

COMMON COUNCIL PROCEEDINGS**April 5, 2016**

The meeting was called to order at 5:30 PM by Councilman-at-large Woloszyn followed by the Pledge of Allegiance.

Present: Councilmen Williams, Bamonto, Gonzalez, Councilwoman Szukala and Councilman-at-large Woloszyn.

Also present: Mayor Rosas, City Attorney Brautigam, Public Works Director Bennice, City Treasurer Woods, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczeko, Deputy Director of Planning and Development Waite, Fire Chief Edwards and Police Chief Ortolano.

Absent: Personnel Administrator Heyden.

Councilwoman Szukala motioned to go into Executive Session to discuss the employment and/or promotion of an individual. Seconded by Councilman Williams.

Carried, all voting aye.

Executive Session called to order at 5:32 PM.

Councilman Williams moved to adjourn the Executive Session at 5:52 PM. Seconded by Councilman Bamonto.

Carried, all voting aye.

Councilman Gonzalez moved to reconvene the regular Council Meeting at 5:54 PM. Seconded by Councilman Bamonto.

Carried, all voting aye.

Certification of March 15, 2016 meeting was read by City Clerk Divine.

RESOLVED: That the reading of the minutes of Tuesday, March 15, 2016 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

No one spoke.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Rosas advised the city is on track to execute a contract with the BOA Step II grant consultant; the Department of Development staff has been working closely with representatives

of the Office of Planning and Development of the New York Department of State and the selected consultant on working out final compliance issues. The Department of Development has also been working with the City Attorney for the engagement contract finalized for execution and the contract is expected to be available for signature in the near future.

Mayor Rosas advised preparations for this year's Farmer's Market are ongoing, Sarah Sorci has replaced Patti Hammond, and the Department of Development has been working with the Chautauqua County Health Network for Creating Healthy Schools and Communities and have now signed the Dunkirk portion of the grant in the amount of \$5000.00.

Mayor Rosas advised SUNY Fredonia, Village of Fredonia and the City of Dunkirk CFA technical assistant request has passed and that he and the Department of Development staff have served as members of an informal working group comprised of representatives of SUNY Fredonia, Village of Fredonia and the City of Dunkirk to prepare a technical assistance request for help in preparing a potential joint CFA application. The application will be for a project focused on the Chadwick Bay Waterfront and Central Avenue Corridor from the Waterfront to the Fredonia Village Center, this application has been approved and the kick-off meeting will be tomorrow, April 6th at 3:00 PM at the Incubator. Mayor Rosas further advised this is the first time that the City of Dunkirk and the Village of Fredonia have joined efforts in obtaining grant funding for this area.

Mayor Rosas advised the Department of Development has met with representatives of a citizen's group that is interested in raising money for the creation of a "dog park" in the City, the citizen's group is willing to assume the full responsibility of fund raising and the Department of Development is actively exploring the potential for matching funds for such an initiative.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from the Lake Shore Humane Society to use the Koch's pavilion at Point Gratiot on June 18th (June 19th rain date) from 8:30 AM until 3:00 PM for their annual "Pat Magee Memorial Dog Walk."

Councilwoman Szukala asked has the group come in to rent the pavilion.

City Clerk Divine advised the group has reserved the pavilion for that date.

Councilman-at-large Woloszyn advised a motion was needed to refer to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Bamonto moved to approve. Seconded by Councilman Williams.

Carried, all voting aye.

Petition from Special Olympics New York and The Law Enforcement Torch Run to use city streets on May 25th between 9:00 AM and 9:30 AM.

Councilwoman Szukala asked Police Chief Ortolano does this group have to get additional authorization from the county as well as the state for use of the streets.

Police Chief Ortolano advised they need to get additional approvals and they have held this event for the past several years without any issues.

Councilman-at-large Woloszyn advised a motion to approve was needed and referred this to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Gonzalez moved to approve. Seconded by Councilman Williams.

Carried, all voting aye.

Petition from The Fellowship of Christian Athletes requesting a parking waiver on Seventh Street from Central Avenue to Washington Avenue every Monday from March through April from 5:00 PM until 9:00 PM.

Councilwoman Szukala asked Police Chief Ortolano and his department to inform the Animal Control Officer, Steve Purol, of this petition.

