

COMMON COUNCIL PROCEEDINGS
March 3, 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, Director of Development Neratko, Personnel Administrator Heyden, Recreational Program Coordinator Gornikiewicz, Fire Chief Ahlstrom and Police Chief Ortolano.

Certification of February 17, 2015 meeting was read by City Clerk Joiner.

RESOLVED: That the reading of the minutes of Tuesday, February 17, 2015 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Walter Rutland, 184 W. Second Street, Dunkirk, New York spoke in regard to the youth of our city, advised the high school students did a wonderful job this past weekend performing Shrek, the musical, stated the city should pursue grants that would benefit the youth of our city and he is still in the process of obtaining donations to send two buses of 70 Dunkirk students to visit New York City this summer. Mr. Rutland thanked Mayor Dolce for allowing him to have his show on Access 12, intends on having Dunkirk students on as guests and stated Senator Cathy Young recently was a guest on his show and wants to donate to his New York City trip.

Mike Civileto, 436 Swan Street, Dunkirk, New York spoke in regard to the Landmark Preservation Board, stated he has done some research and advised grants are available to improve the older homes in our city. Mr. Civileto stated if the city can become a Certified Local Government, this will enable the city to apply for grants to obtain surveys to place homes on State or National Registry's allowing them to become eligible for grants through the New York State Parks and Recreation Department and Federal Parks and Recreation Department. Mr. Civileto advised there is a Landmark Preservation Local Law on-line, stated the most recent Local Law he could find for the city was passed on April 3, 1979 and perhaps council should review and compare both Local Laws. Mr. Civileto further advised the city could be eligible for grants between \$1,200.00 to \$29,000.00 with the average grant amount ranging from \$5,000.00 to \$15,000.00.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Communication from Mayor Dolce appointing and re-appointing Nicole Joiner, Cindy Gotowka, Matt Martinez, Ron McWillson and E.J. Hayes to the Youth Board effective March 4, 2015 and expiring February 5, 2018.

Councilwoman Szukala moved to approve these appointments. Seconded by Councilman Michalski.

Carried, all voting aye.

Mayor Dolce thanked everyone who attended yesterday's State of the City address, congratulated Fire Chief Ahlstrom on his upcoming retirement and thanked him for his 35 years of service to the city.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Request from Brian Madurski on behalf of the Northern Chautauqua County Youth Hockey Association to use the boat launch at the Pier on March 7th for a Polar Bear swim fundraiser.

Councilwoman Szukala asked has proper insurance been submitted and why was this event rescheduled.

City Clerk Joiner advised they have submitted the proper insurance.

Police Chief Ortolano advised this was cancelled for safety reasons as the ice in the harbor was too thick several weeks ago.

Councilman Rivera asked does the city clear that area of the Pier and water for this event.

Department of Public Works Director Gugino advised his crew plowed and removed snow accumulation at the City Pier for this event and it was rescheduled as the ice in the harbor was too thick several weeks ago.

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 this petition. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from the Dunkirk City School District to use Promenschenkel Stadium from April 1st through approximately June 6th for practices and games for their modified, junior varsity and varsity softball teams.

Councilman Michalski asked Recreational Program Coordinator Gornikiewicz to explain the city's relationship with the school district, why the school does not pay the city for the use of the field and who is responsible for the maintenance of the field during this time.

Recreational Program Coordinator Gornikiewicz advised the city currently uses the school facilities (gym) and equipment (scoreboards and tables) at the Middle School and High School for basketball, in the summer and fall we use there football fields for free and the Mayor

feels we should not charge them for the use of the Stadium as we use more of their facilities than they use ours.

Councilman Rivera inquired about the field conditions for safety purposes.

Recreational Program Coordinator Gornikiewicz advised field conditions should not be an issue as games are not played if it rains or if the fields are too saturated with water and the city is only responsible for mowing the grass, the school is responsible for raking and lining the field.

Department of Public Works Director Gugino advised this is a win-win situation for both parties and the fields are rolled every day as part of their maintenance.

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 Councilwoman Szukala.

