

COMMON COUNCIL PROCEEDINGS**June 17, 2014**

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 and Councilwoman-at-large Kiyak.

Also present: Mayor Dolce, City Attorney Szot, City Treasurer Woods, Public Works Director Gugino, Fiscal Affairs Officer Halas, Building Inspector Zurawski, Clerk, Board of Assessors Mleczko, Director of Development Neratko Personnel Administrator Heyden, Fire Chief Ahlstrom, City Engineer Woodbury and Police Lieutenant Polowy.

Councilwoman-at-large Kiyak advised that Councilwoman Szukala will be arriving late and excused Police Chief Ortolano from tonight's meeting.

Certification of June 03, 2014 meeting was read by City Clerk Joiner.

RESOLVED: That the reading of the minutes of Tuesday, June 03, 2014 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Steve Rees, 433 Dove Street Dunkirk, read the following statement:

"Good evening. I come here as a private citizen. While I am aware of the significant financial obstacles hindering large infrastructure projects in the city, I would suggest that some momentum has been gained of late in at least a couple of areas that can be moved forward in a timely fashion.

First, the potential exists to move forward in phases to complete the Lake Front Connector Trails, bike paths that would connect the current Point Gratiot/Point Drive North path to the path along the seawall at Memorial Park by completing missing portions. Members of the Economic Development Committee yesterday were provided copies of a well-reasoned project narrative that proposed several solutions. While there are issues of easements being needed in all circumstances, even executing one of the options in the near future would ease the difficulties and safety concerns that cyclists face when attempting to go from one point to another on that exiting route on what can be an attraction to local and visiting cyclists. Perhaps a solution lies in a collaborative effort between the NYDOT with the Rts. 5 & 60 project and a team of interested city leaders. Such a solution would enhance the city as being a place friendly to cyclists who might wish to stop instead of just passing through.

Second, in that both the Village of Fredonia and the City of Dunkirk now have approved Complete Streets legislation, it is perhaps time that both entities enter into a shared services agreement to seek restriping of Central Ave from Temple Street in Fredonia to at least either Howard St. or Lucas St. in the city by the Chautauqua County Highway Dept. that is responsible for that stretch of roadway. While that work is not necessarily eminent, it is important to lay the groundwork now for a well-planned and coordinated project that requires multiple parties to interact for the success of the project.

Finally, the next meeting of Revitalize Dunkirk is 6:00 PM Thursday, June 19 at the Fredonia Technology Incubator. I cordially invite the mayor, council members, department heads and others to attend.
Thank you.”

Valerie Pawlak, Bell Towers Dunkirk, and member of the Great Lakes Commission spoke in regards the Millennium Parkway project and voiced her support of the Seawall resolution.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce thanked Alex Uszacki for the donation of a flag, which has previously flown at the Capital, and will now be hung in Memorial Park.

Mayor Dolce read the following statement:

“Council will address three corresponding res. in regards to the seawall shortly. Much discussion has taken place and I completely understand the concern of a potential tax increase. To be frank, I cringe at the thought of having the task of absorbing additional debt service in to an already tight budget.

However; we have what two engineering firms, our city engineer, and a state engineer deem a significant structural issue that needs remediation.

The proposed new wall will be ADA compliant and contain green elements (both firsts)

There is over 1 million in grant awards for the seawall project, of which \$650,000 is dedicated to the physical construction of the wall. There is also the potential for additional grant funding thru unused CFA funds in our region and/or CDBG funding to offset the project cost.

If the seawall is not completed or close to completion by the end of 2015 this is money that will be redistributed to other projects in our region and will likely have a negative impact on future grant funding to the city.

I also understand that there are other monetary issues and infrastructure concerns in need of our attention, and there is never an opportune time to invest 3.9 million, but tonight common council has the opportunity to address one of those significant infrastructure needs.

If not enough votes are present we will still have a wall to address and no funding to address the numerous safety issues.

From my perspective, I do not classify the Seawall project as us just fixing a wall, but transforming our LakeFront area including Wright Park with the proposed amenities.”