Councilman-at-large Woloszyn advised a motion to approve and refer to the Police Department was needed.

Councilwoman Szukala moved to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Petition from Section VI, New York State Public High School Athletic Association, Inc. to use Promenschenkel Stadium on May 25th (May 26th rain date) to host the Class B1 and B2 Softball Sectional Finals beginning at 5:00 PM and 7:00 PM.

Councilman Williams advised this group has barricaded the roads in that area and has charged admission in the past and that city residents have had to pay a fee to walk their dogs in that area during that tournament, however, their request does not ask for permission to block off the roads and asked has anyone from the city notified them that they cannot block off the roads.

Councilman-at-large Woloszyn advised this should be referred to the Law Department and Police Department.

Police Chief Ortolano advised this group has barricaded the roads in the past and they have to charge admission per Section VI Rules.

Councilman Gonzalez stated this group makes a lot of money from this tournament, aside from the rental fee for the use of the field, does this group make a donation to the city to assist in the expenses associated with maintenance of the field.

Councilman Bamonto asked has this group ever requested to barricade the roads as this petition does not ask for permission.

Police Chief Ortolano advised they have never asked permission to barricade the roads; they pay to rent the field, but not the streets.

Councilman-at-large Woloszyn advised a motion to approve was needed and referred this to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Bamonto moved to approve. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Petition from Marie Tomlinson to hold a rally at the gazebo in Washington Park on April 17th from 1:00 PM until 5:00 PM.

Councilwoman Szukala advised she will not support this petition and stated "I don't believe our neighborhood parks are a place to have a political rally," perhaps this group could hold this event at a pavilion at Point Gratiot or a private venue and stated "our neighborhood parks are meant to be enjoyed by everybody and I don't think that bringing politics into those neighborhood parks is the right thing to do."

Councilman-at-large Woloszyn advised a motion to approve was needed and referred this to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

No member of the Common Council moved to approve this petition.

Councilman Gonzalez asked for more information and clarification from this group.

Councilman-at-large Woloszyn asked City Clerk Divine to contact the individual listed in this request for more information and advised this petition will be tabled.

Notice of Claim from Alfred Shalkowski for damages to his vehicle allegedly caused by a pothole on the corner of Roberts Road and Second Street.

Notice of Claim from James A. McKnight, III, for injuries sustained allegedly caused by a dangerous hole between the sidewalk and curb located in front of 987 Central Avenue.

Councilman-at-large Woloszyn advised a motion to refer to these to the Law Department was needed.

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

Carried, all voting aye.

Loudspeaker application from Dom Polski Club to use speakers, amplifiers and stereo music on May 7th from 3:00 PM until 7:00 PM for their outdoor Corn hole Tournament.

Councilman Williams moved to approve. Seconded by Councilman Bamonto.

Carried all voting aye.

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

Councilman Bamonto moved to approve. Seconded by Councilman Williams.

Carried, all voting aye.

Loudspeaker application from Tom and Debbie Rozumalski for a DJ and to use speakers at 376 Lake Shore Drive East on July 1st from 7:00 PM until 11:00 PM.

Councilman Williams moved to approve. Seconded by Councilman Bamonto.

Carried, all voting aye

Loudspeaker application from Lake Shore Street Rod Association for a live band and a DJ at the large pavilion at Point Gratiot on July 10th from Noon until 4:00 PM.

Councilman Bamonto moved to approve. Seconded by Councilman Williams.

Carried, all voting aye.

Loudspeaker application from Marie Tomlinson for loudspeakers at the gazebo in Washington Park on April 17th from 2:00 PM until 4:00 PM.

Councilwoman Szukala advised their request for use of the park was pulled earlier in this meeting; therefore, we cannot approve their loudspeaker application at this time.

Councilman-at-large Woloszyn advised this loudspeaker application will be tabled.

Petition from the Upward Bound Program requesting a \$500.00 donation from the William Cease Fund for their 2016 summer program.

Councilwoman Szukala advised the city has received donation requests in the past and the city used to have a budget line for donations, however, those budget lines have since been cut from the budget. The Bill Cease Fund was established for the children and youth of the City of Dunkirk and historically the funds been used for large projects in the city's playgrounds. Councilwoman Szukala stated she would like to see a protocol established setting limits on requests from this fund and asked that this petition be approved and the dollar amount be reduced from \$500.00 to \$250.00.

