

COMMON COUNCIL PROCEEDINGS
March 17, 2015

The meeting was called to order at 5:31 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, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczko, Personnel Administrator Heyden, Fire Chief Edwards and Police Chief Ortolano.

Absent: Director of Development Neratko.

Police Chief Ortolano requested a moment of silence for retire Police Lieutenant Anthony Dubiel who passed away on March 6th and served the city for 21 years.

Certification of March 3, 2015 meeting was read by City Clerk Joiner.

RESOLVED: That the reading of the minutes of Tuesday, March 3, 2015 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Walter Rutland, 184 W. Second Street, Dunkirk, New York, spoke in regard to the youth of our city and advised Senator Cathy Young has donated a substantial amount of money towards his project of taking 70 Dunkirk students and 7 teachers to visit New York City this summer. Mr. Rutland thanked Senator Young for her donation and Mayor Dolce for allowing him to have his show on ACCESS 12.

Steve Reese, 433 Dove Street, Dunkirk, New York invited the Common Council, Mayor and all Department Heads to the next Revitalize Dunkirk meeting which will be held this Thursday, March 19th at the SUNY Incubator and advised Peter Lombardi from the Jamestown Renaissance Corporation will provide a presentation regarding the variety of opportunities to enhance our community and encouraged everyone to attend.

Mike Civiletto, 436 Swan Street, Dunkirk, New York, spoke in regard to the parking meters along Central Avenue, advised some do not work properly or are broken, stated according to his calculations, through his FOIL request, the city is earning approximately \$25.00 per day on parking meter tickets and stated the city should look into either replacing all the meters or do away with all the meters.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce thanked Police Chief Ortolano for the moment of silence for retired Police Lieutenant Anthony Dubiel, stated he was a good man and he had worked with him in the past.

Mayor Dolce thanked everyone who attended the Water District Workshop held prior to this meeting and is hoping for continued discussions.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from Loretta Slaton Torain on behalf of the Juneteenth Celebration Committee to use Memorial Park on Saturday, June 13th and Sunday, June 14th for their 20th annual Juneteenth Celebration. Also requesting the use of picnic tables, water, electricity and portable toilets.

Councilman Gonzalez asked if a different event had already been scheduled in Memorial Park on June 14th.

City Clerk Joiner advised an event has already been scheduled in Memorial Park on June 13th and stated The Great Lakes Experience had their petition approved earlier in the year to use the park that day. City Clerk Joiner advised she has tried several times to contact Mrs. Torain and has been unable to reach her; however, one of her office staff did speak to Mrs. Torain advising her of the conflict.

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

Vote to table this petition:

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

No: Councilman-at-large Rosas.

Carried, 4-1. TABLED.

Petition from Putnam Record Insurance Agency requesting the Mayor's presence on June 6th for their annual "Safety Saturday". Also requesting the use of 30 orange cones and 8 wooden barriers.

Council moved to approve this petition.

Carried, all voting aye.

Petition from Steve Zentz to use the Koch's Field from April through July for the Dunkirk 11U Travel Baseball Team. Also requesting to modify the field to accommodate the players.

Councilman Michalski asked will this group pay the city for the use of this field and will the field be adequately maintained.

Mayor Dolce advised the group will not pay the city for the use of the field and they will be responsible for maintenance and upkeep of the field; the Parks and Recreation Department is

willing to assist if asked; however, they will solely be responsible for the maintenance of the field.

Department of Public Works Director Gugino advised he sees no problem with them using the field if they are willing to maintain it.

Councilman Gonzalez inquired is the field available for use during this time frame.

City Clerk Joiner advised she does not know of the field's availability, Recreational Program Director Gornikiewicz is responsible regarding field availability.

Councilman-at-large Rosas advised a motion to approve 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 all city property is left in the same condition as prior to the event was needed and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilman Rivera moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from the National Multiple Sclerosis Society to use the City Pier as a rest stop for its cyclist's on August 8th. Also requesting permission to setup a tent, tables, chairs and a port-a-potty (if necessary).

Councilwoman Szukala questioned the availability of the City Pier, asked are any festivals scheduled that day and will the Pier need to be closed due to their request to setup tents and tables.