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Request from Gary Haase, President of Dunkirk Little League Baseball, for picnic tables and trash cans near the Joe Karnes Softball Field for the 11-12 Year Old Girls State Softball Tournament on July 9th-15th as well as permission to use Promenschenkel Stadium during that time.

Councilwoman-at-large Kiyak advised a motion was needed to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, approval of loudspeaker permit if applicable, and that all city property is left in the same condition as prior to the event.

Councilman Michalski made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Request from Justin Porter to use City property either between the Clarion Hotel and Tim Hortons or Washington Park to host a free music event on July 4th from 4:00 PM until 8:00 PM.

Councilman Michalski advised that he could not support this event due to all the activities and events that happen in that area on the Forth of July and suggested the use of an alternate date.

Councilman Rivera advised that in the future if an event like this is approved, the petitioner will need to provide liability insurance to the City.

Councilwoman-at-large Kiyak read the following statement on behalf of Councilwoman Szukala:

“I have many concerns about this request. First, I didn’t see any insurance attached. Secondly, the location between the Clarion and Tim Hortons will more than likely be full of cars due to the fireworks that evening. This is not under a Group for the loudspeaker permit, so the time frame of 4 hours should be only two hours. I know that our Police Dept. will be extremely busy on the waterfront patrolling and directing traffic. So I feel uncomfortable having a “first time” event such as this in Washington Park also. For the record, there are too many uncertainties and I do not approve of this event. I understand I am not there for this portion of the meeting, and my vote does not count, but I wanted this on the record.”

Councilwoman-at-large Kiyak advised that she is in agreement with Councilman Michalski in regards to the date being problematic.

Vote on Petition:

Ayes: None

No: Councilman Michalski, Councilman Rivera, Councilman Gonzalez, Councilwoman-at-large Kiyak.

Petition denied, all voting no.

Request from Andy Elfman, on behalf of Moniuszko Social Club, for picnic tables and trash cans for their annual Stag Picnic to be held on Saturday, June 21st.

Councilwoman-at-large Kiyak advised she would like to see a policy put in place in the future for trash can usage which would include fees to be assessed that would cover delivery, pick up and garbage disposal as well as a possible change to the current picnic table policy.

Councilwoman-at-large Kiyak advised a motion was needed to refer to the Clerk’s office and DPW.

Councilman Michalski made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Request from Anthonio Villegas on behalf of Iglesia Pentecostal Unidas en Savzidad to use Washington Park on July 11th, 12th and 13th from 6:00 PM until 9:30 PM for church services.

Councilwoman-at-large Kiyak read a statement on behalf of Councilwoman Szukala:

"I believe in the past, there were groups asked to have neighbors sign off on the request. If there aren't any objections from the neighbors, then I am ok with this. But if there are concerns from neighbors, I think the council should respect that, and table this for further discussion."

Councilwoman-at-large Kiyak advised that, due to the evening hours of the event, written permission should be received from the surrounding neighbors.

Councilman Gonzalez advised that he sees no issues with this petition as we are always granting different requests to be held in Washington Park and he welcomes these religious events.

Councilwoman-at-large Kiyak advised a motion was needed to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, approval of loudspeaker permit if applicable, and that all city property is left in the same condition as prior to the event. In addition, a letter needs to be submitted to the clerk's office with signatures from the neighbors that boarder the park giving their permission for this event as well.

Councilman Gonzalez made a motion to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Request from The Chautauqua Center to block off half of the Graf building parking lot on August 15th from Noon until 9:00 PM for their "TCC Family Day." Also requesting the presence of the Mayor, City Clerk and City Hall Staff.

Councilwoman-at-large Kiyak advised a motion was needed to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, approval of loudspeaker permit if applicable, and that all city property is left in the same condition as prior to the event. In addition, written permission is also required from the property owner with a copy submitted to the Clerk's office.

Councilman Rivera made a motion to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Request from Family Church Fredonia to use part or all of the City Pier on August 24th beginning at 10:30 AM for church services.