Councilman-at-large Woloszyn advised a motion to amend this petition reducing the dollar amount from \$500.00 to \$250.00 was needed.

Councilwoman Szukala motioned to reduce the donation amount from \$500.00 to \$250.00. Seconded Councilman Bamonto.

Vote to amend this petition. Carried, all voting aye. Amended.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Williams asked could a portion of the Wright Park Amenities Grant Fund be used for the installation of a Pickleball court as he has received requests from the public for a court in that area.

Councilman Bamonto advised he met with City Engineer Woodbury at Wright Park and they have discussed potential usage of the Wright Park Amenities Grant Fund (Stadium field, basketball courts and School #7).

Councilman Bamonto gave an update on the city basketball league, advised activities at the Recreation Center will be coming to a close next week, and a Co-ed Adult Softball League meeting will be held April 18th at 6:00 PM and a Men's Fast pitch Softball League meeting will be held that same night at 7:00 PM in the Mayor's Conference Room.

Councilman Bamonto advised the next Personnel Committee Meeting will be held on April 13th at 4:00 PM in the Mayor's Conference Room and is open to the public.

Councilman Gonzalez advised the next Economic and Development Committee Meeting will be held on April 19th at 4:00 PM.

Councilwoman Szukala asked Mayor Rosas has the city received any responses regarding the RFP's for the Beachhut.

Mayor Rosas advised the city has not received any responses and last year's tenant is still interested in operating the Beachhut this year.

Councilwoman Szukala asked for an update regarding the preparation of a list for scrapping city vehicles, and advised DPW Director Bennice of an ongoing drainage issue on Liberty Street and stated the city has purchased the pipes for the project.

Department of Public Works Director Bennice advised his department is still in the process of preparing the list for scrapping vehicles and thanked her for making him aware of the Liberty Street issue.

Councilwoman Szukala advised some city residents are having issues with their local cable access channel and asked Chip Riewaldt for an update.

Cable Access Coordinator Riewaldt advised Time Warner Cable has changed their services from analog to digital and some of the lower channels have been moved up to higher numbers and the local access channel can be found on 21-3 for a flat screen television; for older televisions customers need to purchase a cable box from Time Warner and the local access channel for those televisions is channel 12. Cable Access Coordinator Riewaldt further advised he spoke with and has put a notice into the Observer asking them to place a notice in the paper advising city residents of the changes.

Councilwoman Szukala advised the next Public Safety Committee Meeting will be held on April 28th at 3:00 PM and is open to the public.

Councilman-at-large Woloszyn welcomed the high school government class students in tonight's audience and advised the next Finance Committee Meeting will be held on April 21st at 4:00 PM in the Mayor's Conference Room.

Councilman-at-large Woloszyn asked for an update regarding the Main Street beach and the cleanup of city beaches.

Department of Public Works Director Bennice proceeded to explain the purpose of the sand burb at that location and he will be getting the assistance of prisoners from the Brocton prison and the assistance of summer hires to help with the cleanup. DPW Director Bennice advised cleanup of the beaches will begin as soon as the weather permits.

Councilman-at-large Woloszyn apologized to the audience for the unexpected length of tonight's meeting.

Councilman Williams asked for clarity regarding the Upward Bound Program request and made a motion to donate \$250.00 from the Bill Cease Fund.

City Attorney Brautigam advised there will be a resolution at the next meeting regarding the donation request.

Councilman Gonzalez advised of potholes near Sixth Street and Main Street.

Department of Public Works Director Bennice advised the local plant for hot patch will open for the season on April 22nd and his department will address potholes as soon as possible.