Carried, all voting aye.

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

Councilman-at-large Rosas advised a motion to refer to this to the Law Department was needed.

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

Carried, all voting aye.

Loudspeaker application from The Northern Chautauqua Conservation Club, Inc. for live bands and speakers from May 1st thru October 1st.

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

Councilwoman Szukala moved to approve this loudspeaker application. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from the Harbor Commission requesting to approve Commercial Bait Fishing application to Eugene Pauszek d/b/a/ Perch Pirates.

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

Councilman Gonzalez moved to approve this bait application. Seconded by Councilman Rivera.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski complimented Mayor Dolce on yesterday's State of the City address and stated there are some positive things happening in the city and that everything is not gloom and doom.

Councilman Rivera also complimented Mayor Dolce on his State of the City address, thanked the Observer for listing the city's accomplishments this past year and asked for an update on the Preservation Society.

Mayor Dolce advised he should have information regarding the formation of a Preservation Society by the end of the month.

Councilman Gonzalez congratulated Mayor Dolce on his State of the City address.

Councilwoman Szukala asked Department of Public Works Director Gugino for an update on the recycling program temporary drop-off site at the Edgewood Warehouse property.

Department of Public Works Director Gugino advised this is working well and that location is a good temporary site for the city.

Councilwoman Szukala inquired about the deteriorating conditions of the Seawall behind the Water Treatment Plant and is there a possibility of RFP's going out in the near future.

Department of Public Works Director Gugino advised this is at a standstill; he is working on obtaining funding and solutions for the repair of that portion of the Seawall.

Mayor Dolce advised the city has spoken with Empire State Development representatives regarding the wall and potential grant funding.

Councilwoman Szukala asked they keep council updated on this situation.

Councilman-at-large Rosas advised the 2015 CDBG Action Plan is nearly complete, applications have been reviewed and the plan is set to be released during the CDBG Public Hearing scheduled for Thursday, March 12th at 2:00 PM in the Mayor's Conference Room. Councilman-at-large Rosas further advised a brief presentation outlying this year's plan will be given and then a public comment period will begin.

Councilman-at-large Rosas thanked the Revitalize Dunkirk Organization for meeting with city officials regarding the potential for hanging baskets along Central Avenue, the city is supportive of the project, looks forward to work with them in the future and anyone interested in this or other beautification projects should attend the Revitalize Dunkirk meeting on March 19th at 6:30 PM at the SUNY Fredonia Incubator.

Councilman-at-large Rosas advised Mayor Dolce the common council is awaiting an update from him regarding the North County Water District.

Mayor Dolce advised a meeting is scheduled this Wednesday at 10:00 AM at the Village Hall in Fredonia to discuss the interconnect between the village and the city and this meeting is open to the public.

PRE-FILED RESOLUTIONS:

RESOLUTION #5-2015
MARCH 3, 2015

BY: THE ENTIRE COUNCIL

AUTHORIZE AGREEMENT FOR LIVE BURN SIMULATOR

WHEREAS, the City and County have a forty-year lease agreement (through October 31, 2041) for the Murphy Fire Training Center (the "Center"), which is utilized for volunteer and professional firefighter training; and

WHEREAS, the Center currently lacks the ability to provide a live-fire training environment to safety training firefighters; and

WHEREAS, the City of Dunkirk Fire Department has been awarded an Assistance To Firefighters Grant to purchase a mobile Live Burn Simulator to be stationed at the Center at a cost of \$400,000 which requires a ten percent (10%) local match; and

WHEREAS, the County – through County Legislature Resolution 267-14 (December 17, 2014) – authorized an agreement with the City whereby the County will contribute \$40,000 to cover the local match for the Live Burn Simulator match and fund a five-year maintenance agreement in the amount of \$49,500; and,

WHEREAS, it is in the best interests of the City to enter in to an agreement with the County of Chautauqua for such Live Burn Simulator; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized to execute any and all contracts and related documents with the County of Chautauqua regarding the purchase, maintenance and up-keep of a Live Burn Simulator whereby the County will contribute \$40,000 to cover the local cost for the Live Burn Simulator match and the County will re-imburse the City in order to fund the five-year maintenance agreement in the amount of \$49,500; and, the City will insure the apparatus.