Councilman Michalski advised that he can not support this event being held at the City Pier so as to not set a precedent for future events and suggested using one of the City's parks.

Councilman Gonzalez advised that he does not believe Council should discriminate against this event simply because it is a religious service and does not think there should be any exclusivity in regards to the use of the City Pier.

Councilwoman-at-large Kiyak read the following statement on behalf of Councilwoman Szukala:

"I am absolutely against closing off the City Pier for a non city sponsored event. Again, this is for the record. I would like to offer an alternative in the location. That being Point Gratiot. If it is simply a church get together for prayer services, and there is not any microphones, amps etc. or food

vendors then council approval is not needed. There is also the option for the church to hold the event outside their church location.”

Councilwoman-at-large Kiyak advised that she is in agreement with Councilman Michalski in regards to not offering the City Pier to any group regardless of the nature of the event.

Public Works Director Gugino stated that the City offers many other “green spaces” for spiritual services to be held out. He then advised that closing off any portion of the pier should be minimized and presents difficulty not only for the boaters and fisherman but also emergency personnel including City Fire and Police Departments as well as Coastguard, Border Patrol and Homeland Security.

Building/Zoning Officer Zurawski advised that the Harbor Commission has always been concerned with any closing, partial or full, of the Pier.

Councilman Rivera advised that he does not want to discourage against having this event or any similar to have their services in the City and would just like to see an alternative location utilized.

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

Vote on Petition:

Ayes: Councilman Gonzalez

No: Councilman Michalski, Councilman Rivera, Councilwoman-at-large Kiyak

Petition denied, 1-3.

Request from Blessed Mary Angela Parish for permission to close Jerboa Street from Route 5 north to the St. Hyacinth auditorium property line (at fence) on August 10th from 10:00 AM until 6:00 PM for their “Annual Summer Festival.”

Councilwoman-at-large Kiyak advised a motion was needed to approve and refer to DPW, Police, Fire and Law Departments, contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, approval of loudspeaker permit if applicable, and that all city property is left in the same condition as prior to the event.

Councilman Michalski made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Request from Mary Krupa to use picnic tables and trash cans on June 28th for a benefit for Jim McDonald.

Councilwoman-at-large Kiyak read the following statement on behalf of Councilwoman Szukala:

“There have been requests for tables and trash cans from private individuals in the past. I believe we turned them down, and directed them to local vendors that rented these items out.”

Councilwoman-at-large Kiyak advised a motion was needed to refer to DPW and the clerk's office for the picnic tables and trash cans. It is also noted for the record that live music is not approved for this event without approval of a loudspeaker application.

Councilman Rivera made a motion to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Notice of claim from Alexis Brandt for alleged damages to her vehicle.

Notice of claim from Sandra Brightman for alleged damages to her vehicle due to pot holes on Washington Avenue.

Notice of claim from Edyl Vega for alleged damages to his vehicle due to a pothole on the corner of Main Street and Lake Shore Drive.

Councilwoman-at-large Kiyak advised a motion was needed to refer to the City Attorney.

Councilman Rivera made a motion to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Loudspeaker application from Dunkirk VFW for microphones, amplifiers and speakers on June 28th from 4:00 PM until 8:00 PM to host a benefit.

Loudspeaker application from Justin Porter for a PA system and loud speakers on Friday, July 4th from 4:00 PM until 8:00 PM at either City property between Clarion Hotel and Tim Hortons or Washington Park.

Loudspeaker application from Iglesia Pentecostal Unidas en Savzidad for microphones, amplifiers and speakers on July 11th – July 13th from 6:00 PM until 9:30 PM for Church services.

Loudspeaker application from Family Church to use speakers and microphones the City Pier on August 24th from 10:00 AM until 1:00 PM for church services.

Councilwoman-at-large Kiyak advised that loudspeaker applications from Justin Porter & Family Church have been pulled.

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

Councilman Michalski made a motion to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised that he has scheduled a Finance Meeting to provide results of the City's audit with City Auditor Johnson and Mackowiak on Monday, July 7th at 4:15 PM in the Mayor's Conference Room.