PRE-FILED RESOLUTIONS:

RESOLUTION # 36 -2016
April 5th, 2016

BY COUCILMAN GONZALEZ:

AUTHORIZING BUDGET LINE MODIFICATIONS
For Fiscal Year 2016

WHEREAS, there is a need to make timely adjustments to the 2016 Fiscal Year to address modifications in certain line items for receipt of donations for the Police K-9 dog; 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 2016 budget:

Fund 1 - General Fund

Account Number	Department	Line	Change
Revenue			
001.001.2705.7060	General Fund	Donations-Police	\$ 7,100
Appropriation			
001.3120.4439	Police	K-9 Expenses	\$ 7,100
Appropriation			
001.1640.4061	Central Garage	Vehicle Fuel	\$ 5,000
Appropriation			
001.3120.4439	Police	K-9 Expenses	\$ 5,000

TOTAL \$ -

Fund 1 - General Fund

Account Number	Department	Line	Change
Revenue			
001.0001.2264	General Fund	Restricted Drug Enforcement	\$ 14,633
Appropriation			
001.3120.4240	Police-General Fund	Restricted Drug Purchase	\$ 14,633
TOTAL			\$ -

Carried, all voting aye.

RESOLUTION # 37 -2016
April 5th, 2016

BY COUCILMAN GONZALEZ:

**AUTHORIZING BUDGET LINE MODIFICATIONS
 For Fiscal Year 2016**

WHEREAS, the City of Dunkirk, as a member of the Chadwick Bay Regional Development Corporation, has agreed to administer the Chadwick Bay Regional Water LGE Grant,

WHEREAS, there is a need to make timely adjustments to the 2016 Fiscal Year to address modifications in certain line items for the receipt the receipt of this grant, and the appropriations; 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 2016 budget:

Fund 1 - General Fund

Account Number	Department	Line	Change
Revenue			
001.0001.2290	General Fund	Chadwick Bay Regional Development	\$ 82,404
Appropriation			
001.8020.4250	General Fund	Chadwick Bay Regional Development	\$ 82,404
TOTAL			\$ -

Carried, all voting aye.

RESOLUTION # 38 -2016

April 5th, 2016

BY COUCILMAN GONZALEZ:

**AUTHORIZING BUDGET LINE MODIFICATIONS
For Fiscal Year 2016**

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 2016, ending December 31, 2016; now, therefore, be it

RESOLVED, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2016 budget:

Fund 1 - General Fund

Account Number	Department	Line	Change
001.1210.4001	Mayor Office	Travel & Training	\$ 5,000
001.1640.4061	Central Garage	Vehicle Fuel	\$ (5,000)
		TOTAL	\$ -

Account Number	Department	Line	Change
001.8020.4001	Development	Travel & Training	\$ 1,000
001.1900.1990	General Services	Contingencies Allowance	\$ (1,000)
		TOTAL	\$ -

Carried, all voting aye.

RESOLUTION #39-2016

April 5, 2016

BY: ENTIRE COUNCIL

SUBMISSION OF FY2016 CDBG ANNUAL ACTION PLAN TO HUD

WHEREAS, the City of Dunkirk receives funding each year from the United States Department of Housing and Urban Development (HUD) through the Community Development Block Grant (CDBG) program, and

WHEREAS, the City develops an **Annual Action Plan** each year which identifies and further describes the City's anticipated allocation of CDBG funds to various programs and activities for the next fiscal year, and

WHEREAS, according to the City's approved CDBG Citizen Participation Plan, the City's proposed allocations have been presented to the public and interested elected representatives via three public meetings, one technical assistance session, and a thirty-day public review and comment period has been afforded to City residents, now, therefore, be it

RESOLVED, the following activities have been included in the 2016 Annual Action Plan submitted to the public pursuant to the City's Citizen Participation Plan for review and are to be submitted to HUD for its approval.

2016 CDBG ALLOCATIONS

Administration and Planning		\$60,000.00
<ul style="list-style-type: none"> • General Administration • Planning/Studies 	\$40,000.00 \$20,000.00	
Public Facilities and Infrastructure Improvements		\$120,000.00
<ul style="list-style-type: none"> • Street Improvements • Park Development 	\$100,000.00 \$20,000.00	
Public Services		\$25,000.00
<ul style="list-style-type: none"> • Career Explorers – Boys & Girls Club • Chautauqua Striders 	\$15,000.00 \$10,000.00	
Housing		\$130,000.00
<ul style="list-style-type: none"> • Owner Occupied Housing Rehab • Home Buyer Assistance Program 	\$100,000.00 \$30,000.00	
Acquisition, Disposition, Clearance, Relocation		\$51,801.00
<ul style="list-style-type: none"> • Demolition 	\$51,801.00	
Total 2016 Allocation		\$386,801.00

Carried, all voting aye.

