

COMMON COUNCIL PROCEEDINGS
May 21, 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 May 7, 2013 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, May 7, 2013 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

No one spoke.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce advised National Grid has completed their survey; the news is not what the city had hoped for and National Grid has indicated to him they would like to see the repowering project move forward but not under the conditions proposed by NRG. Mayor Dolce stated National Grid will be scheduling a meeting within the next few weeks with himself and area officials regarding this matter.

Mayor Dolce stated pending council approval there will be a change with Cable Access 12 and thanked the council for their work in this matter and welcomed Mike Carbone to tonight's meeting (TRR Productions). Mayor Dolce stated Cable Access 12 is going from an all volunteer operation to a contracted service operation and if the 2013 budget continues on its current path, the city should see a small increase to the budget line of approximately \$1,000.00.

Mayor Dolce advised he has reviewed this year's street paving list with Department of Public Works Director Gugino and City Engineer Manzella; the city will use CHIPS money held over from last year and also potential HUD money for this project.

Mayor Dolce advised Fiscal Affairs Officer Halas released preliminary draft numbers during yesterday's Finance Committee meeting; all figures are positive and stated he will have more information in the near future.

Mayor Dolce advised the city will be sponsoring a Picnic in the Park at Point Gratiot this Sunday and encouraged the public to attend and participate. Mayor Dolce reminded residents Monday is Memorial Day and encouraged the public to attend the services in the parks and the annual Memorial Day Parade.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from Harvest Chapel Church requesting to use Washington Park on July 12th and August 16th from 5:00 PM until 8:30 PM, permission to bring in grills, coolers and use of electric power for their popcorn and snow cone machines. Also, requesting permission to bring in ponies for pony rides.

Councilwoman Szukala asked Department of Public Works Director Gugino if he has any concerns regarding the group bringing in ponies for pony rides.

Director of Public Works Gugino advised he has no concerns with the group bringing in the ponies.

Councilwoman-at-large Kiyak advised a motion to approve contingent approval of loudspeaker permit, prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured and that 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 Michalski.

Carried, all voting aye.

Petition from the Kosciuszko Polish Home Association requesting to close traffic between E. Doughty Street and Courtney Street on Friday, June 28th and Saturday, June 29th from 5:00 PM until 12:30 AM for their "Annual Street Dance." Also, requesting the support of the City Parks Department, Police Department, Streets Department and Fire Department.

Councilwoman-at-large Kiyak advised a motion to approve contingent on approval of loudspeaker permit, prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured and that 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 Rivera moved to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Petition from Cynthia Karnes requesting to use Promenschenkle Stadium and Koch's Field on July 13th from 8:00 AM until 10:00 PM, also requesting permission for vendors, a tent for alcohol sales and a Chinese Auction for the "Fourth Annual Joe Karnes Memorial Co-Ed Softball Tournament."

Councilwoman Szukala advised she has concerns regarding the sale of alcohol.

City Attorney Szot stated he would hope council approves this petition contingent upon proof liquor liability insurance and proof they have the authority to sell alcohol from the State.

Councilwoman-at-large Kiyak advised a motion to approve contingent on approval of loudspeaker permit, prior proof of appropriate insurance by the sponsor, including liquor liability insurance and proof of authority to sell, and by all participating vendors or contractors naming the city as additional insured and that 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 Rivera moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Notice of Claim from Michele Stevens for injuries allegedly sustained due to a fall on the front steps of City Hall.

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

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

Carried, all voting aye.

Loudspeaker applications from Harvest Chapel Church for a band, speakers, amplifiers, microphones and a sound system in Washington Park on July 12th and August 16th from 6:00 PM until 7:30 PM.

Kosciuszko Polish Home Association to use bands and speakers on June 28th and June 29th from 7:00 PM until 11:00 PM for their "Annual Street Dance."

