

COMMON COUNCIL PROCEEDINGS
March 19, 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, 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, Clerk, Board of Assessors Mleczo, Director of Development Neratko, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Councilwoman-at-large Kiyak advised Councilman Gonzalez is absent due to illness.

Certification of March 5, 2013 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, March 5, 2013 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

James Muscato, 280 Lake Shore Drive West, spoke in regard to a recent Economic and Development Committee meeting and stated there was discussion of a steering committee being put together regarding the cleanup of the Al Tech site and asked Department of Development Director Steve Neratko to explain the steering committee, their goals and asked what the city's role is regarding this since the city does not own any property over there.

Councilwoman-at-large Kiyak advised Mr. Muscato "this is a time where you have an opportunity to state your opinion, if you'd like to ask any specific questions you can speak to Mr. Neratko after this meeting."

Mr. Muscato replied "I have privilege of the floor; I'm asking him a question. If he don't want to answer now fine; I'm just saying the city does not own any property in that site, the DEC has already had a plan of operation for it and I'm just curious what this steering committee is because it sounds like the city's involved with it setting up. Can you explain that or do I have to have a private session?"

Councilwoman-at-large Kiyak advised he can speak with Mr. Neratko regarding this matter after the meeting and asked Mr. Muscato if there is anything else he would like to discuss.

Mr. Muscato stated "there's no transparency then any more?"

Councilwoman-at-large Kiyak stated "there absolutely is, you are welcome to speak."

Mr. Muscato replied the public would like to know.

Councilwoman-at-large Kiyak asked Mayor Dolce if he would like to answer Mr. Muscato's question.

Mayor Dolce advised he will speak in regard to this during the Communications from the Mayor portion of the meeting.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce thanked everyone who attended the State of the City Address last week; there were 87 views of the address online and stated the city is hoping to broadcast city events live on-line in the future.

Mayor Dolce advised the steering committee is still in need of members and asked Development Director Neratko to speak regarding this matter.

Department of Development Director Neratko advised there are two projects going on regarding Al Tech, "one being the Lucas Avenue side of things, which the DEC is the lead agency on that, they have done studies; they are going to do some cleanup work there this year." Development Director Neratko continued "the other part of things is we did receive a couple years ago a rather large planning grant, over \$300,000.00 for planning on the larger Al Tech site, that is actually the group that we're organizing now is to actually work on the planning on that site."

Mayor Dolce advised the city has to do the planning before it receives any more money for the cleanup of that site.

Department of Development Director Neratko stated "there is additional funding that can be available for the cleanup of the larger Al Tech site but that would be a Phase 3 project; this is Phase 2, which is the planning of the cleanup and the future use of the site."

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from Northern Chautauqua Catholic School to use Washington Park on May 3rd from 9:00 AM until 12:30 PM for their Walk A Thon. Also requesting permission to use park electricity, to erect a tent and police assistance.

Councilwoman Szukala advised this will be approved contingent upon liability insurance and asked will they be looking to use on duty officer's or and will this be paid for through the PBA.

Police Chief Ortolano advised he has spoken with representatives from NCCS, they will have their own volunteers at each intersection and would like on duty officers in the area in the event any issues arise.

Councilwomen-at-large Kiyak asked will the city incur any overtime expense.

Police Chief Ortolano advised the city will not incur any overtime expense.

Councilwoman-at-large Kiyak 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 the premises are left in the same condition as prior to the event and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilwoman Szukala motioned to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from the Chautauqua County Exceptional Senior All-Star Baseball/Softball Committee to use Prommenschenkle Stadium on June 13th (rain date June 14th) to host the 2013 Chautauqua County Exception Senior All-Star Softball game.

Councilwoman Szukala advised she has a concern with the certificate of liability insurance submitted by this group as it indicates Fredonia Central School under the insured and the Dunkirk Recreation Department as certificate holder.

City Attorney Szot advised the liability insurance certificate is sufficient as it indicates the use of Prommeschenkle stadium and the City of Dunkirk as the certified holder.

Councilman Michalski advised the group is requesting the city to waive the \$50.00 fee again as it did last year and asked will the city waive the fee again this year.

Mayor Dolce advised the city did waive the fee last year; he will not waive the fee this year as the group is blocking off our roads and charging a fee for individuals to park.

Councilwoman-at-large Kiyak advised the \$50.00 fee will not be waived and needed 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 the premises are left in the same condition as prior to the event and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilwoman Szukala motioned to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Notice of Claim from State Farm Insurance on behalf of Alicia Fedrick for damages to her vehicle allegedly hit by a forklift.