RESOLUTION #40-2016

April 5, 2016

BY: COUNCILMAN GONZALEZ

**AUTHORIZING NEW UNION 912 POSITION:
ASSISTANT HOUSING, BUILDING, AND ZONING INSPECTOR**

WHEREAS, the City of Dunkirk Zoning Inspector requires additional assistance in order to insure compliance to all applicable New York State and Local Laws, as well as all applicable Regulations within the City of Dunkirk, and that position is classified as a Union 912 position under the Collectively Bargained Agreement (CBA) between the Union and the City, and

WHEREAS, the Civil Service Board and Administration has administered an examination under the Civil Service Law to assess the qualifications of individuals for service as an Assistant Housing, Building, and Zoning Inspector, and

WHEREAS, one individual currently employed on a contractual basis, Wendy Spinuzza, took the applicable examination and was found qualified under the Civil Service Law for service as an Assistant Housing, Building, and Zoning Inspector, it is

RESOLVED, that a new position under the CBA is authorized and created with a title of "Assistant Housing, Building, and Zoning Inspector" and that position shall be filled pursuant to the CBA, the Civil Service Law, and any other relevant law or regulation.

Councilwoman Szukala advised there have been issues and questions regarding this matter for quite some time, now that the questions have been answered council is comfortable on moving forward; however, there is still an issue with this resolution and motioned to approve the resolution with the following amendment and asked that paragraph three be removed from this resolution.

Councilwoman Szukala motioned to amend this resolution. Seconded by Councilman Williams.

Vote to amend Resolution:

Carried, all voting aye. AMENDED.

**RESOLUTION #40-2016
April 5, 2016**

BY: COUNCILMAN GONZALEZ

**AUTHORIZING NEW UNION 912 POSITION:
ASSISTANT HOUSING, BUILDING, AND ZONING INSPECTOR**

WHEREAS, the City of Dunkirk Zoning Inspector requires additional assistance in order to insure compliance to all applicable New York State and Local Laws, as well as all applicable Regulations within the City of Dunkirk, and that position is classified as a Union 912 position under the Collectively Bargained Agreement (CBA) between the Union and the City, and

WHEREAS, the Civil Service Board and Administration has administered an examination under the Civil Service Law to assess the qualifications of individuals for service as an Assistant Housing, Building, and Zoning Inspector, and it is

RESOLVED, that a new position under the CBA is authorized and created with a title of "Assistant Housing, Building, and Zoning Inspector" and that position shall be filled pursuant to the CBA, the Civil Service Law, and any other relevant law or regulation.

Councilman Williams thanked Mayor Rosas and Councilman Gonzalez for bringing this resolution forward.

Vote on Resolution as amended:

Carried, all voting aye.

RESOLUTION #41-2016
April 5, 2016

BY: ENTIRE COUNCIL

**AUTHORIZING THE TRANSFER OF EAGLE STREET NORTH TO
THE CHAUTAUQUA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

WHEREAS, the City of Dunkirk, along with the Dunkirk Local Development Corporation (DLDC) and the Chautauqua County Industrial Development Agency (CCIDA) are actively engaged in the development of the City of Dunkirk's Waterfront, and

WHEREAS, the DLDC and CCIDA are negotiating the sale and subsequent development of certain parcels of real property that abut Lake Erie, and

WHEREAS, one parcel necessary to the development of those properties is known as "Eagle Street North" and is further described by SBL number 79.01-1-26.1, hereinafter "The Property" a street closed by City Council Resolution #79-2010 on November 16, 2010, and

WHEREAS, that parcel of real property has no pecuniary value, and it is in the best interest of the City of Dunkirk to encourage development along its waterfront, it is

RESOLVED, that the Mayor of the City of Dunkirk is authorized and directed to execute any and all documents necessary to complete the transfer of The Property to the Chautauqua County Industrial Development Agency.

Carried, all voting aye.