Police Chief Ortolano advised it all depends on where they intend on setting up their tents.

Department of Public Works Director Gugino questioned the size of the tent.

Councilman Michalski advised they are looking to setup a couple 10 by 10 pop up tents.

Building and Zoning Officer Zurawaski advised the City Boat Launch cannot be closed that day as the Conservation Club will be holding their annual Walleye Fishing Tournament that weekend.

Councilwoman Szukala moved to table this petition. Seconded by Councilman Gonzalez.

Carried, all voting aye. TABLED.

Petition from the Southtowns Walleye Association of WNY, Inc. to use city facilities from June 6th thru June 14th for their annual fishing tournament.

Councilman-at-large Rosas advised a motion to approve 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 all city property is left in the same condition as prior to the

event was needed and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilman Rivera moved to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Petition from Antonio Regulier on behalf of SUNY Fredonia Baseball Club to use the Babe Ruth Field on March 21, 22, 28, 29 and April 11th.

Councilman Michalski asked Department of Public Works Director Gugino who is responsible for maintaining the Babe Ruth Field.

Department of Public Works Director Gugino advised the field is maintained by volunteers and the school district.

Councilman Gonzalez moved to approve this petition. Seconded by Councilman Rivera.

Vote on Petition:

Ayes: Councilman Rivera, Councilman Gonzalez, Councilwoman Szukala, Councilman-at-large Rosas.

No: Councilman Michalski.

Carried, 4-1.

Petition from the Northern Chautauqua Soccer Association, Inc. for a donation from the William Cease Fund to purchase soccer goals.

Councilman-at-large Rosas asked how many participants in this program are from the City of Dunkirk.

Mayor Dolce advised he did not know and stated we can ask Mr. Enser.

Councilman Michalski advised this needs to be presented to council in a resolution.

Mayor Dolce stated there is no exact amount as of today and discussions are continuing.

Councilman Gonzalez advised this petition was discussed at a subcommittee meeting regarding the eligibility to withdraw money from that fund for this request.

City Attorney Szot advised a dollar amount is needed.

Councilwoman Szukala advised a resolution needs to be presented to the council with an exact dollar amount.

Mayor Dolce reiterated discussions are ongoing between Mr. Enser and Recreational Program Director Gornikiewicz.

Councilman Gonzalez moved to table this petition. Seconded by Councilwoman Szukala.

Carried, all voting aye. TABLED.

Notice of Claim from Mark Riedesel for damages to his vehicle allegedly caused by a pothole on Central Avenue.

Notice of Claim from Kenny Porter for damages to his vehicle allegedly caused by raised road on Central Avenue.

Councilman-at-large Rosas advised a motion to refer to these notice of claims to the Law Department was needed.

Councilman Rivera moved to refer these notice of claims to the Law Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Loudspeaker application from Demetris on the Lake for bands, speakers and sound equipment from May 20th thru September 15th.

Loudspeaker application from Police Benevolent Association to use speakers at the large pavilion at Point Gratiot on June 26th from 6:00 PM until 9:00 PM.

Loudspeaker application from Rookies on the Lake for live bands, loudspeakers and amplifiers from May 1st thru October 1st.

Councilman-at-large Rosas advised a motion to approve these application was needed.

Councilman Gonzalez moved to approve these applications. Seconded by Councilman Rivera.

Carried, all voting aye.

Communication from Dan McGill on behalf of the Vietnam Veterans of America, Chapter #459, thanking the City of Dunkirk for their annual contribution to their organization.

Received and filed.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski thanked Village of Fredonia officials and everyone who attended the Water District Workshop held prior to this meeting.

Councilman Rivera had nothing to report at this time.

Councilman Gonzalez had nothing to report at this time.

Councilwoman Szukala advised the next Public Works Committee Meeting will be held March 23rd at 1:00 PM in the Conference Room.

Councilman-at-large Rosas advised he attended the Consolidated Fund Application Conference in Mayville last week, there were 180-200 individuals from four counties in Western New York in attendance and the city was represented by Deputy Director of Development Lacy Lawrence, Recreational Program Coordinator Tim Gornikiewicz and himself, stated it was informative and the city obtained additional contact information.

