

**COMMON COUNCIL PROCEEDINGS**  
**April 16, 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, Clerk, Board of Assessors Mleczko, Director of Development Neratko, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

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

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

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Greg Sek, 14 Armadillo Street, Dunkirk, New York questioned Police Chief Ortolano regarding an incident Monday in the First Ward and inquired why nothing appeared in the paper regarding this matter.

Police Chief Ortolano advised this was an ordinary arrest; the individual was cornered and apprehended.

Thomas Taylor, 223 Temple Street, Dunkirk, New York spoke in regard to Resolution #23-2013 - Authorizing 2013 Directors Stipend - Dunkirk Housing Authority on tonight's agenda, advised he does not condone nor thinks it's proper for any organization operating on a volunteer basis to receive a fee or stipend and stated "being a volunteer is a privilege and if they can not go to these meetings without being paid to be there, then maybe they need to find someone else."

Mr. Taylor noted he takes exception to this current administration stating they are trying to lower the budget and cut expenses, yet they are reinstating this stipend and stated he believes this administration is opening a Pandora's Box as other Boards may come forward looking to receive stipends.

Harriet Tower, 438 Swan Street, Dunkirk, New York spoke on behalf of the Academy Heights Association and The Main Thing, compliment the Police Department for their work on recent arrests in the city and inquired if a system could be established should an individual who comes forward during a council meeting with a question or concern that can not be answered at that time have a councilmember contact them after meetings with an answer.

Councilwoman-at-large Kiyak thanked Ms. Tower and agreed residents should have a councilmember contact them with answers to their questions.

Ms. Tower advised the Academy Heights Association has concerns regarding a home on Swan Street and an individual who owns multiple properties in the city.

Councilwoman-at-large Kiyak advised Ms. Tower these items are not germane to tonight's meeting; these questions should be addressed to Building and Zoning Officer Zurawski or a committee meeting.

Valerie Pawlak, 10 Ruggles Street, Dunkirk, New York inquired about the status of the Harbor front Grant.

Mayor Dolce advised the city has not received any information and is hoping to hear soon regarding the status of this grant.

Ms. Pawlak advised she recently attended a seminar at the Clarion Hotel regarding the Great Lakes Sea Grant and Great Lakes Seaway Trail read the following report:

“Report of Great Lakes Sea Grant Seminar and Great Lakes Seaway Trail and what is New York Sea Grant:

New York Sea Grant is a state wide network of integrated research, education, promoting coastal, economic, environmental, citizens answers, education and awareness. In other words “Bringing Science to the Shore” since 1971. It is most important to us in Dunkirk, New York because our Lake Erie is the lowest of all Great Lakes and also it is considered international water because it borders another country, which is Canada. We are protected by the Federal Sea Great Lakes Sea Grant for security and also pollution!

The Sea Grant Lakes Seaway Trail is part of the grant program and it locates what is important in our area, like growth and economics and tourism. Our main economics is our Dunkirk Water Filter Plant. If we are to become the Regional Supplier we need much rebuilding, also our Waste Treatment Plant. This will bring us a science lab, buildings more construction for our Harbor Front and a scenic area which would be like the Lighthouse, Veterans Museum. We are very much involved with the War of 1812, after all the first shot of the War was right here near the Dunkirk Lighthouse, near Canadaway Creek, which opened the way to Fredonia. It's in a book where the name Mrs. E.M.H. Edwards was a reporter on the Dunkirk Observer wrote the story of Dunkirk! Our Harbor Commission will be much involved. We had Sam Genco of Jamestown with scuba diving for over 30 years in our harbor. He even talked about our beautiful sunsets on our lake each day. A gentleman from Canada who did scuba diving with Jacques Cousteau; there were eight presentations. We want to thank the EPA, SUNY Fredonia, and SUNY Buffalo.

Now, all that is needed is to get our train station re-open which is going to be crucial and our cable TV up to date because Dunkirk residents want to know what's going on in this city.”

