

**COMMON COUNCIL PROCEEDINGS**  
**January 15, 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, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczo, Director of Development Neratko, Personnel Administrator Heyden, Police Chief Ortolano and Fire Chief Ahlstrom.

Councilwoman-at-large Kiyak advised that the City Attorney was excused from the meeting.

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

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

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Edna Sek, 7 Lake Front Blvd., Dunkirk, NY spoke in regard to the Property Management Proposal, stating that she was not knocking anyone, but that Councilman Rivera stated that there would be a public hearing on the proposed Property Management Proposal, and this has been in the works for several years. She stated that Councilman Rivera stated that it was now up to the Mayor to do something, or it ends right here. She further stated that former Councilwoman Rose Floramo had worked hard on this, making trips to Jamestown, calling other municipalities, and the proposal works both in Jamestown and Silver Creek. Mrs. Sek stated that she would be very disappointed if this did not go through after the hard work of so many people and Rose Floramo.

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

Mayor Dolce advised that the next recyclable pick up would be on January 28th, and thanked the City Treasurer, City Attorney and Fire Chief for their work on the resolution pertaining to the rescue truck. He advised that this would be paid from 2012 funds instead of a three-year period, the truck was here, and was looking forward to it being in service.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Request from The Great Lakes Experience, Inc. to use Memorial Park on Saturday, June 15th from 9:00 AM to 6:00 PM for a US Fish & Wildlife Service event.

Councilman Rivera moved that permission be granted contingent on liability insurance with referral to the Public Works, Police, Fire and Law Departments. Seconded by Councilman Michalski.

Carried, all voting aye.

Request from Frank Acquavia Memorial Post #1344 to sell poppies on May 27th in Memorial Park from 9:00 to 11:00 AM.

Councilman Gonzalez moved that permission be granted contingent on liability insurance, and referred this to the Public Works, Police, Fire & Law Departments. Seconded by Councilman Rivera.

Carried, all voting aye.

Notices of Claim from:

Sylvia Hernandez-Burgos for damages to her basement allegedly due to sewer backup on January 2, 2013.

Allan Zurawski for a plugged sewer allegedly due to plugged debris from unfinished terminus of sewer line on December 31, 2012.

Kimberly Donaldson for bruised & swollen knee allegedly due to a fall on property owned by Brooks Memorial Hospital on January 10, 2013.

Councilwoman Szukala addressed the Mayor relative to the responsibility of the Donaldson claim as this was on hospital property, questioned the responsibility, and if we should pass the claim on.

Mayor Dolce concurred stating that filing this with the city was the first step, and a formality to accept this or any other claim.

Councilwoman Szukala moved to refer all three claims to the City Attorney. Seconded by Councilman Rivera.

Carried, all voting aye.

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

Councilman Michalski addressed Director of Development Steve Neratko relative to any billings relative to approval of \$15,000 for Harry Sicherman & Associates, regarding the CDBG Program. Director of Development Neratko advised that we were not billed yet, he would speak with him tomorrow, thought the \$15,000 would cover us to the end of 2013, and we needed to know where we stand. Councilman Michalski stated that we needed him in the future as well.

Councilman Michalski also questioned the \$50,000 loan payment for the Bertges site, as we were cited in the State audit questioning the true purpose of the funds in the first place. He asked if this compounded the problem and if we needed clarification from HUD.

Director of Development Neratko advised that this was submitted in 2012, we did have \$50,000 set aside for this with the plan approved, and they basically want to see if the DLDC has a plan for that site.

Councilman Rivera stated that there was a short Personnel Meeting today to tie up a few things from the December meeting, and another meeting will be scheduled soon.

Councilman Rivera also addressed Edna Sek, stating that they have not talked in awhile, that he believes in this (Property Management Proposal) as much as she does, and this is the year it will get done.