RESOLUTION #42-2016

April 5, 2016

BY: COUNCILMAN GONZALEZ**AUTHORIZING THE MODIFICATION OF AN EASEMENT AGREEMENT**

WHEREAS a sale is pending for a new owner of House located at 784 Main Street, located wholly within the City of Dunkirk, and

WHEREAS The City of Dunkirk possess an easement for the purposes of a sewer line and that easement runs through a portion of the property at 784 Main Street. Both the private parties and the City of Dunkirk and the City of Dunkirk Department of Public Works require a clear description of the property subject to the easement for any future projects required of the Department of Public Works, along with the pending sale of the property, and

WHEREAS the City of Dunkirk Department of Public Works recommends that the easement be defined as being a strip of land following the existing sewer and being 30 feet wide from each side of the existing sewer, now therefore be it

RESOLVED that the Mayor is hereby authorized to execute a clarifying easement stating the City sewer easement through the subject property shall be defined as the portion of land within subject property lying within 30 feet by rectangular measurement from the centerline of the existing sewer after completion of a survey of the property, and any other necessary action as required by the City Engineer and the Department of Public Works.

Carried, all voting aye.

RESOLUTION #43-2016

April 5, 2016

BY: ENTIRE COUNCIL**AUTHORIZING CHANGE ORDER
Lakefront Boulevard Seawall Replacement
(S. St. George Enterprises, Inc. & Nussbaumer & Clark)**

WHEREAS, by Resolution No. 46-2014 (June 3, 2014), S. St. George Enterprises, Inc., 3689 Webster Road, Fredonia, New York 14063, (St. George) was awarded a contract to undertake the Lakefront Boulevard Seawall Replacement; and

WHEREAS, by Resolution No. #25, 2013 (May 7, 2013), Nussbaumer & Clark 3556 Lake Shore Road, Suite 500, Buffalo, New York 14219-1494 was awarded a contract to provide engineering services for the Lakefront Boulevard Seawall Replacement, and

WHEREAS, the engineers in control of the project, Nussbaumer & Clarke, Inc., have documented the additional fill required to complete the project, and have further requested additional payment for their services, and have recommended that the City approve the change order and compensate the contractor for the additional fill required; and

WHEREAS, the proposed Change Order has been reviewed and recommended by the Director of Public Works, Mayor, Common Council of the City of Dunkirk, and the Fiscal Director; now, therefore, be it

RESOLVED, that the Mayor, Wilfredo Rosas, is hereby authorized to execute contracts and agreements to approve a Change Order for the "Lakefront Boulevard Seawall Replacement" providing for additional fill, for a total additional payment of two hundred and thirty five thousand dollars (\$235,000) and for additional payment of seven thousand five hundred dollars (\$7,500), for the contract awarded to **S. St. George Enterprises, Inc.**, 3689 Webster Road, Fredonia, New York 14063, and **Nussbaumer & Clark** 3556 Lake Shore Road, Suite 500, Buffalo, New York 14219-1494, and to execute a binding mutual stipulation resolving all outstanding claims against the City of Dunkirk.

Councilwoman Szukala advised the last paragraph could be interpreted several different ways, asked City Attorney Brautigam for clarification on how much S. St. George Enterprises and Nussbaumer and Clark will be receiving and to separate the items in the future.

City Attorney Brautigam advised S. St. George Enterprises, Inc. will receive \$235,000.00 and Nusbaumer and Clark will receive \$7,500.00.

Councilman Williams thanked Mayor Rosas for his work regarding this matter and for negotiating the dollar amount down.

Carried, all voting aye.

RESOLUTION #44-2016

April 5, 2016

BY: ENTIRE COUNCIL

**RATIFICATION OF AGREEMENT BETWEEN THE
CITY OF DUNKIRK AND THE
DUNKIRK PROFESSIONAL FIREFIGHTER'S ASSOCIATION, INC.
LOCAL 616 FOR
JANUARY 1, 2016 – DECEMBER 31, 2016**

WHEREAS, the City of Dunkirk and the Dunkirk Professional Firefighter's Association, Inc. Local 616 ("Local 616") have been involved in labor negotiations to reach an agreement on a new Collective Bargaining Agreement to replace the previous Collective Bargaining Agreement between the parties which expired on December 31, 2013; and

WHEREAS, after negotiations, the City and Local 616 have signed a Memorandum of Understanding regarding said proposed contract; and

WHEREAS, the Civil Service Law requires that this Common Council review and vote upon the issue of ratification of the proposed Collective Bargaining Agreement, now, therefore, be it

RESOLVED, that the Dunkirk Common Council hereby ratifies and approves said Collective Bargaining Agreement and directs the Mayor to execute said agreement between Local 616, on behalf of the City of Dunkirk for the year 2016.