Councilwoman Szukala stated this is a good training tool for our firefighters and staff; will be put to good use and thanked Fire Chief Ahlstrom and all the County Legislators for their work to obtain this simulator.

Carried, all voting aye.

RESOLUTION #6-2015
March 3, 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 3

Description: Replacement of (3) Refrigerated Air Dryers at Waste Water Treatment Plant.

Account Number	Department	Line	Change
003.8130.2000	Wastewater Treatment	Equipment	\$ 11,500
003.8130.4036	Wastewater Treatment	Contracted Services	\$ (11,500)
TOTAL			\$ -

Carried, all voting aye.

RESOLUTION #7-2015

March 3, 2015

BY THE ENTIRE COUNCIL:

AUTHORIZING BEACH STUDY BY COUNTY/STATE GRANT

WHEREAS, the Chautauqua County Department of Health (CCDOH) has secured New York State grant money to study possible sources of bacteria in underground storm water structures flowing toward the City of Dunkirk's bathing beaches; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute an agreement of services with the Chautauqua County Department of Health that includes the City advancing funds from Fund 003.8130.4036, Wastewater Treatment Contracted Services, to cover costs not to exceed \$11,000 and then receiving from the County reimbursement monies for these costs according to the agreement of services prepared by CCDOH and depositing such receipt of grant funds into Fund 003.0003.2770.7706, Wastewater Treatment Unclassified Revenue-Grants; and, be it further

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 3 - Wastewater Treatment Fund

Account Number	Department	Line	Change
Revenue			
003.0003.2770.7706	Wastewater Treatment	Unclassified Revenue-Grants	\$ 11,000

Appropriation
 003.8130.4036 Wastewater Treatment Contracted Services \$ 11,000

Councilman Michalski advised this was discussed at a Finance Committee Meeting, the city is a pass through for this grant and there will be no expense to the city as the county will reimburse the city.

Carried, all voting aye.

RESOLUTION #8-2015
March 3, 2015

BY THE ENTIRE COUNCIL:

EXTENDING BID AWARD FOR ELEVATOR MAINTENANCE

WHEREAS, the City of Dunkirk secured and is using a 2-year-increment renewable maintenance contract for City elevators at City Hall and at the Water and Wastewater Treatment Plants, and

WHEREAS, the New York State Office of General Services (OGS) State contract process was used for this renewable contract, and this OGS process includes provisions for calculating annual increases, and

WHEREAS, the Department of Public Works (DPW) has reviewed the calculations by the vendor, DCB Elevator Co., Inc., PO Box 426, Lewiston, New York 14092, and finds that the 1.57 percent increase per year that said vendor proposes is in accord with the price indexes used in the OGS calculation process, therefore be it hereby

RESOLVED, that the Mayor is hereby authorized and directed to execute an agreement of services with **DCB Elevator Co., Inc.**, PO Box 426, Lewiston, New York 14092, to extend the elevator maintenance contract for 2015 at the rate of \$919.43 per month, which is 1.57 percent above the 2014 rate of \$905.22 per month, and for 2016 at the rate of \$933.86 per month, which is 1.57 percent above the 2015 rate, and be it finally

RESOLVED, that costs for this extended maintenance contract be funded, respectively, from the following accounts in the proportions previously calculated by and used by DPW in accord with elevator maintenance work needed by location:

001.1620.4036 20 percent, Building City Hall – Contracted Services
 002.8320.4736 35 percent, Water Purification & Pumping – Contracted Services
 003-8130-4036 45 percent, Wastewater Treatment – Contracted Services

Carried, all voting aye.