Loudspeaker application from Cynthia Karnes to use loudspeakers and amplifiers on July 13th from 6:00 PM until 10:00 PM at Promenschenkle Stadium for the "Fourth Annual Joe Karnes Co-Ed Memorial Softball Tournament."

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

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

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised he misspoke during the last council meeting regarding the seawall project, stated the city was not authorizing payment for a study of the seawall, the city was authorizing payment for an engineer design plan and apologized for the error.

Councilman Michalski inquired with Department of Public Works Director Gugino regarding the West End Water Project.

Department of Public Works Director Gugino advised the contractor is scheduled to begin Tuesday (May 28); the scope of the project is from the Water Filtration Plant on Lake Shore Drive moving west to the City Line, should take two months to complete and the water lines will run along the curb line of the road as approved by the Department of Transportation.

Councilman Michalski inquired with Department of Public Works Director Gugino regarding the Bike Path Project.

Department of Public Works Director Gugino advised the project is progressing and barring any unforeseen delays, this project should be completed by June.

Councilman Michalski advised discussion occurred during yesterdays Finance Committee Meeting regarding the services of City Engineer Manzella to oversee the inspection of the new waterlines on Lake Front Boulevard last year and inquired if the city has been reimbursed for his overtime.

Department of Public Works Director Gugino advised this matter was resolved at the completion of that project; the city has been reimbursed for City Engineer Manzella's overtime and the same procedure will be followed for the Bike Path Project. Department of Public Works Director Gugino advised City Engineer Manzella will not be the inspector for the West End Waterline Project and advised Nussbaumer and Clarke will provide that service.

Councilman Rivera advised the next Personnel Meeting will be held in June and will announce a specific date and time a later time.

Councilman Gonzalez announced the next Public Works Committee Meeting will be held June 4th at 10:00 AM in the Mayor's Conference Room and welcomed the public to attend these subcommittee meetings. Councilman Gonzalez advised the public it is at these subcommittee meetings they will have their questions or concerns regarding city matters answered by the proper personnel.

Councilwoman Szukala inquired with Department of Public Works Director Gugino regarding the city street sweeper.

Department of Public Works Director Gugino advised the purchase order for the parts to repair the sweeper has been approved, is looking at a government surplus website, state contract and is speaking with another township.

Councilwoman Szukala asked if he could keep council up to date regarding this matter.

Councilwoman Szukala inquired with Mayor Dolce regarding summer camp (Camp Gross).

Mayor Dolce advised summer camp is budgeted this year, busing the children costs \$6,000.00-\$7,000.00 and is normally paid for thru HUD. Mayor Dolce advised he is awaiting final verification from HUD for busing.

Councilwoman Szukala asked if the city had a Plan B in place if Camp Gross was unavailable.

Mayor Dolce advised the city would hold camp locally in one of our parks.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino for an update on the Water Treatment Plant Consent Order.

Department of Public Works Director Gugino spoke in regard to the rebuilding of filter bed 6 and advised if this works, the capacity of water filtration will increase from 7.1 million gallons to 10 million gallons and this will be the template on which the remaining filter beds will be rebuilt.

Councilwoman-at-large Kiyak asked if there was a Plan B if this process does not work.

Department of Public Works Director Gugino advised the Board of Health, the State and the County were confident this plan would work as they set up the parameters for the sampling.

Councilwoman-at-large Kiyak asked Department of Public Works Director Gugino for an update on the cleanup behind the highrise.

Department of Public Works Director Gugino advised cleanup has been completed and thanked the county for bulldozing the beach in that area.

Councilwoman-at-large Kiyak advised residents the Farmers Market will begin this Sunday and will be open Sundays from 8:00 AM until 1:00 PM and Thursdays from 3:00 PM until 7:00 PM.

Mayor Dolce advised residents to be patient on Thursday's (Music on the Pier) as farmers will be exiting the park at 7:00 PM.