PRE-FILED RESOLUTIONS:

RESOLUTION #11-2015

MARCH 17, 2015

BY: THE ENTIRE COUNCIL

**AUTHORIZE LOCAL CABLE PROGRAM DIRECTOR AGREEMENT
(Daniel Riewaldt and Steve Wright, Jr.)**

WHEREAS, it would be in the best interests of the City to revitalize the local access programming opportunities on the City's local cable access channel; and

WHEREAS, Daniel Riewaldt and Steve Wright, Jr., provide a unique prospect for such revitalized opportunities and has agreed to provide the primary production oversight and operational management for the City's local access channel; and

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

WHEREAS, Daniel Riewaldt and Steve Wright, Jr., are ready, willing and able to provide such services to and on behalf of the City in a good and workmanlike manner; and

WHEREAS, there is a need on occasion for the on-site production of access programming; now, therefore, be it

RESOLVED, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of Daniel Riewaldt, 188 Liberty Street, Fredonia, New York 14063, to provide primary production oversight and operational management for the City's local access channel for the period March 18, 2015 through December 31, 2015, at the cost of Four Hundred Twenty-Five Dollars and Zero Cents (\$425.00) per month, *pro rata*; and, be it further

RESOLVED, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of Steve Wright Jr., 6999 McKay Road, Mayville NY 14757, to provide primary production oversight and operational management for the City's local access channel for the period March 18, 2015 through December 31, 2015, at the cost of Four Hundred Dollars and Zero Cents (\$400.00) per month, *pro rata*; and, be it further

RESOLVED, that the Mayor is directed and authorized to engage such individuals as may be trained and qualified to provide on-site production of access

programming at the cost of Twenty Dollars and Zero Cents (\$20.00) per event, on an as-needed basis; and, be it finally

RESOLVED, that the payments for such services be made from Account No. 001-8050-4036-0000 (Contracted Services).

Councilman Gonzalez moved to table this resolution for further discussion. Seconded by Councilwoman Szukala.

Vote to table Resolution:

Ayes: Councilman Gonzalez, Councilwoman Szukala, Councilman-at-large Rosas.

No: Councilman Michalski, Councilman Rivera.

Carried, 3-2. TABLED.

RESOLUTION #12-2015

MARCH 17, 2015

BY: THE ENTIRE COUNCIL

**AUTHORIZING BUDGET LINE MODIFICATIONS
FOR FISCAL YEAR 2015**

WHEREAS, there is a need to make timely adjustments to the 2015 Fiscal Year to address modifications in certain line items for the 2015 Snow Removal; 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 needed modifications in certain line items in the Fiscal Year 2015 budget:

Fund 1 - General Fund

<u>Account No.</u>	<u>Department</u>	<u>Line</u>	<u>Change</u>
Revenue 001.0001.2680	General Fund	Insurance Recoveries	\$ 8,244
Appropriation 001.5142.4007	Snow Removal	Salt	\$ 8,244

Carried, all voting aye.

RESOLUTION #13-2015

MARCH 17, 2015

BY: THE ENTIRE COUNCIL

AUTHORIZING BUDGET MODIFICATIONS

(March 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

Description: Purchase of (2) Loaders form Government Auction.

<u>Account No.</u>	<u>Department</u>	<u>Line</u>	<u>Change</u>
001.5110.2000	Maintenance of Streets	Equipment/O.G.S.	\$ 2,000
001.8160.4023	Ref & Garbage Collection	Rep & Maint to Equip	\$ (2,000)
		TOTAL	\$ -

FUND 2

Description: Vehicle maintenance higher than anticipated.

<u>Account No.</u>	<u>Department</u>	<u>Line</u>	<u>Change</u>
002.8320.4023	Water Purification	Rep & Maint to Equip	\$ 300
002.8320.4015	Water Purification	Chemicals	\$ (300)
		TOTAL	\$ -

FUND 2

Description: Emergency repair to altitude valve.