RESOLUTION #9-2015
MARCH 3, 2015

BY ENTIRE COUNCIL:

CONSENT TO APPOINTMENT OF FIRE CHIEF

WHEREAS, pursuant to Section 2.03 of the Dunkirk City Charter and Section 2-9.02 of the City Code, Mayor Anthony J. Dolce has appointed Michael D. Edwards, Dunkirk, New York 14048, to serve as Fire Chief, with a permanent appointment beginning March 15, 2015, contingent upon successful completion of an eight (8) week probationary period, now therefore, be it

RESOLVED, that this Common Council hereby consents to the appointment of Michael D. Edwards as Fire Chief, at an annual salary for the year 2015 of \$80,000.00 (with percentage salary increases commensurate with those ratified in the Dunkirk Professional Firefighters' Association, Inc. (Local 616)).

Councilman Rivera thanked Fire Chief Ahlstrom for his service to the city.

Councilwoman Szukala also thanked Fire Chief Ahlstrom for his service to the city, wished him well in is retirement and advised incoming Fire Chief Edwards that she looks forward to working with him.

Councilman-at-large Rosas asked Fire Chief Ahlstrom do you agree with this appointment by the Mayor.

Fire Chief Ahlstrom replied he agrees 100 percent with this appointment.

Carried, all voting aye.

RESOLUTON #10-2015
MARCH 3, 2015

BY THE ENTIRE COUNCIL

**AWARDING BID FOR BENTON WATER TANK INTERNAL REPAIRS
AND REJECTING BIDS FOR WATER TREATMENT PLANT SEDIMENTATION
BASIN SLUDGE COLLECTION SYSTEMS
(WATER TREATMENT FACILITY – Phase 1 and 2 Continuation)**

WHEREAS, the City of Dunkirk, in 2009, entered into a Consent Order with the Chautauqua County Department of Health (CCDOH) and has received subsequent deficiency reports from CCDOH to address inadequacies related to the City's water treatment plant and water distribution system; and

WHEREAS, the Common Council, through Resolutions authorized bonding for Phase 1 and Phase 2 of the reconstruction of and construction of improvements to the City's water system with the stated specific purpose to reconstruct and construct improvements to the City water system including, but not limited to, improvements to the water treatment plant and all preliminary work and necessary equipment, materials and site work; and

WHEREAS, following published Legal Notice, sealed bids for the furnishing of portions of this work – including bids for Benton Water Tank Internal Repairs and for Replacing Water Treatment Plant Sedimentation Basin Sludge Collection Systems – were opened and read aloud in the Dunkirk City Clerk's Office at 2:00 p.m. on December 30, 2014; and

WHEREAS, the bids were received and reviewed by the Department of Public Works which found that the Sludge Collection bid(s) contained irregularities that did not meet design specifications and should be rejected as recommended by DPW, and that therefore the Department of Public Works recommends that the Benton Tank lowest responsible bidder for work that is to design specifications be awarded for such Benton Tank work; now, therefore, be it hereby

RESOLVED, that upon review and recommendation of the Director of Public Works, the Sludge Collection Systems bids are hereby rejected and requested to be re-bid as recommended by the Department of Public Works, and be it hereby further

RESOLVED, that upon review and recommendation of the Director of Public Works, the following lowest responsible bid that meets design specifications be accepted and awarded:

<u>Bidder</u>	<u>Item and Funding Line</u>	<u>Cost</u>
H & K Services 1205 Leon Road Leon, NY 14751	Benton Water Tank Internal Repairs, Fund 015-8320-5041-8054	\$216,500.00

and, be it further

RESOLVED, that – after contractors provide satisfactory insurance certificates to the City Law Department, and contractors provide performance bonds and payment bonds reviewed and approved by the design engineer, and having contractors show compliance with Contract Requirements of the New York State Revolving Fund, including but not limited to MWBE procedures – the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with the above-named contractor(s), for the Benton Water Tank Internal Repairs 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.

Councilman-at-large Rosas asked Fiscal Affairs Officer Halas do we have funds for this project and are these funds appropriated for this project.

Fiscal Affairs Officer Halas replied yes we have enough remaining funds to proceed with this project and these funds were part of the short-term bonding which will go into a full-term bond once this phase of the project is completed.