Thomas Taylor, 223 Temple Street stated the forum of these meetings have changed during the recent meetings as certain residents are allowed to speak in regard to items not on the agenda where as others can not speak regarding items not listed on the agenda. Mr. Taylor further stated this council owes an individual who spoke at tonight's meeting an apology as he believes this individual was treated rudely by this council.

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

Mayor Dolce advised the Pedestrian Trail and Bike Path Project, Phase II will begin this Thursday.

Mayor Dolce advised the city will be looking into dredging the inner harbor this season and will pursue securing funding for this project.

Mayor Dolce advised the city will be posting notices next week that it will be accepting applications for summer help in the Parks, Streets and Recreation Departments.

Mayor Dolce advised Legislator Shaun Heenan will be stepping down from the Harbor Commission Board due Legislative commitments, thanked him for serving on the Board and announced he will be appointing Tom Murphy to fill the unexpired portion of that term.

Communication from Mayor Dolce appointing Tom Murphy to the Greater Dunkirk Harbor Commission due to the resignation of Shaun Heenan effective April 16, 2013 and will expire June 6, 2014.

Received and Filed.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Petition from the Dunkirk Joint Veterans Council requesting to hold the annual Memorial Day Services & parade on Monday, May 27th at 10:00 AM with parade to follow, reviewing stands and chairs at Memorial Park & City Hall and participation by the Mayor & City Officials.

Councilman Rivera advised city residents councilmember's could not attend every function held in the city last year and stated he will make it a priority to attend as many city functions as possible this year.

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

Councilman Gonzalez moved to approve. Seconded by Councilman Szukala.

Carried, all voting aye.

Petition from Frank Acquavia Memorial Post No. 1344 requesting permission to hold their annual Memorial Day Activities on Monday, May 27<sup>th</sup> from Noon until 7:00 PM. Also requesting the use of picnic tables, trash barrels, and snow fencing.

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, Law Department and Fire Department.

Councilman Rivera moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Carmen Lara requesting to use Point Gratiot Beach on June 29<sup>th</sup> beginning at 10:30 AM for a wedding ceremony.

Councilman Rivera thanked Carmen Lara for asking permission to use Point Gratiot, would like to see more people asking permission and using Point Gratiot and stated perhaps Ms. Lara could submit photographs from her wedding to the city so the city could use these pictures should the city every apply for a grant for Point Gratiot.

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

Councilman Rivera moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Stephen O'Brien, Dunkirk High School Principal, for two police officers at the Moose Club for the Junior/Senior Prom on Saturday, April 27<sup>th</sup> from 7:45 PM until 12:15 AM.

Councilwoman Szukala confirmed with Police Chief Ortolano this expense will come from the PBA and there will be no cost to the city.

Police Chief Ortolano replied correct.

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

Councilwoman Szukala moved to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Loudspeaker application from Rookies Sports Bar on the Lake for live bands from May 1<sup>st</sup> thru October 31<sup>st</sup>.

Loudspeaker application from Frank Acquavia Memorial Post #1344 for a band on May 27<sup>th</sup> from 3:00 PM until 7:00 PM.

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

Councilwoman Szukala moved to approve these applications. 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, April 29<sup>th</sup>, he met with Fiscal Affairs Officer Halas and the city's insurance representative yesterday and stated they will report their findings at the next Finance Committee Meeting.

Councilman Rivera advised a Personnel, Judicial and General Welfare, Recreation, Library and Regional Planning Committee meeting was held today, it went well and he will have the minutes from this meeting posted to the city's website as soon as possible.

Councilman Rivera thanked Mr. Heenan for his service to the Harbor Commission and thanked the Citizen's Advisory Committee for inviting him to their meeting last Wednesday.

Councilman Gonzalez advised a Public Works Meeting was held this morning and the concerns brought up by Ms. Tower earlier in this meeting were addressed this morning. Councilman Gonzalez further advised these meetings are advertised to the public, the public is welcome to attend and ask their questions during these committee meetings and the next Public Works Meeting will be held on May 7<sup>th</sup> at 11:00 AM.