Councilwoman-at-large Kiyak advised she will be unavailable to participate in this year Memorial Day Services and Parade as she will be out of town this weekend.

Department of Public Works Director Gugino advised he met with Building and Zoning Officer Zurawski and Department of Development Director Neratko today; they prepared and submitted a Bed Tax application for \$40,000.00 which would be used to dredge the boat launch area and they also submitted a reapplication to the Army Corps. Of Engineers for a ten year maintenance permit for the boat launch.

Clerk, Board of Assessor Mieczko advised the Assessors Office will begin summer hours Tuesday (May 28) and will be open from 8:30 AM until 4:30 PM.

Councilwoman Szukala asked Department of Public Works Director Gugino if the Bed Tax Application (\$40,000.00) was a city match fund.

Department of Public Works Director Gugino advised this was not a city match fund.

PRE-FILED RESOLUTIONS:**RESOLUTION #30-2013**
MAY 21, 2013**BY THE ENTIRE COUNCIL:****AUTHORIZING PARTICIPATION IN NORTHERN CHAUTAUQUA COUNTY
LOCAL WATERFRONT REVITALIZATION PROGRAM**

WHEREAS, the City of Dunkirk has been invited to participate in the Northern Chautauqua County Regional Local Waterfront Revitalization Program (LWRP); and

WHEREAS, such participation will require the creation of a local advisory committee, participation in local workshops, assistance in facilitating local workshops and public meetings, and a local financial contribution from the members; and

WHEREAS, such participation will also include providing assistance in gathering local information and reviewing local land use plans and plans for local projects from the participating municipalities; now, therefore, be it

RESOLVED, that subject to funding from the New York State LWRP and other identified financial contributors, the City of Dunkirk will participate in the Northern Chautauqua County Regional Local Waterfront Revitalization Program, and will contribute in-kind services and funding in support of the LWRP, which support will include:

- a cash contribution of Two Thousand Dollars and Zero Cents (\$2,000.00) in FY2014;
- volunteer work on advisory committees;
- assistance in gathering local information;
- providing plans of local projects;
- providing local land use plans and zoning laws;
- participation in local workshops; and
- assistance with facilitating workshops and local meetings.

Councilwoman-at-large Kiyak asked which money lines will this money be taken from and who will be the point person for all that's involved with assisting as stated in this resolution.

Mayor Dolce advised this will be determined for 2014 and Department of Development Director Neratko will be the point person for this project.

Councilwoman-at-large Kiyak stated she understands that Jay Warren received notification of a \$4,000.00 grant award from Northern Chautauqua Community Foundation to be used towards the North County Regional Lakefront Water Revitalization Program initiative and inquired if that amount is part of the \$2,000.00 the city is contributing or is it part of the overall project.

Department of Development Director Neratko advised it is an addition.

Carried, all voting aye.

RESOLUTION #31-2013

MAY 21, 2013

BY THE ENTIRE COUNCIL:

**APPROVAL OF SITE PLAN
(Northern Chautauqua Conservation Club, Inc.)**

WHEREAS, an application for a building permit for permission to construct an expansion of the existing parking lot located at the applicant's place of business, 176 Lake Shore Drive West, Dunkirk, New York 14048 (79.01-1-20), has been submitted by the Northern Chautauqua Conservation Club, Inc.; and

WHEREAS, such application has been referred by the Housing, Building and Zoning Enforcement Officer and to the required Boards, Departments and Agencies for review, comment and recommendation, including the Greater Dunkirk Area Harbor Commission ("Harbor Commission") and the Dunkirk Planning Board ("Planning Board"); and

WHEREAS, the Harbor Commission and Planning Board have both recommended approval of the application; and

WHEREAS, the Dunkirk City Code, Section 79-28020(2), authorizes the Common Council to review the site plans submitted, has followed the procedure outlined in Dunkirk City Code Chapter 79, Article XVII (Site Plan Review), and has fully investigated all of the facts and circumstances regarding such application; now, therefore, be it