Councilman-at-large Rosas advised there has been discussion regarding this resolution and asked City Attorney Szot to confirm the funds we are planning to use are legally appropriated for this project.

City Attorney Szot advised that there was initial confusion in that it had originally been stated that the Benton Street Project was required as part of the 2009 Consent Order, which it was not. However, after discussions with Bond Counsel, it was confirmed that the bond resolution was

drafted loosely enough to provide that the specific work would be appropriately included in the bond. City Attorney Szot also advised that while the work was appropriated to use bond funds, the question of whether the work was budgeted for was a Treasurer/Fiscal Affairs matter, and that some already budgeted work could be left unfunded if funds were not budgeted for all of the work.

Councilwoman Szukala advised there has been discussion with council regarding concerns on this resolution and asked should we not continue on with the original consent order before we start work on items that were added on after the original consent order and will there be items from the original consent order that we will not be able to fund do to the new additions.

Department of Public Works Director Gugino advised he has given council all documentation they need over the last month.

City Attorney Szot reiterated this was not a legal question of whether the money can be spent on the project, but a question of whether there are other things that have been allocated within the budget that can't be done.

Fiscal Affairs Officer Halas replied yes, it had been discussed at an earlier meeting with Hill Engineering and stated "we identified the fact that we will not have enough to complete of all the items that were originally scheduled" and some of the items will have to be pushed into Phase III of the project. Fiscal Affairs Officer stated "I will tell you that on our bonding that we have outstanding now, we did not have enough to complete Phase 2, Phase 1 and Phase 2."

Councilwoman Szukala advised she wanted to make sure that everyone was on the same page because as of today there were council members reaching out to different department heads and they were getting different answers from different people.

Mayor Dolce advised money is available for work on the Benton Street water tank which was not identified in the 2007 Consent Order.

Department of Public Works Director Gugino proceeded to discuss the Benton Street water tank, advised he e-mailed the original document to everyone showing a budget line being created in February 2010 for work the Council and Board of Health deemed necessary for that tank, stated he withheld payment on the painting of the water tank due to rotten job by the painters and the interior of the tank never was completed that year because he had a problem with the quality of the work. Department of Public Works Director Gugino stated "technically, it wasn't in the language of the original consent order that was begun being drafted in 2007, Benton Street came in after 2009 (October 26)" and advised that tank has not been opened in 12 years and is supposed to inspected on the inside every 5 years.

Councilwoman Szukala stated "there seems to have been some miscommunication somewhere, I just want to make sure going into this vote, as important as it is, that we all understand and we have our questions answered."

Councilman-at-large Rosas advised council basis their decisions on information they receive from department heads and were told this was not part of the original consent order and could not approve the resolution. Councilman-at-large Rosas stated "council is still a bit confused and when we ask a question we're still not getting the direct answer that we want to know, which is yes, this is good, it's legal and there's not going to be any misappropriation of funds or anything like that."

Councilman Michalski asked if we approve this resolution what projects are being placed on the back burner as a result of this.

Department of Public Works Director Gugino stated nothing and advised there is money currently budgeted to complete the work.

Fiscal Affairs Officer Halas advised there is money currently budgeted and at the beginning of 2015 he asked the Department of Public Works and Hill Engineering to prioritize what work they wanted to complete.

Councilman Gonzalez advised council wants to make clear that money is available and the city is committing no violations.

Carried, all voting aye.

Councilwoman Szukala motioned to meet in Executive Session to discuss the employment history of a particular person, matters leading to the demotion, discipline, suspension, dismissal or removal of a particular person, it is expected that no new business will take place after the Executive Session concludes and requested the presence of City Attorney Szot, Mayor Dolce, Personnel Administrator Heyden and Department of Public Works Director Gugino. Seconded by Councilman Michalski.

Carried, all voting aye.

Executive Session called to order at 6:14 PM.

Councilwoman Szukala moved to adjourn the Executive Session at 6:45 PM and reconvene to the regular Council Meeting. Seconded by Councilman Gonzalez.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:46 PM

Nicole Joiner, City Clerk
