

**COMMON COUNCIL PROCEEDINGS**  
**December 17, 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, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Director of Development Neratko, Personnel Administrator Heyden, Recreation Program Coordinator Gornikiewicz and Police Chief Ortolano.

Police Chief Ortolano requested a moment of silence in memory of retired Police Lieutenant Donald Fafinski who passed away December 5, 2013.

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

Certification of December 3, 2013 meeting was read by City Clerk Joiner.

**RESOLVED:** That the reading of the minutes of Tuesday, December 3, 2013 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Mary Burns Deas, 4432 Osborne Road, Fredonia, New York spoke on behalf of her mother Rosamond Burns, 769 Washington Avenue, Dunkirk, New York in regards to the winter alternate parking regulations and suggested Council and Police Chief Ortolano consider a time range of 3:00 PM until 6:00 PM to move vehicles or issue parking stickers or tags to senior citizens and individuals with disabilities which would indicate to police officers the vehicles belong to those individuals and not to issue parking tickets to their vehicles.

Walter Rutland, 184 W. Second Street, Dunkirk, New York commended the community for coming together regarding the NRG project and Department of Public Works Director Gugino for doing a good job. Mr. Rutland advised he spoke with Senator Cathy Young in regards to property development and businesses he would like to see in the city such as Red Lobster, Burger King, McDonalds, museums and the Railroad Station reopened and reiterated his concern in regards to lack of employment for our educated young adults.

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

Mayor Dolce spoke in regard to the significant snowfall our area has received since last Wednesday; notification the city has be awarded \$790,000.00 in grant money for the Seawall

Project and a phone call from Sam Hoyt regarding the repowering of NRG. Mayor Dolce thanked the community for all their work regarding the NRG Repowering Project.

Mayor Dolce advised he met this afternoon with the Brigadier General; there is no money available from the Army Corps of Engineers for dredging of the harbor and has received several suggestions on how the work can be completed in a cost effective manner.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

2013 Article 7 Real Property Tax Law Matters:

Ogden Newspapers vs. Board of Assessment Review ORDER and Settlement.

Received and filed.

447 Lake Shore Drive West LLC. vs. Assessment Review Stipulation of Discontinuance.

Received and filed.

Notice of Claim from David Huels for damages to his mailbox allegedly due to being hit by a city snowplow.

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

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

Carried, all voting aye.

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

Councilman Michalski thanked Senator Catherine Young and Assemblyman Andrew Goodell for their work on the NRG Repowering Project and expressed his concern regarding the city's tax revenue as NRG is 40 percent of the city's tax revenue and the city has to look to expanding and diversifying its tax base revenue as it can not afford to have all its eggs in one basket.

Councilman Michalski advised the city received \$790,000.00 for the Seawall Project and \$20,000.00 will be used for playground equipment in Wright Park.

Councilman Rivera acknowledged the city dodged a bullet regarding NRG, the city has a ten year window period to pursue other sources of revenue and congratulated and thanked everyone who participated in this matter.

Councilman Rivera advised residents the city is doing the best it can plowing the streets and asked everyone to be patient regarding this matter.

Councilman Rivera advised residents the city's website had his cell phone number listed incorrectly, it has been corrected and he can be reached at 716-785-0268.

Councilman Gonzalez reiterated the comments by Councilman Michalski and Councilman Rivera regarding the NRG Repowering Project, thanked the community, Senator Cathy Young, Assemblyman Goodell and Governor Cuomo for their work and thanked everyone who worked on the Seawall Grant Project.

Councilman Gonzalez advised he has also received many calls regarding the plowing of city streets and stated the city is doing the best it can.

Councilwoman Szukala announced the next Public Safety Meeting will be held on December 30<sup>th</sup> at 2:00 PM in the Conference Room.

Councilwoman Szukala asked Building & Zoning Officer Zurawski for an update on the building on Ruggles Street which was destroyed by a fire earlier this year.

Building & Zoning Officer Zurawski advised the demolition permit has expired and a violation letter will be mailed to the owner tomorrow.

Councilman Szukala asked Department of Public Works Director Gugino to explain to the residents the process the streets department uses to handle snow days and if certain streets take priority.

