 06, 2016**

The public hearing was called to order at 5:22 PM by Councilman-at-large Woloszyn.

Present: Councilmen Williams, Bamonto, Councilwoman Szukala and Councilman-at-large Woloszyn.

Also present: Mayor Rosas, City Attorney Brautigam, City Treasurer Woods, Fiscal Affairs Officer Halas, Public Works Director Bennice, Personnel Administrator Heyden, Clerk, Board of Assessors Mleczko and Fire Chief Edwards.

Notice of Public Hearing was read by Councilman-at-large Woloszyn.

The public hearing was held for the purpose of giving interested persons an opportunity to comment on Resolution #76-2016 amending Dunkirk City Code (§79-21070).

PUBLIC COMMENTS:

No one spoke.

Public Hearing closed at 5:23 PM

Lillian R. Divine, City Clerk

**COMMON COUNCIL PROCEEDINGS
September 06, 2016**

The meeting was called to order at 5:32 PM by Councilman-at-large Woloszyn followed by the Pledge of Allegiance.

Present: Councilmen Williams, Bamonto, Councilwoman Szukala and Councilman-at-large Woloszyn.

Also present: Mayor Rosas, City Attorney Brautigam, Public Works Director Bennice, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczko, Personnel Administrator Heyden, Deputy Director of Development Waite, Fire Chief Edwards and Police Lieutenant McAfee.

Councilman-at-large Woloszyn excused Councilman Gonzalez and Police Chief Ortolano from tonight's Meeting.

Certification of Tuesday, August 16, 2016 meeting was read by City Clerk Divine.

RESOLVED: That the reading of the minutes of Tuesday, August 16, 2016 be dispensed with.

Motion by Councilman Williams to accept the minutes as presented. Seconded by Councilman Bamonto.

Carried, all voting aye.

PUBLIC COMMENTS:

No one spoke.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Rosas advised that that he has received confirmation from State Officials that the Athenex project will proceed as planned and that he, as well as Deputy Director of Development Waite and Prospective Director of Development Yanus, will be travelling to Buffalo tomorrow for a Conference on Sustainable Development in Collaborative Governments.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Request from SUNY Fredonia to hold a beach cleanup at Point Gratiot Beach on Saturday, September 17, 2016 from 12:00 PM until 2:00 PM.

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

Councilman Williams made a motion to approve. Seconded by Councilman Bamonto.

Carried, all voting aye.

Request from Iglesia Pentecostal Un Nuevo Nacimiento to have an Evangelistic Service on Saturday, September 10th from 2:00 PM until 8:00 PM in Washington Park.

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

Councilman Williams made a motion to approve. Seconded by Councilman Bamonto.

Carried, all voting aye.

Loudspeaker application from Iglesia Pentecostal Un Nuevo Nacimiento to have speakers and microphone in Washington Park on Saturday, September 10th, 2016 from 2:00 PM until 6:00 PM for Evangelistic Service.

Councilman Bamonto moved to approve. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Clifton Thomas for alleged damages to his vehicle while driving on Lucas Avenue in Dunkirk on Tuesday, August 16th, 2016.

Kimberly Caine for injuries allegedly received while walking on the sidewalk in front of 328 Central Avenue at approximately 12:00 PM on May 31st, 2016.

Councilman Williams made a motion to refer to the Law Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Request from Mark Tredo to purchase the vacant lot located at 633 Deer Street.

Councilwoman Szukala advised that this was discussed in the Workshop and should be forwarded to the Assessor's Office for further attention.

Councilman Williams made a motion to refer to the Law Department as well as the Assessor's Office. Seconded by Councilman Bamonto.

Carried, all voting aye.

Communication from City Treasurer Mark Woods appointing Richard Olrogg as Deputy City Treasurer from 9/6/2016 to 12/31/2017.

Received and filed.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Williams inquired to Deputy Director of Development Waite for an update with the Wright Parks Amenities Grant and to Public Works Director Bennice for an update on the East Cedar Street turnaround.