He advised that they have to sit down with the Mayor and legal counsel to take care of this, invited her to come, and also speak to him after the meeting on this matter, as he believes in this as much as she and Rose Floramo do.

Councilman Gonzalez apologized for not having the Public Works Committee Meeting this morning, and advised that it would be held next Tuesday.

Councilwoman Szukala spoke relative to the CDBG plan for Plover Street, but questioned why other streets were not included, and if there was a list for same.

Director of Development Neratko advised that the Public Works Department does have an annual list of road conditions that they put together, there will be additional maps and information for this, and they are working on a GIS map which outlines different roads in need of repair. He further stated that this information is being put together, Plover Street is definitely one of the streets, we do have \$50,000 to \$55,000 to work on other roads, and we focused on at least a portion of this for the one-year target area.

Councilwoman Szukala also addressed the Public Works Director relative to two hours of overtime to order chlorine and why this couldn't be done during the regular forty hour work week, and also stated that someone at the Water Treatment Plant had sixty-four hours of overtime in addition to their regular forty hours. She questioned if we were over-running some people there even though some are out on vacation and using sick time, but stated that we still need to have adequate staffing, therefore stating that one person should not be allowed that amount of overtime.

Public Works Director Gugino advised that we only have five operators at the plant right now, one is out on extended compensation, leaving four for the last three weeks. He advised that only two of them were available to cover seven to eight days as the others had to use vacation according to the city contract. Councilwoman Szukala questioned if the policy should be revisited, as four should not be allowed to take vacation if there are only five. Public Works Director Gugino advised that four were not allowed; only two out of the four were left. He stated we did not have enough operators, but do when the fifth is on board, and informed that the overtime was down for the year at the Filter Plant. He further stated that two of them had to use their time up, and the third is out on comp. Councilwoman Szukala stated that there was no guarantee of this not happening again, and Public Works Director Gugino stated not until we get more bodies down there.

Councilman Gonzalez questioned if vacations could be staggered leaving one person out. Public Works Director Gugino stated to look at the contract, there were not enough operators, and to check the budget reports from all year as they are under budget due to them putting off taking their vacations & personal leave time. He stated it was the same in the Streets Department and everywhere else, he checked the reports today, and we were still in the black.

Councilman Gonzalez stated that we were still paying a lot for overtime, explained how it is where he works, and that it goes by seniority. Public Works Director Gugino stated that they schedule, and double reschedule, the chief operator is very strict, we ask and push a lot, but in the end we can pay them now, or pay them later. He stated that he is responsible for being in the black or red, and we are in the black.

Discussion followed relative to the number of operators, three shifts, and the operation of that plant in the past with the amount of overtime and operators at that time. Public Works Director Gugino advised that they hope to get another operator trainee but it takes a year to eighteen months for this.

Councilwoman Szukala commended those employees for their dedication, but questioned whether or not we should be asking them to be putting in that many hours, and that she would like to find some resolution for this perhaps through the contract language.

Public Works Director Gugino advised that funds were in the budget to hire a new operator trainee for 2013, and this was going out to bid.

Councilwoman-at-large Kiyak concurred with the idea of this being a safety issue, and perhaps there should be a policy of vacation for this.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #02-2013**  
**JANUARY 15, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING NYSOCR MAIN STREET PROGRAM GRANT ACCEPTANCE**

**WHEREAS**, by Resolution No. 54-2012, the Dunkirk Common Council approved and endorsed the City's application for a Main Street Program Grant through the New York State Office of Community Renewal ("NYSOCR") for a project grant under the New York State Main Street Program for a project to be located within the territorial jurisdiction of the City; and

**WHEREAS**, such application was approved and grant funds of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) have been awarded to the City for this Program; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized to execute any and all contracts and related documents with the NYS Office of Community Renewal to accept and utilize funds in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) for the Main Street Program Grant; and, be it further

**RESOLVED**, that the Fiscal Affairs Officer is hereby directed to create the appropriate accounts and/or to make the necessary budget line modifications to properly account for the receipt and use of the monies for the Main Street Program Grant.