Councilwoman Szukala advised citizens to be cautious throughout the Franklin Avenue and Roberts Road area as piping and work on the Millennium Parkway will be beginning soon as well as work on the Liberty Street Drainage Project.

Councilwoman Szukala advised residents if they have questions or concerns they can call any councilmember, not just the councilmember from their ward.

Councilwoman Szukala asked Department of Development Director Neratko if the city's website could be updated and she noticed a few outdated items on the site.

Councilman Gonzalez offered his deepest sympathy to the victims in Boston, Massachusetts.

Councilman Rivera thanked everyone who attended tonight's council meeting and advised he will be contacting Ms. Tower regarding her concerns.

Councilwoman-at-large Kiyak asked Department of Development Director Neratko for an update on the marina and application process.

Department of Development Director Neratko advised Jeff Gambino did attend a recent Planning Board Meeting, the next step would be to have a SEQR accomplished and Mr. Gambino needs to supply the city with additional information. Department of Development Neratko advised as soon as Mr. Gambino supplies the city with all the proper information the city will then schedule another Planning Board Meeting.

Building and Zoning Officer Zurawski advised the Harbor Commission did approve the site plan and stated "once all the steps are created then it comes to council."

Councilwoman-at-large Kiyak stated "he (Mr. Gambino) is well aware the ball is in his court before the SEQR application can proceed."

Building and Zoning Officer Zurawski replied yes.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino for an update on the Water Treatment Plant Consent Order and the process of RFP's and bids.

Department of Public Works Director Gugino advised the Water Treatment Plant Consent Order Project is on track, with the authorization for a Resolution for bonding, the contract between the city and the engineering firm has been signed and the city can move forward.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino the city is on schedule to issue RFP's and bids.

Department of Public Works Gugino advised the city is on schedule.

Clerk, Board of Assessors Mleczo reminded city residents the deadline to apply for the STAR Program is May 1<sup>st</sup>; there are approximately 25 senior residents who have not reapplied for this program and his office has been trying to contact them and advised new homeowners in the city need to file their application by May 1<sup>st</sup>.

Councilwoman-at-large Kiyak asked Clerk, Board of Assessors Mleczo the new state requirements will not take effect until next year.

Clerk, Board of Assessors Mleczo stated that was correct.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #22-2013**  
**APRIL 16, 2013**

**BY: THE ENTIRE COUNCIL**

**AUTHORIZING BOARDWALK LEASE AGREEMENT**  
**(Erika Finamore DBA Yummy's Lakeside)**

**WHEREAS**, the City of Dunkirk has developed and marketed the **Dunkirk Boardwalk Project** (the "Boardwalk") 8-22 Central Avenue, Dunkirk, New York, to help create and to encourage the vibrancy of the City's harbor district; and

**WHEREAS**, the City of Dunkirk has available space in the Boardwalk and desires to enter into an agreement with **Erika Finamore DBA Yummy's Lakeside**, to lease a portion of the Boardwalk for retail sales of ice cream and frozen confections to the general public; now, therefore, be it

**RESOLVED**, that the Mayor, Anthony J. Dolce, is hereby authorized to execute a lease agreement with **Erika Finamore DBA Yummy's Lakeside**, 7257 Autumn Lane, Fairview, PA 16415, for rental of 16 Central Avenue, Dunkirk, New York 14048, for a one (1) year period (May 1, 2013 and terminating on April 30, 2014) at an annual rental of Three Thousand Nine Hundred Dollars and Zero Cents (\$3,900.00).

Councilman Rivera advised he has several concerns regarding this Resolution; has nothing against the length of the lease agreement (1 year) or against Erika Finamore and Yummy’s Lakeside but has concerns regarding the long term plan of the Boardwalk. Councilman Rivera advised he would suggest either tabling this Resolution or he will be voting no on this Resolution.