Deputy Director of Development Waite advised that she is still waiting to hear from New York State.

Public Works Director Bennice advised that he should be able to find a solution.

Councilman Bamonto inquired to Building Inspector Zurawski for an update on the demolition on Lucas Avenue, possible demolition on Third Street, informed of high grass at 219 Temple and advised that everything looks great on 6th Street and is happy it was done before school.

Building Inspector Zurawski advised that demolition should start tomorrow or the next day, one of the 3rd street properties will be demolished while the other is expected to be rehabbed and that he was just informed of the high grass situation but will look into it.

Councilwoman Szukala inquired to Building Inspector Zurawski for an update on King Street, Deputy Director of Development Waite for an update on HUD Funding, Mayor Rosas for an update on the DLDC as well as the North County Water District and to Fiscal Affairs Officer Halas and City Treasurer Woods for an update with the funding needed to complete the Benton Street Tank Project.

Building Inspector Zurawski advised that the King Street property is currently trying to be obtained by STEL and that there are many legal issues associated with the purchase of it.

Deputy Director of Development Waite advised of the 2016 HUD Projects and that CDBG Administrator Lincoln is waiting to hear back from HUD Officials on a few questions.

Mayor Rosas advised discussion has been had to dissolve the DLDC as well as then re-active the DIDA and that he recently met with the County in regards to the North County Water District which appears to be on target to break ground soon.

Fiscal Affairs Officer Halas advised that there is no problem with the bonding and that the holdup is due to no budget being in place.

City Treasurer Woods advised that a deadline has been set for Thursday at close of business to receive a detailed budget from the Engineer for the project.

Discussion was held between Council and the Gallery in regards to the time frame and what needs to be done to get this part of the Consent Order completed.

Councilman-at-large Woloszyn inquired to Clerk, Board of Assessors Mleczo for an update on the 2 properties on Park Avenue that he had mentioned at the last meeting and to Lieutenant McAfee for an update on the 700 Block of Park Avenue where he has received complaints that children were playing basketball in the middle of the road, refusing to move when vehicles drove by and using foul language.

Clerk, Board of Assessors Mleczo advised that correspondence had been sent and that the owner, which happens to be the same for both properties, is in the process of selling both.

Police Lieutenant McAfee explained he spoke to the individual who has made the complaints, advised them of the next step to take and that the basketball hoops in the road is not something that is usually strictly enforced.

UNFINISHED BUSINESS:

RESOLUTION # 75 -2016
AUGUST 16, 2016

BY COUNCILMAN WILLIAMS AND COUNCILWOMAN SZUKALA:

**ACCEPTING INTERIOR COATING BID FOR BENTON WATER TANK OF CITY'S
WATER TREATMENT AND SUPPLY SYSTEM – Phase 3 – under 2009 Consent
Order**

WHEREAS, the City of Dunkirk, in 2009, entered into a Consent Order with the Chautauqua County Department of Health (CCDOH) to address certain inadequacies related to the City's water treatment plant and water distribution system, and the Phase 3 items of the Consent Order are now ready to address according to the schedule dictated by CCDOH; and

WHEREAS, by notification letter of December 17, 2015, the City of Dunkirk's application for Phase 3 funding was granted by Governor Cuomo through the New York State Environmental Facilities Corporation (EFC) in the amount of \$2 million of grant funds and \$7 million in low-interest loan funds for this Phase 3 reconstruction of and construction of improvements to the City's water system pursuant to such Consent Order; and

WHEREAS, Mayor Wilfred Rosas subsequently negotiated on behalf of the City of Dunkirk for an approved increase of the grant portion of these EFC funds to be \$3 million; and

WHEREAS, the 2016 Phase 3 projects are listed as several items in the EFC grant application, and the Benton tank system improvement completion (Fourth Ward tank and pumps) is a priority on this list; and

WHEREAS, the Mayor was authorized and directed by Council Resolution 34-2016 to execute an agreement of services, on behalf of the City of Dunkirk, with HILL ENGINEERING OF NEW YORK, P.C., 8 Gibson Street, North East, PA, for water treatment facility Phase 3 work in regard to the 2009 Consent Order and such contract is so executed; and:

WHEREAS, said Council Resolution 34-2016, dated March 15 2016, further authorized and directed “that the EFC funds, and EFC fund administration requirements, for Phase 3 be set up by Fiscal Affairs as an income and expense City Fund, and that Phase 3 engineering services be paid from the engineering expense line of said City Fund for Phase 3”; and

WHEREAS, the DPW Committee was informed that the initial 2016 work is to be limited to the required interior re-coating of the Benton Tank because it is the primary active water service supply and fire protection for the Fourth and First Wards and for present and future industries to be served by the North County Water District easterly of the City of Dunkirk, and that following legal notice, sealed bids for this work were received and opened on August 5; and

WHEREAS, three bids were received – in the amounts of \$688,000, \$676,000, and \$384,479 – and that the low bid of \$384,479 by Global Contracting and Painting, PO Box 606, Orchard Park NY 14127, has been deemed responsible by DPW Director Gregory Bennice and by Consulting Engineer August Maas, who both recommend quickly accepting this bid so the work can be done during Summer and Fall weather to not delay the City water system being fully ready to supply the North County Water District, and said contract acceptance being subject to the contractor meeting all requirements of the EFC funding process; now therefore,

BE IT RESOLVED, that the Mayor is hereby authorized and directed to execute a contract for the interior re-coating of the City’s Benton Water Tank at the low bid amount of \$384,479 with Global Contracting and Painting, PO Box 606, Orchard Park NY 14127, but subject to the contractor first supplying all necessary approvals from EFC to meet the EFC funding requirements for this work.

No action was taken on Resolution #75-2016. Resolution #75-2016 remains on table.

RESOLUTION #76-2016
August 16, 2016

BY: COUNCILMAN WILLIAMS

AMENDING DUNKIRK CITY CODE
(§79-21070)

WHEREAS, The Zoning Code of the City of Dunkirk, in §79-21070, regulates the display of “Political Signs”; and

WHEREAS, The Supreme Court of the United States of America ruled, in Reed v. Town of Gilbert (2015), that “content based” restrictions of speech violate the First Amendment of the Constitution of the United States; now, therefore, be it

RESOLVED, that the City Code be amended, and that code section §79-21070 removed in its entirety. The Code section is included below as reference. The quoted portion of the City Code is removed.

“CITY CODE §79-21070, POLITICAL SIGNS

Temporary signs in support of a political party or candidate are permitted

in all zones in the City of Dunkirk. Signs may be erected up to three (3) weeks prior to the election and must be removed within seven (7) days following the election. No political signs shall be permitted in the public right of way.”

Councilman Williams made a motion to remove Resolution #76-2016 from the table. Seconded by Councilman Bamonto.

Carried, all voting aye.

Councilman Williams advised that this section of the City Code in regards to Political Signs was recently deemed unconstitutional and while this section on political signs will be removed another section of the City Code that says no signs can be placed between the curb and sidewalk needs to be adhered to.

Carried, all voting aye.

PRE-FILED RESOLUTIONS:

RESOLUTION #77-2016

September 6, 2016

BY: ENTIRE COUNCIL

**CONSENT TO APPOINTMENT OF
DIRECTOR OF PLANNING AND DEVELOPMENT**

WHEREAS, Section 2-10.02 of the City Code provides that the Director of Planning and Development shall be appointed by the Mayor, with the consent of the Common Council; and

WHEREAS, pursuant to Section 2-10.02 of the City Code, Mayor Wilfred Rosas has appointed Rebecca Yanus, 101 Longview Avenue, Jamestown, New York, to the position of Director of Planning and Development for the City of Dunkirk, subject to the consent of the Common Council; now, therefore, be it

RESOLVED, that Rebecca Yanus, be confirmed as Director of the Department of Planning and Development for the City of Dunkirk, effective September 8, 2016, at Fifty Thousand Dollars and Zero Cents (\$50,000.00) *per annum*.