Mayor Dolce thanked Director of Development Steve Neratko and Nicole Waite for their hard work on this grant. He stated that we will be receiving instructions on disbursing this, and work with businesses in the downtown district.

Councilwoman-at-large Kiyak questioned if this was a matching grant for \$50,000 and Director of Development Neratko advised that it was per bill.

Carried, all voting aye.

**RESOLUTION #03-2013**  
**JANUARY 15, 2013**

**BY ENTIRE COUNCIL:****AUTHORIZING BUDGET LINE MODIFICATIONS (FY2013)**

**WHEREAS**, there is a need to make timely adjustments to the 2013 Fiscal Year to address modifications in certain line items; now, therefore, be it

**RESOLVED**, that the Fiscal Affairs Officer is hereby authorized and directed to make the following line item budget modifications to properly reflect certain line items in the 2013 Fiscal Year Budget:

**GENERAL FUND**

<u>ACCOUNT NO.</u>	<u>DEPT.</u>	<u>LINE</u>	<u>INCREASE</u>	<u>DECREASE</u>
001-1310-1000	Fiscal Affairs	Personal Svc	\$ 30,000.00	
001-1310-4036	Fiscal Affairs	Contracted Svc		30,000.00
001-3620-4150-0000	Safety Inspect	Rent/Lease	\$ 400.00	
001-8020-4150-0000	Development	Rent/Lease		\$ 400.00
001-3410-2000	Fire	Equipt	\$122,650.00	
001-0001-2018	Fire	E.M.S.	\$122,650.00	

Councilwoman-at-large Kiyak asked the City Treasurer to explain these modifications.

City Treasurer Woods explained that the first two items were to accommodate the change for an increase to Personal Services for Fiscal Affairs, and decrease the contracted services line. The second one is a small change which usually does not go through Council resolution but through the Finance Committee as it's under \$500, but we needed this in place. The last one is modifying the budget for two increases; the first decreases the appropriations fund in the budget to accommodate the payment the city is authorized to pay for the emergency vehicle, and the second entry (listed as an increase) actually increases the revenue in the budget to offset the increase in the expense.

Vote on resolution: Carried, all voting aye.

**RESOLUTION #04-2013**  
**JANUARY 15, 2013**

**BY ENTIRE COUNCIL:**

**AUTHORIZING RELEASE AND SETTLEMENT – Benton Street Water Tank  
(AmStar of Western New York, Inc.)**

**WHEREAS**, in or about July 2010, the City awarded a contract to AmStar of Western New York, Inc. (AmStar) for exterior painting of the Benton Street Water Storage Tank; and

**WHEREAS**, a dispute arose in 2010 between the City and the AmStar regarding the performance of the contract; and

**WHEREAS,** a demand has been made to the City for payment for such services rendered by AmStar in the amount of Ninety-Nine Thousand Nine Hundred Dollars and Zero Cents (\$99,900.00); and

**WHEREAS,** negotiations have been undertaken to settle the dispute between the City and AmStar; and

**WHEREAS,** it is in the best interests of the City to resolve the dispute between the City and AmStar, in an attempt to avoid the large expense and uncertainty of litigation, and the City's consulting engineer and Director of Public Works endorse the proposed resolution; now, therefore, be it

**RESOLVED,** that the Mayor is hereby authorized and directed to execute any documents and releases with AmStar of Western New York, Inc., 825 Rein Road, Cheektowaga, New York 14225, and to resolve the dispute in an amount not to exceed Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00); and, be it further

**RESOLVED,** that the Fiscal Affairs Officer and City Treasurer make appropriate budget modifications in the appropriate revenue and expense lines in Capital Projects Fund 15.

Carried, all voting aye.

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

**Adjourned at 5:55 PM**

**Lacy Lawrence, City Clerk**

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