<u>Account No.</u>	<u>Department</u>	<u>Line</u>	<u>Change</u>
002.8320.4023	Water Purification	Rep & Maint to Equip	\$ 1,066
002.8320.4015	Water Purification	Chemicals	\$ (1,066)
		TOTAL	\$ -

Councilman-at-large Rosas asked Fiscal Affairs Officer Halas for an explanation.

Fiscal Affairs Officer advised this discussion pertains to the prior resolution just voted upon; the city received insurance proceeds, stated much of the work is going to be done in-house to repair the damages, so the Director of DPW is allocating this insurance money to cover some of the shortfalls in our salt line item.

Carried, all voting aye.

RESOLUTION #14-2015
MARCH 17, 2015

BY: THE ENTIRE COUNCIL

AWARDING BID FOR ASBESTOS REMOVAL
(101 Park Avenue, 423 Swan Street, 108 Moffat Street, and 66 E. Second Street)

WHEREAS, the City of Dunkirk in 2014, entered into a Contract with the Chautauqua County Land Bank to demolish structures in the City; and

WHEREAS, an asbestos survey has been conducted and submitted for properties located at: **101 Park Avenue (SBL 79.14-3-24), 423 Swan Street (SBL 79.14-8-16), 108 Moffat Street (SBL 79.12-4-52), and 66 E. Second Street (SBL 79.11-1-63)**, which are listed for demolition; and

WHEREAS, following published Legal Notice, sealed bids for the asbestos abatement of four (4) structures were opened and read aloud in the Dunkirk City Clerk's Office at 3:00 P.M. on March 3, 2015, with five (5) bids being received for asbestos abatement; now, therefore, be it

RESOLVED, that upon review and recommendation of the Building Inspector, the lowest responsible bid of REGIONAL ENVIRONMENTAL DEMOLITION, INC., in the amount of Fourteen Thousand Nine Hundred Dollars and Zero Cents (\$14,900.00) be and hereby is accepted for asbestos removal for **101 Park Avenue (SBL 79.14-3-24), 423 Swan Street (SBL 79.14-8-16), 108 Moffat Street (SBL 79.12-4-52), and 66 E. Second Street (SBL 79.11-1-63)**; and, be it further

RESOLVED, that – after the contractor provides satisfactory insurance certificates to the City Law Department, and the contractor provides performance bond and payment bonds, which are reviewed and approved, and the contractor shows compliance with the MWBE procedures – the Mayor is hereby authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with the above-named contractor for the asbestos removal of the said structures; 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 that the City Clerk shall return unaccepted and unsealed, any and all bids, received after the date and time of the published bid opening; and, be it finally

RESOLVED, that the following funds are to be utilized for such asbestos removal:

071.8000.4000.0562	(CDBG 12)	\$13,500.00
001.3620.4036	(City 14)	\$ 1,400.00.

Councilwoman Szukala advised she will support this resolution even though 108 Moffat Street is listed as a vacant lot but has a structure on the property; feels this should be taken care of by the county, and asked could council be part of the process or informed regarding the next group of houses.

Building and Zoning Officer Zurawski stated there was a lot of confusion with this group of houses.

Councilman Rivera asked Building and Zoning Officer Zurawski will the process be faster for the next six houses and what the timetable for these houses to be demolished is.

Building and Zoning Officer Zurawski the next round of houses should be easier and these houses need to be demolished this calendar year.

Carried, all voting aye.

RESOLUTION #15-2015
MARCH 17, 2015

BY: THE ENTIRE COUNCIL

**DENIAL OF APPLICATIONS FOR CORRECTED TAX ROLL FOR THE YEAR
2014 SUBMITTED BY LEVEL 3 COMMUNICATIONS LLC**

WHEREAS, Level 3 Communications LLC (Level 3), filed applications for corrected tax rolls for the year 2014 pursuant to Real Property Tax Law Section 554 for the parcel set forth below, and

WHEREAS, the County Director of Real Property Tax has investigated the circumstances of the applications and transmitted a written report of the investigation, and

WHEREAS, the County Director of Real Property Tax denied said applications on form RP-554, dated February 23, 2015, and