Councilman Gonzalez advised his concern regarding this Resolution is he would prefer Yummy’s Lakeside to be in the Boardwalk full time/year round.

Councilwoman-at-large Kiyak stated “I would like to state for the record that this vote is only for authorizing the mayor to enter into a lease agreement for one year in the amount of \$3,900.00 and does not pertain to the actual terms outlined in the lease.”

City Attorney Szot asked Councilwoman-at-large Kiyak for clarity on her statement.

Councilwoman-at-large Kiyak stated “I’m authorizing the Mayor to enter into a lease; the actual terms in that lease is between the Mayor and the tenant, so I’m voting to state that the Mayor can execute the lease as he see’s fit, it’s for the term of one year and for the price.”

City Attorney Szot asked if council is only approving the term of the lease and price of the lease and everything else pertaining to the lease is subject to the Mayor’s approval.

Councilwoman-at-Kiyak replied yes.

Vote on Resolution:

Ayes: Councilmen Michalski, Gonzalez, Councilwoman Szukala, Councilwoman-at-large Kiyak.

No: Councilman Rivera.

Carried, (4-1).

**RESOLUTION #23-2013**  
**APRIL 16, 2013**

**BY: COUNCILMEN MICHALSKI, RIVERA and GONZALEZ**

**AUTHORIZING 2013 DIRECTORS STIPEND – DUNKIRK HOUSING AUTHORITY**

**WHEREAS**, the City of Dunkirk has in the past provided to the Members of the Board of the Dunkirk Housing Authority a monthly meeting stipend; and

**WHEREAS**, such stipend was not funded in the 2013 City Budget which was ratified on November 20, 2012 (Resolution No. 102-2012); now, therefore, be it

**RESOLVED**, that the Dunkirk Common Council hereby approves a monthly meeting stipend to Members of the Board of the Dunkirk Housing Authority for Fiscal Year 2013, in the amount of Thirty Dollars and Zero Cents (\$30.00) per Member per monthly meeting, and Forty Dollars and Zero Cents (\$40.00) to the Chairman of the Board and Treasurer per monthly meeting, with the total annual amount of such stipends not to exceed the appropriated amount of Two Thousand Seven Hundred Sixty Dollars and Zero Cents (\$2,760.00); and, be it finally

**RESOLVED**, that the Fiscal Affairs Officer and/or City Treasurer make the following budgetary adjustments:

Decrease

Acct. 001-1900-1990-0000	CONTINGENCIES	\$2,760.00
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Increase

Acct. 001-8612-4036-0000	CONTRACTED SERVICES	\$2,760.00
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Councilwoman Szukala advised there has been a lot of discussion among the councilmember's regarding this matter; there are several Boards in the City of Dunkirk who do not receive a stipend (Planning Board, Library Board, Industrial Development Agency, Dunkirk Local Development Corporation and Harbor Commission) and three Boards who do receive stipends (Building and Zoning Board, Electrical Board and Plumbing Board). Councilwoman Szukala advised she has not been able to determine if the three Boards receiving stipends receive them through agreements, Resolutions or State Law.

Councilwoman Szukala advised the city has a possible payback to HUD, an aging seawall in need of repair and an aging vehicle fleet and stated she will not be supporting this Resolution. Councilwoman Szukala quoted Councilman Rivera from the meeting held on November 20, 2012 and stated "the budget was not as bad as he thought, he will be holding all department heads to the task of staying within the budget and he would have council toe the line as well. I'm not really sure what happened to change your mind, \$3,000.00 is no small price tag when it comes to all the other things we have to do."

Councilwoman Szukala advised she has been working with Councilman Michalski trying to replace parking meters on Central Avenue and Fourth Street at a cost of \$160.00 per meter and stated that \$3,000.00 could pay for several meters which would generate income for the city.