Department of Public Works Director Gugino advised the city relies on weather forecasts, computer models, weather alerts and takes a proactive approach to handling snow plowing removal; the budget for salt and snow plow removal is in good shape and the city's responsibility is protecting public safety and the city from liability. Department of Public Works Director Gugino further advised certain main streets get plowed first followed by the city's side streets and the County and New York State Department of Transportation reimburse the city for plowing certain streets within the city.

Councilwoman Szukala asked for a breakdown of equipment the city has for plowing the streets and is the sidewalk plow being used.

Department of Public Works Director Gugino explained the inventory the city has and the sidewalk plow is in use.

Councilwoman Szukala asked Department of Development Director Neratko to explain the Seawall Grant during his report portion of the meeting.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino if his men are working all three shifts.

Department of Public Works Director Gugino advised his men are working one shift with extended work hours as he does not have the man power to operate all three shifts and proceeded to explain the amount of personnel needed to operate all of the city's snow removal equipment. Department of Public Works Director Gugino further advised Monday's scheduled recycling pickup was cancelled so his men could continue with snow removal.

Councilwoman-at-large Kiyak advised the Finance Committee was informed by Nussbaumer and Clark that an additional \$34,800.00 worth of work was completed on the 12 inch Water Main Cleaning and Lining Project, funded through Fund 15 under the Water System

Improvement Project, the final cost was \$200.00 shy of what the state requires going out to a bidding process and inquired why this did not go out to bid.

Department of Public Works Director Gugino advised that Mainlining Service Inc. was the low bidder on this project at \$536,000.00 and there were two unforeseen problems that occurred during the course of project. Department of Public Works Director Gugino stated the galvanized pipe between Mullet Street to Lake Shore Drive (307 feet) was degraded to the point where it would not withstand the cleaning and relining process so we had an option to simply ignore the problem knowing we would have to fix it on our own with Fund II budget money down the road or do another project under the \$50,000.00 contingency that was budgeted in this project for the unforeseen. Upon further investigation it was determined that at that point Mainline Services was about \$42,000.00 under budget so it was decided as long as this project would not go over budget and the project had \$50,000.00 in contingencies for the unforeseen they would replace the pipes using plastic pipes which cost \$34,800.00 instead of copper pipes which cost \$46,000.00.

Councilwoman-at-large Kiyak asked if the \$34,800.00 was in addition to the \$536,000.00.

Department of Public Works Director Gugino advised it was not in addition but part of the \$536,000.00.

Councilwoman-at-large Kiyak stated “so you’re saying we were going to come in at 40 grand less and then you made the decision to go ahead with the additional work.”

Department of Public Works Director Gugino replied “absolutely, I’m not going to pay a contractor \$40,000.00 more than they’ve earned. I made them earn the money to get the money.”

Councilwoman-at-large Kiyak advised that council is responsible for ensuring the city’s procurement policy is followed and stated “my first concern was what would the state think if we did not do a bidding process that should have been. A couple hundred bucks does not mean you just ignore it. I wanted to clarify on record what the thinking was, especially because it was replaced and we utilized a company that specializes in cleaning, not replacement. We don’t know what the bid could have been.”

Department of Public Works Director Gugino replied that she was correct, but there are always unforeseen calamities which is why we have contingencies to cover the things that show up when you’re digging and stated “you don’t need to go bid on a change order under a project in scope; now it can semantically argued whether that waterline was in the scope of the project, yes, because it feeds off the 12-inch main, just like all the sideline valves replaced to Point Drive North and all the other side streets. “Department of Public Works Gugino continued “if you really want to go to the point of stop the project, contractor is here and throw him out of to and go rebid it, you can do that and watch what your prices are.”

Councilwoman-at-large Kiyak advised it is not the city’s intention to stop a project in process, “our intention is to make sure that policies and procedures are being followed while the project is being undertaken.”

Councilwoman-at-large Kiyak asked for an update on the Water Treatment Plant Consent Order.

Department of Public Works Director Gugino advised advertisement bids have been released for Phase 2013 and the bid award should be presented to the Council by the second meeting in January and the project is still on schedule.

Councilwoman-at-large Kiyak asked Department of Development Director Neratko for an update regarding grants the city has been awarded.