RESOLVED, that this Common Council determines and finds that:

- (A) A proper application for a building/use permit has been made by the Northern Chautauqua Conservation Club, Inc., 176 Lake Shore Drive West. SBL 79.01-1-20;
- (B) All interested Boards, Departments and Officials have been notified pursuant to Local Law for their comments and review of this application;
- (C) All comments from such interested parties have been received, or such parties have waived their right of review and comment under local law;
- (D) The applicant established:
 - (i) That the strict application of the provisions of Chapter 79 of the Dunkirk City Code would deprive the applicant of the reasonable use of the property;
 - (ii) That the approval of the special permit is necessary for the reasonable use of the property; and
- (E) The applicant established that there are special circumstances or conditions applying to the land or building for which the approval is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the vicinity or

- neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of this Chapter 79 of the Dunkirk City Code;
- (F) The applicant established that the approval of this special permit will be in harmony with the general purpose of this chapter, will not be injurious to the neighborhood, and will not alter the essential character of the locality; and
- (G) Approving the building/use permit will promote the health, safety and welfare of the residents of the City of Dunkirk, and, be it further

RESOLVED, that the application is approved.

Carried, all voting aye.

RESOLUTION #32-2013
MAY 21, 2013

BY THE ENTIRE COUNCIL:

**AUTHORIZE LOCAL CABLE PROGRAM DIRECTOR AGREEMENT
(TRR Productions)**

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

WHEREAS, TRR PRODUCTIONS (d/b/a V3 Studios) (V3) provides a unique prospect for such opportunities and has agreed to provide the primary production oversight and operational management for the City's local access channel; and

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

WHEREAS, V3 is ready, willing and able to provide such services to and on behalf of the City, in a good and workmanlike manner; now, therefore, be it

RESOLVED, that the Mayor is directed and authorized to execute any and all agreements necessary to engage the services of **TRR PRODUCTIONS (d/b/a V3 STUDIOS)**, 214 Central Avenue, Dunkirk, New York 14048, to provide primary production oversight and operational management for the City's local access channel for the period May 22, 2013 (subject to provision of appropriate insurance) through December 31, 2013 (including the solicitation of possible program underwriting/sponsorship from the public, for a 25% commission of such underwriting/sponsorship received by the City), at the cost of One Thousand Dollars and Zero Cents (\$1,000.00) per month, *pro rata*; and, be it further

RESOLVED, that the Fiscal Affairs Officer and Treasurer make the following modifications:

Acct No 001-8050-2005	Equipment	Decrease	\$5,000
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Acct No 001-8050-4036 Contracted Svcs Increase \$5,000;

and, be it finally

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

Councilwoman Szukala advised there was discussion during last year's budget season regarding programming concerns with Cable Access 12, government transparency and how to make changes. Councilwoman Szukala stated "we gave the opportunity for the current staff or volunteers to make those commitments happen; unfortunately that's not where we're at today, so with the cooperation of the Mayor and Mr. Rivera they've reached out to a private organization to come forward and give us some programming." Councilwoman Szukala advised she had concerns from going to an all volunteer base operation to paying a company \$1,000.00 per month and stated "it was hard for me to justify doing so, but after seeing the people that still want to see open government, open meetings, they're still asking to see what we're discussing. If we were to vote no, myself, it would appear that I am against open government and that's not what this council is supposed to be about, so I'm in favor of this resolution." Councilwoman Szukala advised council was looking at cutting Cable Access 12 completely out of this year's budget and this agreement is a short-term agreement. Councilwoman Szukala asked will there be coverage for this year's Memorial Day Parade if this resolution is approved.

Mayor Dolce replied yes.

Councilman Gonzalez asked will Access 12 be available to residents who subscribe to Directv or Dish TV.

Mike Carbone from TRR Productions advised the city would have to contact a representative from Time Warner, Directv and Dish TV regarding this matter.