Councilwoman Szukala read the following statement:

"I will be asking for a vote to abstain from tonight's vote on the Local 616 fire contract, this is due to my son's future within the department. I want to make clear I have no financial interest in the contract itself.

It was brought to my attention that another member of the council took this concern to the Mayor and City Attorney. Had this person had respect for me as a senior council member, you would have brought it to me directly. If you had, we could have discussed it in private. But that is not what happened. But if I were voting tonight, I would be voting yes simply because this contract is fair to both the union and the city.

First I would like to ask our City attorney to verify the information we discussed yesterday with a simple yes or no answer. Do I have a Legal right to vote on this contract this evening?

City Attorney Brautigam replied yes.

Councilwoman Szukala then asked "ethically or morally, do you think I should abstain from voting?"

City Attorney Brautigam stated "I don't believe you have the ethical duty to recuse yourself and not vote, you are certainly permitted under New York State law to vote on this resolution for several reasons, and as far as I know there is no ethical constraint against your vote."

Councilwoman Szukala continued "having said that, it was in the best interest to get the answers for tonight, which I did. Both from an outside attorney and my accountant. I had already planned on abstaining from tonight's vote because I believe it was the right thing to do. It is important that I continue to separate my council duties from my mother duties. I don't want there to be any questions of improper voting later on down the road.

Could you please call the roll on allowing me to abstain from tonight's vote?"

Vote allowing Councilwoman Szukala to abstain from voting on this resolution:

Carried, all voting aye.

Councilman Williams thanked Local Union #616 President Jim Muscato and Mayor Rosas for their work on this contract and stated this is the most fiscally responsible contract in the city.

Councilman Bamonto stated this is a fair contract for the firefighters and the city and thanked Mr. Muscato and Mayor Rosas for their efforts.

Councilman Gonzalez and Councilman-at-large Woloszyn echoed the comments of Councilman Williams and Councilman Bamonto.

City Attorney Brautigam advised there is a clerical error in this resolution; the contract date is effective from January 1, 2014 until December 31, 2016, not January 1, 2016 through December 31, 2016.

Councilman-at-large Woloszyn reiterated City Attorney Brautigam's statement and stated there is a typographical error at the top of this resolution, the heading, should read January 1, 2014 until December 31, 2016 instead of it reading January 1, 2016.

Councilman Williams motioned to amend this resolution. Seconded by Councilman Bamonto.

Vote to amend Resolution:

Carried, all voting aye. (4-0). Amended. Councilwoman abstained from vote.

RESOLUTION #44-2016
April 5, 2016

BY: ENTIRE COUNCIL

**RATIFICATION OF AGREEMENT BETWEEN THE
CITY OF DUNKIRK AND THE
DUNKIRK PROFESSIONAL FIREFIGHTER'S ASSOCIATION, INC.
LOCAL 616 FOR
JANUARY 1, 2014 – DECEMBER 31, 2016**

WHEREAS, the City of Dunkirk and the Dunkirk Professional Firefighter's Association, Inc. Local 616 ("Local 616") have been involved in labor negotiations to reach an agreement on a new Collective Bargaining Agreement to replace the previous Collective Bargaining Agreement between the parties which expired on December 31, 2013; and

WHEREAS, after negotiations, the City and Local 616 have signed a Memorandum of Understanding regarding said proposed contract; and

WHEREAS, the Civil Service Law requires that this Common Council review and vote upon the issue of ratification of the proposed Collective Bargaining Agreement, now, therefore, be it

RESOLVED, that the Dunkirk Common Council hereby ratifies and approves said Collective Bargaining Agreement and directs the Mayor to execute said agreement between Local 616, on behalf of the City of Dunkirk for the year 2016.

Vote on Resolution as amended:

Carried, all voting aye. (4-0). Councilwoman Szukala abstained from vote.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Williams.

Carried, all voting aye.

Adjourned at 6:35 PM

Lillian R. Divine, City Clerk