WHEREAS, the Dunkirk Common Council has determined that the aforesaid applications should be denied for the following reasons:

- (1) Applicant's property constitutes real property under Real Property Tax Law (RPTL) Section 102(12)(f) and (i);
- (2) The application fails to establish a clerical error, an unlawful entry or an error in essential fact as defined in Article 5 and Section 550 of the RPTL;
- (3) Applicant's proper remedy is to bring a tax certiorari proceeding under Article 7 of the RPTL. Applicant failed to follow those procedures and the time period in which to do so under Article 7 has expired;
- (4) No administrative grievance or complaint was filed pursuant to Section 524 of the RPTL;
- (5) The applications contain conclusory allegations with respect to fiber optic cables and fails to contain detailed and sufficient evidence and proof with respect to the identity, location, composition and usage of its property and lines;
- (6) The RCN case, which Applicant relies upon, is factually and legally distinguishable from the circumstances involving the Level 3 property located in Chautauqua County and, in any event, is in a different department and not binding on the courts in the Appellate Division, Fourth Department;
- (7) Level 3 has no right to a refund or credit because it paid the taxes without an appropriate written protest;

- (8) The applications should be denied on public policy grounds because the Applicant voluntarily deferred its challenge to the public assessments and exposed the municipalities and school districts to retroactive disruption of their budgets; and
- (9) The applications are untimely and barred by the applicable statute of limitations; now, therefore, be it

RESOLVED, that the applications for corrected tax rolls for the year 2014 submitted by Level 3 Communications LLC, for the following parcel is hereby denied for the reasons set forth in numbered paragraphs 1-9 above:

Dunkirk 060300-55.00-5.55..PS4 \$504.000.00

Carried, all voting aye.

RESOLUTION #16-2015
MARCH 17, 2015

BY: COUNCILMAN RIVERA

AUTHORIZING CONTRACT FOR JULY 4TH FIREWORKS DISPLAY

WHEREAS, the City of Dunkirk Department of Public Works has solicited proposals from qualified vendors for the annual July 4th fireworks display, with two proposals being received and reviewed, and

WHEREAS, one of the proposals indicated the vendor was not available on July 4, but the other vendor was available and proposed a show that would be very similar to last year's and would be by the same vendor, which vendor has a consecutive multi-year history of good performances with the City of Dunkirk, in the opinion of the Department of Public Works, now, therefore, be it

RESOLVED, that the Mayor be, and hereby is, authorized to execute a contract, on behalf of the City of Dunkirk, with **Zambelli Fireworks Internationale**, PO Box 1463, New Castle PA 16103-1463, in the amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) for the July 4, 2015 (rain date July 5, 2015) fireworks display, in accordance with the proposals as opened on March 9, 2015.

Councilman Gonzalez advised it was discussed at budget meeting that this amount would be reduced to \$25,000.00 and he will be voting no on this resolution.

Councilman Michalski asked Mayor Dolce where the money will come from.

Mayor Dolce advised the money will come from Fund I, where it is budgeted, and the remaining amount will come from sponsors.

Councilman Gonzalez asked was sponsorship contributions down last year.

Mayor Dolce advised sponsorship was down two years ago and was back on track last year.

Councilwoman Szukala advised she voted no on this resolution last year and is not against the firework display, however, the city could use that money elsewhere and reducing the amount to \$25,000.00 would still give the city a great display. Councilwoman Szukala advised she will be voting no on this resolution.

Councilman Rivera advised if council intends on reducing the dollar amount for the firework display, then it should be reduced during budget season, not right before the council is going to vote on the resolution.

Department of Public Works Director Gugino stated the budget amount approved for the fireworks display in 2015 is the same amount that was approved in the 2014 budget, should council decide to reduce the amount tonight, there is a good chance there will not be a firework display in the city this year; the city received a few bids this year and these companies may be booked up on July 4th should the city delay their decision.

Vote on Resolution:

Ayes: Councilman Michalski, Councilman Rivera, Councilman-at-large Rosas.

No: Councilman Gonzalez, Councilwoman Szukala.

Carried, 3-2.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:12 PM

Nicole Joiner, City Clerk