Carried, all voting aye.

RESOLUTION #78-2016

September 6, 2016

BY: ENTIRE COUNCIL

**CONSENT TO APPOINTMENT OF
DIRECTOR OF HUMAN RESOURCES**

WHEREAS, Section 2-10.02 of the City Code provides that the Human Resources Department shall be staffed by the Mayor, with the consent of the Common Council; and

WHEREAS, pursuant to Section 2-10.02 of the City Code, Mayor Wilfred Rosas has appointed Vicky Westling, 130 South Ocelot, Dunkirk New York, to the position of Director of Human Resources for the City of Dunkirk, subject to the consent of the Common Council; now, therefore, be it

RESOLVED, that Vicky Westling be confirmed as Director of the Department of Human Resources for the City of Dunkirk, effective September 7, 2016, at Fifty Thousand Dollars and Zero Cents (\$50,000.00) *per annum*.

Councilman Williams made a motion to table Resolution #78-2016. Seconded by Councilman Bamonto.

Ayes: Councilman Williams and Councilman Bamonto.

No: Councilwoman Szukala, Councilman-at-large Woloszyn.

Motion to table Resolution #78-2016 defeated.

Councilwoman Szukala advised that while she understands what the Mayor is trying to do, she cannot support the Resolution at this time. She explained that with Contract Negotiations, a new City Attorney being hired as well as the Contract Negotiator she would like to see their efforts to solve these issues and would be willing to revisit this if their efforts are not successful.

Councilman Williams advised he is in support of this Resolution as the position will pay for itself and that it will help make things run smoothly and take work off of Personnel Director Heyden who is involved in insurance and Civil Service Issues.

Councilman Bamonto advised he agrees with Councilman Williams and that this will help out in the long run.

Councilman-at-large Woloszyn advised that while he has nothing personal against the individual considered for this position, he cannot vote in support of this from a strictly timing and Fiscal nature especially with the uncertainties of the Budget and that he would be willing to revisit this at this time next year.

Mayor Rosas advised that when he ran for office it was about making changes, changes are difficult but need to be made, this Resolution is a small piece of the process needed for the major change and that “without major change happening our City could be facing a bankruptcy where a Control Board will come in and let us know how we are going to function. That is not needed if we can make these changes.”

Mayor Rosas read the following statement:

“Dunkirk has problems. As a result Dunkirk is currently facing many challenges, not the least of which is the loss of revenue with the closing of NRG.

We cannot solve these problems using the same thinking or the same methods that created the problems. This means we must change! It seems everyone wants improvement but

many resist the changes needed to make the improvements. Tonight I want to speak with you briefly about the needed change.

I have now had over eight months to learn in detail the “nuts & bolts” of the day-to-day operations of the City of Dunkirk. One of the most surprising and disappointing discoveries has been the problems I have found in our approach to human resource management.

Like most local governments, our budget is comprised mostly of personnel-related costs. Yet we have dedicated relatively little effort to understanding the longer-term impacts of decisions involving compensation and benefits. As a result, our human resource spending (especially overtime and benefit costs) is in some critical ways, literally out of control.”

“This lack of attention to human resources related cost control has been especially true in the area of collective bargaining and union contract negotiations. When viewed from the perspective of a one-year comparison, it has apparently been difficult in the past to see how a seemingly small increase in wage costs or a moderate increase in benefit costs could have a significant impact on the viability of an entire budget.

In significant part, this is a fault of our archaic “line-item” budget process. In a line-item budget, when employee compensation is thought of in separate categories: wages, healthcare benefits, retirement options, etc. we don’t easily see clearly how these costs add up. Yet, when viewed as a comprehensive package of compensation, or when considered as an integrated component of department costs, the true cost of pay and benefits is both surprising and revealing. It is even more surprising when we begin to analyze how those costs have dramatically increased over time.”

“This past flawed approach to human resource management has been a very major contributor to our current budget problems. It is time for a change! As Einstein says, if we keep doing the same thing over and over we are going to get the same results.