Department of Development Director Neratko advised the city was awarded grants from the CFA process and thanked Nicole Waite and Diego Sirianni for all their work. Department of Development Director Neratko stated \$341,000.00 will be used for the demolition and reconstruction of the seawall and \$450,000.00 will be used towards construction amenities such as a promenade and entrance at Wright Park Beach, splash pad, gazebo, playground equipment, repairing the skate park and bathrooms, skate and bicycle rentals and the installation of foot showers and bicycle racks. The grant will also be used for signs, benches, trash cans, drinking fountains and repairs to the parking lot.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #90-2013**  
**DECEMBER 17, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING SCHOOL RESOURCE OFFICER AGREEMENT  
(DUNKIRK CITY SCHOOL DISTRICT)**

**WHEREAS**, the City of Dunkirk and the Dunkirk City School District (the "District") desire to provide law enforcement and related services at the District's High School through the use of a School Resource Officer provided by the City; and

**WHEREAS**, the City and the District have enjoyed a mutually-beneficial relationship utilizing a School Resource Officer in the past and wish to continue the relationship; now, therefore be it

**RESOLVED**, that the Common Council hereby authorizes and directs the Mayor to execute the required documents to enter into an Agreement with the **Dunkirk City School District**, 620 Marauder Drive, Dunkirk, New York 14048, for the City to provide a School Resource Officer for the period January 1, 2014 through June 30, 2014, at a charge of Ten Thousand Four Hundred Ten Dollars and Seventy-Seven Cents (\$10,410.77) per month.

Carried, all voting aye.

**RESOLUTION #91-2013**  
**DECEMBER 17, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING RIGHT-OF-ENTRY AGREEMENT  
[Department of the Army]**

**WHEREAS**, the United States of America, through its Department of the Army, has requested from the City of Dunkirk a one-year irrevocable right to enter certain City-owned lands to undertake surveying and other exploratory work; and

**WHEREAS**, it would be in the best interest of the City to such surveying and other exploratory work; now, therefore, be it

**RESOLVED**, that the Mayor is hereby directed and authorized to execute any necessary documents and agreements, including a Right of Entry for Survey Exploration, by and on behalf of the City of Dunkirk with the United States of America, Department of the Army, for a one-year irrevocable right to enter certain City-owned lands, to wit: 79.01-1-1, 79.01-1-13, 78.16-1-1 and 79.01-1-5.

Councilwoman Szukala advised it was her understanding this will be used toward the installation of cameras.

Department of Public Works Director Gugino advised the Department of Homeland Securities has asked the Army Corps of Engineers for preliminary research/surveying within the city borders to install surveillance towers or cameras to overlook Lake Erie properties.

Building & Zoning Officer Zurawski advised Homeland Securities was initially looking to install these towers at the NRG Power Plant.

Carried, all voting aye.

**RESOLUTION #92-2013  
DECEMBER 17, 2013**

**BY: ENTIRE COUNCIL**

**RESCIND RESOLUTION 2-2007 and  
PROVIDE COMPLIANCE WITH TRAINING REQUIREMENTS FOR MEMBERS OF  
ZONING BOARD OF APPEALS AND PLANNING BOARD**

**WHEREAS**, State legislation (General City Law §§27(7-a) and 81(7-a)) provides that members of Planning Boards and Zoning Boards of Appeal undertake annual training; and

**WHEREAS**, the City, by Resolution 2-2007 (January 16, 2007) opted-out of such State training requirements; and

**WHEREAS**, providing for the annual training for members of the Planning Board and Zoning Board of Appeals would enable such members to more effectively carry out

their duties, and to more adequately, appropriately and effectively serve the best interests of the City; now, therefore, be it

**RESOLVED**, that the City of Dunkirk hereby rescinds Resolution 2-2007, which provided for the opt-out of the State requirement for annual training for members of Planning Boards and Zoning Boards of Appeals; and, be it further

**RESOLVED**, that the City of Dunkirk hereby endorses the benefits of annual training for, and shall require that commencing in 2014, members of the Planning Board and Zoning Board of Appeals undertake such training pursuant to General City Law §§27(7-a) and 81(7-a), with a minimum of four (4) hours of annual training; and, be it further

**RESOLVED**, that appropriate and relevant training pertaining to municipal planning, zoning, community design, environmental issues, economic development and local government functions and practices of local, regional or State agencies and organizations be approved to provide training to meet the NYS requirements; and, be it further

**RESOLVED**, that other training activities may be approved on a case-by-case basis by the Common Council upon the request of a Planning Board or Zoning Board of Appeals member; and, be it finally

**RESOLVED**, that training received by a Planning Board member or Zoning Board of Appeals member, in excess of four (4) hours in any one year, may be carried over by the member into succeeding years, with a tracking system of compliance be provided to the Common Council on an annual basis.