Councilwoman Szukala inquired why would there be a forklift on city property.

City Attorney Szot advised this is just an allegation against the city.

Councilwoman-at-large Kiyak advised a motion to refer to the Law Department was needed.

Councilwoman Szukala moved to refer to the Law Department. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from the Dunkirk City School district for one uniformed Police Officer at School Four and School Seven on May 21st from Noon until 3:00 PM for their Annual School District Budget Vote and Election.

Councilwoman-at-large Kiyak asked if they will pay for the officers.

Police Chief Ortolano advised they will pay for the officers.

Councilwoman-at-large Kiyak advised a motion to approve was needed and refer this to the PBA.

Councilman Rivera moved to approve and refer to the PBA. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from the Dunkirk Board of Education to use Murray Hose Company #4 on May 21st 12:00 PM until 9:00 PM for their School District Budget Vote and Election.

Councilwoman-at-large Kiyak asked Fire Chief Ahlstrom if this was a usual location request and will this interfere with daily activities at the fire hall.

Fire Chief Ahlstrom advised they have been requesting this for years and it does not interfere with daily activities at the fire hall.

Councilwoman-at-large Kiyak advised a motion to approve was needed and referred this to the Fire Department, Department of Public Works and Police Department contingent upon proof of liability insurance.

Councilman Michaski motioned to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from Ryan Corbett to hold a Classic Car Cruise in Washington Park on June 16th from 11:00 AM until 3:00 PM. Also, requesting permission to erect a tent, trash cans, vendors, and the of closing Washington Avenue between Fifth and Sixth Streets.

Councilwoman-at-large Kiyak asked if the city will incur any overtime expense and do we charge for electricity.

Department of Public Works Director Gugino advised the city will not incur any overtime expense and the cost of electricity is minimal.

Councilwoman Szukala asked if there was a plan b in place in the event of bad weather and the park could not sustain the weight of the vehicles.

Ryan Corbett spoke on behalf of the Dunkirk Historical Society and stated the purpose for requesting the street closure was in the event the park grounds were too soft and could not sustain the weight of the vehicles.

Councilwoman-at-large Kiyak 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 the premises are left in the same condition as prior to the event and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilman Michalski moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from Loretta Slaton Torain for Fire & Police assistance and monetary donation for their Juneteenth Celebration on June 8th and June 9th at the Fairgrounds.

Councilman Rivera inquired where will the funds for the monetary donation come from.

Councilwoman-at-large Kiyak advised the council no longer has a budget line for donations and stated it would be up to the Mayor if he would like to extend a donation.

Councilwoman Szukala advised the council contribution line was eliminated during last years budget process; any monetary donation requests from the public will not be met this year as it has been in the past.

Councilwoman-at-large Kiyak asked will the city incur any overtime expense from the Police Department and Department of Public Works.

Police Chief Ortolano and Director of Public Works Gugino advised the city will not incur any overtime expense from this event.

Councilwoman-at-large Kiyak advised a motion to approve was needed and referred this to the Police Department and Fire Department.

Councilwoman Szukala moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Loudspeaker application from Northern Chautauqua Catholic School for microphones and speakers in Washington Park on May 3rd from 9:30AM until 12:00 PM.

Loudspeaker application from Tracy Ossman on behalf of Hailey's Honeys for the Arthritis Foundation requesting to use microphones and band equipment on June 30th from 2:00 PM until 6:00 PM at 202 Central Avenue.

Loudspeaker application from the Dunkirk Historical Society requesting permission to have a band for the Classic Car Cruise in Washington Park on June 16th from 1:00 PM until 3:00 PM.

Councilwoman-at-large Kiyak advised a motion to approve was needed.

Councilwoman Szukala moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised the next Finance Committee Meeting will be held on Monday, March 25th.

Councilman Michalski advised the city received a letter from the U.S. Department of Housing and Urban Development (HUD) regarding the city's response to their initial concerns, asked "is this being run through committee or department as far as their list of requirements?" and inquired who is responsible for meeting HUD's requirements.

Mayor Dolce advised he briefly met with the Department of Development regarding this and stated "we can craft something and shoot it off to you guys to see if you have anything you'd like added or subtracted."

Councilman Rivera advised the next Personnel Meeting will be held on April 16th at 4:30 PM in the Conference Room.

Councilwoman Szukala announced the common council members will be on WDOE this Thursday, March 21st at 8:45 AM and the next Public Safety Meeting will be held on Tuesday, March 26th at 10:00 AM in the Conference Room.