Councilman Rivera advised that he will be scheduling a Public Safety Meeting for July and congratulated Walter Rutland for "going live" with his Public Access show.

Councilman Rivera advised that this evening's Common Council Meeting is being recorded and will be edited and posted on the City website ASAP.

Councilman Gonzalez stated that at his last Personnel Meeting the hiring practices and procedures for summer help was discussed and advised that the Personnel Committee will be reviewing fees associated with the Department of Recreation as nothing has been adjusted in over 10 years.

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

Recess was called at 6:05 PM by Councilwoman-at-large Kiyak.

The meeting was re-called to order at 6:35 PM by Councilwoman-at-large Kiyak.

Present: Councilmen Michalski, Rivera, Gonzalez, Councilwoman Szukala and Councilwoman-at-large Kiyak.

Councilwoman-at-large Kiyak a motion was needed to dispense with the Rules and take Resolutions out of order.

Councilwoman Szukala moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

PRE-FILED RESOLUTIONS:

RESOLUTION #51-2014
JUNE 17, 2014

BY: THE ENTIRE COUNCIL

AUTHORIZING BUDGET MODIFICATIONS
(June 2014)

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 2014, ending December 31, 2014; now, therefore, be it

RESOLVED, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2014 budget:

FUND 2

Description: Water Purification & Pumping, Contracted Services - Unanticipated repairs to equipment earlier in year depleted line item; replenish necessary for normal preventive maintenance and inspections.

<u>Account No.</u>	<u>Department</u> <u>Change</u>	<u>Line</u>	
002.8320.4736	Water Purification & Pumping	Contracted Services	\$ 5,000
002.8320.4115	Water Purification & Pumping	Sewage Fees	\$(5,000)
		TOTAL	\$ -

Councilwoman-at-large Kiyak advised that the details/reasoning of this were discussed at the previous Finance Meeting.

Carried, all voting aye.

RESOLUTON #52-2014
JUNE 17, 2014

BY: COUNCILWOMAN SZUKALA

**SEQRA DETERMINATION FOR LAKEFRONT BOULEVARD SEAWALL
REPLACEMENT
(A city-rebuilding project with community enhancement emphasis)**

WHEREAS, following published Legal Notice, sealed bids for the replacement of the Lakefront Boulevard Seawall, with significant portions of the project including correcting neighborhood blight and ADA-accessibility to enhanced community recreational areas and protection of vital but lake-vulnerable neighborhood infrastructure, were opened and read aloud in the Dunkirk City Clerk's Office at 2:00 p.m. on May 27, 2014; and

WHEREAS, said bids were received and reviewed by the Department of Public Works, and the Department of Public Works recommends that the lowest responsible bidder be awarded bids for said seawall replacement with said community enhancement emphasis; and

WHEREAS, this resolution is required in the processes to have the City comply with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issue a negative declaration and/or other applicable documentation, and therefore making no further action under the State Environmental Quality Review Act necessary for this project; and

WHEREAS, that, following review and determination in accordance with the SEQRA environmental assessment form prepared by the City's consulting professional engineers for this project; now, therefore, be it hereby

RESOLVED, that the Mayor is authorized and directed to execute the SEQRA negative declaration document on behalf of the City of Dunkirk, by signing in the appropriate space on the SEQRA form to document the Council's and the Mayor's determination that based on said environmental assessment form information that the proposed action will not result in any significant adverse environmental impacts.

Councilman Gonzalez asked Director of Development Neratko to explain this resolution.

Director of Development Neratko advised that the SEQRA is the New York State process for evaluating the environmental concerns of a project. He explained that the Planning Board reviewed the finalized SEQRA which was completed by the engineering firm working on the project, confirmed it is an unlisted action, there would be a negative declaration, and is now looking for Common Council to affirm this.