Carried, all voting aye.

**RESOLUTION #93-2013**  
**DECEMBER 17, 2013**

**BY: COUNCILMAN RIVERA**

**AUTHORIZE AGREEMENT EXTENSION 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 to the Housing, Building and Zoning Enforcement Department commencing January 1, 2014, and extending through December 31, 2014, with payment of Six Hundred Twelve Dollars and Fifty Cents (\$612.50) per week.

Councilman Michalski advised Ms. Spinuzza does a good job and works well with this office and the residents of Dunkirk and inquired about her certification status.

Building & Zoning Officer Zurawski advised his office is waiting on New York State to release a course schedule.

Councilwoman-at-large Kiyak stated this position is essentially redundant to that of the building inspector and she will be voting no on this resolution. Councilwoman-at-large Kiyak further stated "the onus of responsibility still falls to the Building Inspector to visit the property and provide his personal observation before a citation can be issued and the city should not only seek a part-time Building Inspector, but also reduce the position to part-time until this position is filled with a certified inspector."

Ayes: Councilman Michalski, Councilman Rivera, Councilman Gonzalez, Councilwoman Szukala.

No: Councilwoman-at-large Kiyak.

Carried, 4-1.

**RESOLUTION #94-2013**  
**DECEMBER 17, 2013**

**BY THE ENTIRE COUNCIL:**

**AUTHORIZING BUDGET MODIFICATIONS**  
**(December 2013)**

**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 2013, ending December 31, 2013; now, therefore, be it

**RESOLVED**, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2013 budget:

**FUND 1**

<b><u>Account No.</u></b>	<b><u>Department</u></b>	<b><u>Line</u></b>	<b><u>Change</u></b>
001.1355.4036	Assessor's Office	Contracted Services	\$ 3,300.00
001.1900.1990	General Services	Contingencies	\$ (3,300.00)
001.7110.4036	DPW - Parks Div.	Contracted Services	\$ 500.00

001.7110.2000	DPW - Parks Div.	Equipment	\$ (500.00)
001.1410.4002	City Clerk	Supplies	\$ 50.00
001.1410.4017	City Clerk	Central Office Supplies	\$ (50.00)

**FUND 2**

<b><u>Account No.</u></b>	<b><u>Department</u></b>	<b><u>Line</u></b>	<b><u>Change</u></b>
002.8320.4736	Water Purification/Pumping	Contracted Services	\$ 2,500.00
002.1900.1991	Water General Services	Capital Replacement	\$ (2,500.00)

Carried, all voting aye.

**RESOLUTION #95-2013**  
**DECEMBER 17, 2013**

**BY: ENTIRE COUNCIL**

**AUTHORIZING COPIER LEASE AGREEMENT**  
**(City Clerk's Office)**

**WHEREAS**, the City Clerk's Office is in need for a copier that includes high-volume scanning capabilities in order to provide for more efficient document storage and recovery; now, therefore, be it

**RESOLVED**, that the Mayor is hereby authorized to execute any and all necessary documents for a sixty-three (63) month lease agreement with **Toshiba Business Solutions**, 6000 North Bailey Ave., Suite 1F, Amherst, New York 14226, for an office copier at a monthly payment of \$336.86; and, be it finally

**RESOLVED**, that funds for such lease be allocated from

Account #001-1670-4150 (Central Copying and Mailing).

Councilwoman Szukala asked City Clerk Joiner to explain the purpose for retaining the old copier machine and the responsibility of the clerk's office regarding paper copies of vital records currently on file in the clerk's office.