Councilman Michalski asked if the city was contractually obligated with Time Warner to provide a Cable Access Channel.

City Attorney Szot stated I think there is an obligation to provide the opportunity for local programming, local access but as to the extent he did not know.

Councilman Michalski stated he is willing to give this a try, considers this to be on a trial basis, will be reevaluated at the end of the year and does not foresee this going back to a volunteer basis operation. Councilman Michalski stated "I just hope the product that we're contracting for now is worth what we're paying for" and will rely on public response regarding this matter.

Councilman Rivera thanked council for their comments, advised he is an Ex-Officio member of the Cable TV Board and stated "this has been a process that has been taking course over the past 15-16 months, since January 2, 2012. I was at a Cable Access TV Board meeting a couple months ago and I honestly felt I was called out at that meeting to do something to help." Councilman Rivera advised there is no better way to spend city money then the steps we are about to take here tonight, this is on a trial basis and stated "today we're turning the page to a new history in the history of

Cable Access Channel 12 and it's going to be completely different then what we know it."

Councilwoman-at-large Kiyak stated "council made it perfectly clear back in November 2012 that we were unhappy with the programming delivered by the Cable Access Board. With a \$25,000.00 budget, we invited the board to come and speak to us with their plans for 2013. The majority of the council was ready to shut down the whole operation, but with an inherited lease agreement locked in until 2014 and promises of change by the board, we cut the budget to \$22,500.00.

Here we are, six months later, with no real changes having taken place. I do not believe that the current programming and hit-and-miss broadcasting of public meetings is a prudent expenditure of taxpayer dollars. Clearly a change needs to take place and the mayor is asking council to try a new approach by contracting a third-party entity that promises quality programming broadcasting all public meetings, covering major events here and in the surrounding communities, provide coverage of all festivals and continue covering sporting events. We are being asked to give this new approach seven months, at which time we will reevaluate the decision and see if its money well spent. I do have a few questions for Mayor Dolce to help clarify the logistics:

How was a decision made to go from a volunteer board to paying \$1,000.00 a month for services?"

Mayor Dolce advised the city was exploring its options, became aware of these gentlemen and their company through the city's partnership with the SUNY Incubator and stated "these individuals are going to solicit sponsorships and if that's successful that will handle the equipment and supply costs."

Councilwoman-at-large Kiyak inquired about the \$5,000.00 that was originally allocated towards equipment; what was planned to be purchased or repaired that will now be put on hold and asked where the additional \$2,000.00 will come from.

Mayor Dolce advised the \$5,000.00 was to be put towards equipment capable of programming a weeks worth of programs and stated the money will come from budget lines under budget or the contingency funds.

Councilwoman-at-large Kiyak stated for the benefit of all residents, can you provide details of the written contractual agreement with regards to what services will be provided or anything that has not been discussed.

Mayor Dolce advised everything has been discussed and the contract was written by our City Attorney.

Councilwoman-at-large Kiyak stated assuming we're happy with the services provided, what is the budget plan for 2014.

Mayor Dolce stated the bottom line would not change, you would see an increase in the contracted services line and a decrease in the supply and equipment line.

Carried, all voting aye.

RESOLUTION #33-2013
MAY 21, 2013

BY COUNCILMAN MICHALSKI:

AUTHORIZING BUDGET LINE TRANSFERS
(Safety Inspections)

WHEREAS, it is necessary to transfer funds in order to continue to fund CDBG Code Enforcement Inspection services; now, therefore, be it

RESOLVED, that the Fiscal Affairs Officer is hereby authorized and directed to make certain budgetary changes as follows:

001-3620-4036		
Safety Inspections – Contracted Services		Decrease \$5,000.00
001-3620-4440		
Safety Inspections – CDBG Code Enforcement Inspections		Increase \$5,000.00

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:12 PM

Lacy Lawrence, City Clerk