I have proposed that we reorganize our approach to Human Resource Management. I know that some of you have concerns about this proposed reorganization. Some are concerned about the cost of the reorganization at a time when we face the uncertainties of the NRG situation. Others are concerned about the ramifications of such reorganization in the compliance with the City Charter. I want you to know that I have heard your concerns and I want to address them. At the same time, I know that we must find a way to address the lack of cost control that has characterized our current approach to human resource management for the last 30 plus years. “

“This decision on my part was not made in haste. I have looked at the most pressing needs as they relate to the direction of the City, and I believe that bringing in a qualified director of the human resources department can address these issues and provide the City, the employees, and our residents with a much needed and efficient way of managing.

As an example: Compensation and benefits cost control, recruitment and employment practices, contract negotiations, City employee policies and procedures, operational policies and procedures as well as training.”

“I also am aware of your concerns, but am asking that you consider the above as well. In the interim, however, I request that you table tonight’s resolution for further study. I would like to suggest that we convene in Executive Session over the next few days in order to discuss this matter more fully. At that time I will ask that you look at the revised proposal with an open mind and then join me in supporting the changes that we need in order to bring this major component

of our City budget back under the sort of control that our citizens have a right to expect and that we as responsible elected representatives want to deliver to our citizens. Thank you.”

Councilwoman Szukala inquired to City Attorney Brautigam if this would have to be added to the City Charter similar to how the 2 Part-time Assessor positions were eliminated previously.

City Attorney Brautigam advised that he does not think that a Referendum of the Charter would need to be done as it states that the Human Resources Department shall be staffed by the Mayor but that he will look into it further.

Vote on Resolution:

Ayes: Councilman Williams and Councilman Bamonto.

No: Councilwoman Szukala and Councilman-at-large Woloszyn.

Resolution defeated, 2-2.

RESOLUTION #79-2016
September 6, 2016

BY: ENTIRE COUNCIL

**AUTHORIZING LABOR NEGOTIATOR
CONTRACT AGREEMENT
(George Corsoro)**

WHEREAS, the City of Dunkirk requires expert assistance in its negotiations of its Collectively Bargained Agreements; and

WHEREAS, George Corsoro has the necessary expertise, education, and experience to substantially assist the City of Dunkirk in those negotiations, and is ready, willing, and able to supply those services to the City; now, therefore, be it

RESOLVED, that the Mayor, Wilfred Rosas, is hereby authorized to execute a contract agreement with George Corsoro, for expert services at a set rate of one thousand dollars (\$1,000) per month for September, October, November, and December, of 2016.

Councilman-at-large Woloszyn inquired to Mayor Rosas for clarification on the pay of Mr. Corsoro.

Mayor Rosas advised that Mr. Corsoro would receive \$1,000/month.

Carried, all voting aye.

RESOLUTION #80-2016
September 6, 2016

BY: ENTIRE COUNCIL

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

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

WHEREAS, The City of Dunkirk had entered into an independent contractor agreement pursuant to City Council Resolution #99-2015 with Wendy Spinuzza; and

WHEREAS, the City of Dunkirk has created a new position of "Assistant Housing, Building and Zoning Inspector" pursuant to City Council Resolution #40-2016, and no longer requires an independent contractor to fulfill those services, now, therefore, be it

RESOLVED, that the Mayor, Wilfred Rosas, is hereby authorized to terminate the Contract of Wendy Spinuzza, entered into Resolution #99-2015, based on the mutual agreement of those parties, and is directed execute any of the documents required for that termination.

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 Williams.

Carried, all voting aye.

Executive Session called to order at 6:36 PM.

Councilman Bamonto moved to adjourn the Executive Session at 6:38 PM and reconvene to the regular Council Meeting. Seconded by Councilman Williams.

Carried, all voting aye.

ADJOURNMENT:

Councilman Bamonto moved to adjourn. Seconded by Councilman Williams.

Carried, all voting aye.

Adjourned at 6:39 PM

Lillian R. Divine, City Clerk