Councilman Rivera advised this has not been an easy decision; thought the Dunkirk Housing Authority could pay themselves the stipend during last years budget process but has since found they can not pay themselves and values the work of all the Boards in the city. Councilman Rivera advised he will be voting in favor of reinstating the Housing Authority's stipend and stated "I will reserve to say that by the end of this

year if this city is in bad enough position where it becomes something we need to look at again, I won't just look at the housing authority's, I will look at every board that we pay."

Councilman Michalski advised council removed this stipend during the 2013 budget process thinking the Dunkirk Housing Authority could pay their own stipend but have since found out the Housing Authority can not legally pay their own stipend. Councilman Michalski stated he will be voting yes for this stipend based on a letter he received from Dunkirk Housing Authority Board Chairman Jim Sheedy and read the following "the Authority may fix the employees compensation subject to the approval of the local legislative body. We may hire, promote, terminate employees, determine their qualifications, set policy, acquire property etc. We also deliver a payment in lie of taxes of \$45,000.00 plus dollars to the city, oversee assets in millions of dollars, an operating budget in excess of one million dollars, and spend tens of thousands locally." Councilman Michalski noted his decision is based on the scope of this Boards responsibility, is not trying to pit one Board against another Board and stated "I think there is a little bit more responsibility that the Dunkirk Housing Authority Board performs" and stated the Housing Authority has had a good working relationship with the City citing work on the Tim Horton's property and co-funding of playground equipment (Main Street).

Councilman Gonzalez advised he had served on this Board for 14 years, was paid \$10.00 a meeting and stated the members are appointed by the Mayor. Councilman Gonzalez noted the Board looked into paying their own stipend years ago, legally could not do so, which is why the stipend was established and stated it's a difficult board to be on; "in this case with all the benefits we get back from the housing authority, I think it warrants for them to keep their stipend; yes we would like them to pay their own stipend, but according to legal issues they can't do that, that's why I'm will be voting yes."

Councilwoman Szukala stated all council is doing is setting precedent if someone is unsatisfied at budget time with cuts to their departments or boards they could come back, complain to the council and have it reinstated. Councilwoman Szukala stated "I'm not saying the Board does not earn what they do; I'm not saying that it's not a fabulous Board, I'm saying that by making that statement the Boards that are not paid seem to be less relevant than the one's that are and that's true by no means. It's been six months, we were asked to find any resolutions, contracts or anything from the State that obligated us to pay them so I'm asking the City Attorney at this time we have not found anything that binds us to having to pay this, nor has the Housing Authority brought us any papers from their end stating that we are obligated to do so either, is that correct?"

City Attorney Szot replied yes.

Councilman Rivera advised the budget line funds for this stipend was placed into the Contingency Fund and stated "as far as I am aware that money is still there."

City Treasurer Woods stated “that is partially true, it went to fund another line or lines within the budget; it did not necessarily go into contingencies; when it was removed the difference went to balance the budget.”

Councilman Rivera further continued he values every Board, paid or unpaid, and stated “to make this right in my opinion, if were going to take it away from one then we should take it away from all.”

Councilwoman-at-large Kiyak advised she will be voting no to the monthly stipend for the Board and stated “we are facing the repayment of potentially hundreds of thousands of dollars to HUD for misappropriating CDBG funds during the last four years of the prior administration and we will need to rely on every extra penny in the budget when and if this happens. This Board consists of volunteers which is defined as “a person who performs a service willingly and without pay.” Lastly, it is inconsistent of this Council to approve a monthly stipend to this Board without compensation to the volunteers of the other Boards that serve the City such as the IDA, DLDC, Planning Board, Harbor Commission and Library Board.”

Vote on Resolution:

Ayes: Councilmen Michalski, Rivera, Gonzalez.

No: Councilwoman Szukala, Councilwoman-at-large Kiyak.

Carried, (3-2).

**ADJOURNMENT:**

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

**Adjourned at 6:22 PM**

**Lacy Lawrence, City Clerk**

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