Councilwoman Szukala inquired with Department of Public Works Director Gugino regarding the drainage issues on Townsend Street and Liberty Street.

Department of Public Works Director Gugino advised there is an engineering plan in place, the materials for the project were purchased three years ago and stated "the final and full fix is going to require probably at least two weeks of manpower." Department of Public Works Director Gugino advised he is currently lacking the manpower and is hoping to address this issue this year.

Councilwoman-at-large Kiyak had nothing to report at this time.

PRE-FILED RESOLUTIONS:**RESOLUTION #18-2013**
MARCH 19, 2013**BY THE ENTIRE COUNCIL:****INTRO NO. 1 TO LOCAL LAW NO. 2-2013**
CITY OF DUNKIRK**A LOCAL LAW TO AMEND ARTICLE XIII, DEPARTMENT OF ASSESSMENT**
SECTION 13.03
OF THE DUNKIRK CITY CHARTER
ENTITLED "ANNUAL BOARD OF ASSESSMENT REVIEW MEETING"

BE IT ENACTED by the City Council of the City of Dunkirk, New York, as follows:

Section 1 **Intent.**

It is the intent of this Local Law to amend Article XIII, Section 13.03 “Annual Board of Assessment Review Meeting” to amend the annual meeting date to hear complaints as to assessments in the City of Dunkirk, and to allow an appropriate opportunity for review of the tentative role.

Section 2 Amendment of City Code.

Article XIII, Section 13.03 of the Dunkirk City Charter is hereby amended as follows:

DELETE

§ 13.03. Annual Board of Assessment Review Meeting.

The Board of Assessment Review shall meet annually to hear complaints as to assessments in the City of Dunkirk on the **first** Tuesday in June and so many days thereafter as the Board of Assessment Review deems necessary.

AMEND

§ 13.03. Annual Board of Assessment Review Meeting.

The Board of Assessment Review shall meet annually to hear complaints as to assessments in the City of Dunkirk on the **second** Tuesday in June and so many days thereafter as the Board of Assessment Review deems necessary.

Section 3 Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

Councilwoman-at-large Kiyak advised she needed a motion to table Local Law #2-2013 with a Public Hearing to be held on April 2nd at 5:20 PM.

Councilman Rivera moved to table this Resolution. Seconded by Councilman Michalski.

Carried, all voting aye. Tabled.

RESOLUTION #19-2013
MARCH 19, 2013

BY THE ENTIRE COUNCIL:

**ACKNOWLEDGING SEQR COORDINATED REVIEW BY DUNKIRK CITY
SCHOOL DISTRICT
(Marauder Drive)**

WHEREAS, the City of Dunkirk owns certain premises bordered roughly by Marauder Drive and Lucas Avenue (designated as s/b/l 96.06-2-1) that have been utilized for and as sports and recreation facilities; and

WHEREAS, the Dunkirk City School District (the "District") wishes to enter into an agreement to memorialize the use of such property for athletic fields for practices and games for various sporting events, including but not necessarily limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way; and

WHEREAS, the District wishes to act as lead agency for any SEQR review necessary in regard to the proposed lease arrangement with the City; now, therefore be it

RESOLVED, that the City of Dunkirk through its Common Council hereby acknowledges that the **Dunkirk City School District**, 620 Marauder Drive, Dunkirk, New York 14048, has acted as lead agency for a SEQR review which was undertaken by the District as part of a coordinated review in regard to the proposed lease with the City.

Councilwoman-at-large Kiyak asked for the definition of SEQR.

City Attorney Szot advised SEQR is an abbreviation for State Environmental Quality Review.

Carried, all voting aye.

RESOLUTION #20-2013
MARCH 19, 2013

BY THE ENTIRE COUNCIL

**AUTHORIZING LEASE AGREEMENT WITH DUNKIRK CITY SCHOOL
DISTRICT
(Marauder Drive)**

WHEREAS, the City of Dunkirk owns certain premises bordered roughly by Marauder Drive and Lucas Avenue (designated as s/b/l 96.06-2-1) that have been utilized for and as sports and recreation facilities; and

WHEREAS, the Dunkirk City School District (the "District") wishes to enter into an agreement to memorialize the use of such property for athletic fields for practices and games for various sporting events, including but not necessarily

limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way; and

WHEREAS, the District has acted as lead agency for a SEQR review which was undertaken by the District as part of a coordinated review in regard to the proposed lease with the City; and