City Clerk Joiner advised if the city returns the copier to Xerox prior to the expiration of the contract the city will be assessed a fine, therefore, Toshiba Business Solutions will buyout our existing lease with Xerox and the old copier will be placed in a vacant office on the first floor in city hall allowing every department access to the copier. City Clerk Joiner further advised the old copy machine will be returned to Xerox upon completion of the lease term, vital records currently on file will have to remain in the clerk's office and the new copier will have scanning capabilities which will allow the clerk's office to create a central database to upgrade the city's record keeping of vital records, contracts and reports.

Councilwoman-at-large Kiyak advised she does not believe this is a necessary and prudent expenditure at this time, other options should still be investigated as this agreement will cost taxpayers over \$21,000.00 and there is still an uncertainty regarding out payback obligations to HUD.

Ayes: Councilman Michalski, Councilman Rivera, Councilman Gonzalez, Councilwoman Szukala.

No: Councilwoman-at-large Kiyak.

Carried, 4-1.

**RESOLUTION #96-2013**  
**DECEMBER 17, 2013**

**BY: COUNCILWOMAN SZUKULA**

**AWARDING BIDS FOR YEAR 2014 REQUIREMENTS OF TREATMENT  
CHEMICALS FOR THE  
WATER POLLUTION CONTROL AND WATER TREATMENT FACILITIES**

**WHEREAS**, following published Legal Notice, sealed bids for the furnishing of water and wastewater treatment chemicals were opened and read aloud in the Dunkirk City Clerk's Office at 1:30 p.m. on December 11, 2013, now, therefore, be it hereby

**RESOLVED**, that the following bids be accepted for furnishing 2014 water and wastewater treatment chemicals:

<b><u>Bidder</u></b>	<b><u>Item</u></b>	<b><u>Cost</u></b>
Kemira Water Solutions, Inc. 3211 Clinton Parkway Court Lawrence, Kansas 66047	Ferric Chloride Solution	\$ 397.00 per dry ton
	Poly-Aluminum Chloride	\$1,110.00 per dry ton
Univar USA, Inc. 328 Bunola River Road P.O. Box 303 Bunola, PA 15020	Liquid Chlorine (WPCF)	\$ 376.00 per ton
	Liquid Chlorine (WTP)	\$ 376.00 per ton
Mercer Lime 560 Branchton Road Slippery Rock, PA. 16057	Hydrated Lime (Bulk)	\$187.23 per net dry ton
JCI Jones Chemicals, Inc. 100 Sunny Sol Blvd. Caledonia, NY 14423	Sulfur Dioxide (150# cylinders)	\$1.34 per gross pound

and, be it further

**RESOLVED**, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with each of the above-named vendors, for the purchase of such treatment chemicals for the Water Pollution Control and Water Treatment Facilities, and that the

City Clerk is hereby authorized to return the bid deposits of the bidders, after contract execution or non-awarded bid, in accordance with the contract specifications; and, be it finally

**RESOLVED**, that the bids for aqua ammonia and phosphoric acid be rejected and that the Public Works Department is authorized to re-bid those chemicals.

Carried, all voting aye.

**RESOLUTION #97-2013**  
**DECEMBER 17, 2013**

**BY: COUNCILWOMAN SZUKALA**

**AWARDING 2014 SLUDGE AND GRIT HAULING FOR THE  
DUNKIRK WATER POLLUTION CONTROL FACILITY**

**WHEREAS**, following published legal notice, one sealed bid for 2014 hauling of sludge and grit from the City Water Pollution Control Facility was received and then opened and read aloud in the Dunkirk City Clerk's Office at 1:30 p.m. on December 11, 2013, now, therefore, be it

**RESOLVED**, that the low bid of Bestway Container Service, 202 East Main Street, Fredonia, New York 14063, be accepted for 2014 Sludge & Grit Hauling at the following unit costs:

Item 1 – Sludge Hauled to Ellery           \$ 11.86 per ton

Item 2 – Grit Hauled to Ellery           \$ 39.86 per ton

and, be it further

**RESOLVED**, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, for the Year 2014 Sludge and Grit Hauling, and, be it finally

**RESOLVED**, that the City Clerk is hereby authorized to return the bid deposit of the bidder, following contract execution, in accordance with the contract specifications.

Carried, all voting aye.

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

**Adjourned at 6:21 PM**

**Nicole Joiner, City Clerk**

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