WHEREAS, it would be in the best interests of the City of Dunkirk to enter into a Lease Agreement with the District for such use; now, therefore be it

RESOLVED, that the Common Council hereby authorizes and directs the Mayor to execute any required documents to enter into a Lease Agreement with the **Dunkirk City School District**, 620 Marauder Drive, Dunkirk, New York 14048, for the District’s use of and improvement to certain property of the City, bounded roughly by Marauder Drive and Lucas Avenue (being a part of s/b/l 96.06-2-1), from April 1, 2013 through March 31, 2016, for the cost of One Dollar and Zero Cents (\$1.00) per year, with the use of such property as athletic fields for practices and games for various sporting events, including but not necessarily limited to baseball, softball and soccer contests, as well as to improve a portion of the property including an access road to Van Miller Way.

Councilman Rivera asked Mayor Dolce to explain this Resolution.

Mayor Dolce advised the school district has used the property located behind the back parking lot of the High School to the Babe Ruth field for many years (soccer field and softball field), this Resolution is an official lease agreement with the district. Mayor Dolce stated “I am under the impression they will put in more permanent fields on that location and also put in an access road. The school board approved this last Thursday.”

Carried, all voting aye.

RESOLUTION #21-2013
MARCH 19, 2013

BY THE ENTIRE COUNCIL:

**AUTHORIZING AGREEMENT FOR ENGINEERING SERVICES
WATER TREATMENT FACILITY – Phase 2 – 2013 under 2009 Consent Order
(Hill Engineering, Inc.)**

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

WHEREAS, the Common Council, through Resolution No. 07-2013 (February 5, 2013) authorized \$4,400,000.00 in bonding for the 2013 Phase of the reconstruction of

and construction of improvements to the City's water system pursuant to such Consent Order; and

WHEREAS, the 2013 Phase 2 includes:

- Renovation of seven (7) filters at Water Treatment Plant and related work
- Filter and chemical building renovations and upgrades
- Tele-metering and control system for new Willowbrook Storage Tank
- Valve and piping replacements
- Replacement of sedimentation basic sludge removal system(s); and

WHEREAS, engineering services are required for the timely completion of such 2013 Phase and Hill Engineering of New York, P.C., is ready, willing and able to provide such services for the City in a good and workmanlike manner; now, therefore be it

RESOLVED, that the Mayor be and hereby is, authorized and directed 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 work in regard to the 2009 Consent Order:

- Final design engineering for Phase 2, permitting for Phase 2, preliminary design engineering for Phase 3 and permitting for Phase 3 (including all design components) with a cost not to exceed lump sum of \$690,000.00
- Construction administration with a cost not to exceed the lump sum of \$103,000.00
- Resident inspection services (actual time and *per diem* rates) with a total contract amount of \$163,000.00 (\$956,000.00 total); and, be it further

RESOLVED, that the funds for such engineering services be taken from CAPITAL PROJECTS 15 (Engineering Services).

Councilwoman Szukala advised the city is only agreeing to Hill Engineering Services, the city is not approving any particular project; any project approval would be presented to the council in a Resolution.

City Attorney Szot advised any project needing approval would be presented to the council in a Resolution.

Councilwoman-at-large Kiyak advised the city is paying \$956,000.00 for design services; construction administration and inspection services to Hill Engineering and asked Department of Public Works Director Gugino what are their fee's based on.

Department of Public Works Director Gugino stated "those fees are normally based on best guess estimates of what the construction costs are; all the numbers that are put forth are construction estimates until they go to bid." Department of Public Works Director Gugino advised the city has been very fortunate during the past three years as many recent bid estimates for city projects have come in under estimate.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino "since RFP's and bids for any additional work will require resolutions, do you have a

schedule in place to ensure there is no delay I meeting Consent Order deadlines established by the DOH?"

Department of Public Works Director Gugino stated "we don't have a hard schedule but we are on it as fast as we can, we are knocking these projects off; a lot of them are being done in house."

Councilwoman-at-large Kiyak also asked Department of Public Works Director Gugino "I see that 2013 Phase 2 includes the renovation of seven filters, filter and chemical building renovations and upgrades, a control system for the new Willowbrook Storage Tank, valve and piping replacements and replacing the sedimentation sludge removal systems, are all of these projects projected to be complete according to schedules completion dates?"

Department of Public Works Director Gugino advised these projects are to be completed by their scheduled completion dates.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Rivera.

Carried, all voting aye.

Adjourned at 6: 53 PM

Lacy Lawrence, City Clerk