City Attorney Szot advised that one of the covenants in regards to the underwriting of the bond in Resolution #56-14 is that all Federal and State Laws, SEQRA being a New York State Law, must be complied with. He then advised that last Thursday the Dunkirk Planning Board affirmatively voted to recommend that they had also determined that was no adverse environmental impact replacing the Seawall and that the ultimate decision of negative declaration is decided by Common Council with this resolution.

Carried, all voting aye.

RESOLUTION #53-2014
JUNE 17, 2014

BY: ENTIRE COUNCIL

A BOND RESOLUTION, DATED JUNE 17, 2014, OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "CITY"), AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE LAKEFRONT BOULEVARD SEAWALL (AND ASSOCIATED IMPROVEMENTS), AT AN ESTIMATED MAXIMUM COST OF \$4,200,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,200,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, the City of Dunkirk, Chautauqua County, New York (the "City") engaged an engineering firm, Nussbaumer & Clarke, Inc., to assist in analyzing the condition of the Lakefront Boulevard Seawall; and

WHEREAS, based upon recommendations provided to the City, the City plans to undertake a capital improvements project generally consisting of the reconstruction of and the construction of improvements to the Lakefront Boulevard Seawall, including improvements associated therewith; and

WHEREAS, the Common Council desires to authorize the issuance of obligations to finance such project;

NOW, THEREFORE, BE IT

RESOLVED, by the Common Council (by the favorable vote of not less than two-thirds of all the members of the Council) as follows:

SECTION 1. The specific purpose to be financed pursuant to this resolution is a capital improvements project consisting of the reconstruction of and the construction of improvements to the Lakefront Boulevard Seawall including, but not limited to, the reconstruction of approximately 2,800 linear feet of existing seawall along the north side of Lakefront Boulevard with the installation of a precast concrete modular wall, the construction of a bicycle path and pedestrian facility along the wall, the replacement of the existing pipe railing, the construction of an American with Disabilities Act (ADA) compliant ramp for beach access, and all preliminary work and necessary equipment, materials and site work and any preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of said purpose is \$4,200,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate amount not to exceed \$4,200,000 of said City, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Re-payment of the obligations is to be divided (75/25) between the General and Wastewater Treatment Funds. Unless paid from other sources or charges, the cost of such purpose is to be paid by the levy and collection of taxes on all real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 3 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 30 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there shall annually be levied on all the taxable real property of the City a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Common Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Treasurer, the chief fiscal officer of the City. Without in any way limiting the scope of the foregoing delegation of powers, the Treasurer, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the City.

SECTION 8. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds.) This resolution shall constitute the declaration of the City's "official intent" to reimburse the expenditures authorized by

Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The City has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. In the absence or unavailability of the City Treasurer, the Deputy Treasurer is hereby specifically authorized to exercise the powers delegated to the City Treasurer in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or

(b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

- (2) such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The City Clerk is hereby authorized and directed to publish this resolution or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said City and hereby designated as the official newspaper of said City for such publication.

SECTION 15. This Resolution is effective immediately.

Councilman Michalski advised that this is a no-win situation but his support of this resolution came down to not being proud of what the City currently has and believes the City residents deserve a Lake Front Boulevard they can be proud of and can use in a safe manor.

Councilman Rivera advised he reviewed the payment options brought forth at the Finance Meeting in regards to tax and usage increases, and being a multiple property owner himself, believes that the increases will be more than worth it to see what the seawall will look like for the next 75-100 years. He then advised that he would like to be part of the Group of individuals that made the decision to fix the Seawall, not ignore, and will vote in support of this resolution.

Councilman Gonzalez advised he believes this should have been done years ago under previous Administrations. He then advised that while originally against this resolution, talking with multiple people/business owners from the community he can't ignore the unsafe situation getting worse, knows expenses are high so hopes Mayor Dolce can come up with additional money/funding, and will support the passing of this resolution.

Councilwoman Szukala thanked everyone for waiting for her to arrive and proceeded to read the following prepared statement:

"I would like to share my thoughts about this upcoming resolution for the reconstruction of the Lake Front Blv. Seawall. For the past 20-30 years city officials have either ignored or used the bad aid approach on the seawall. We have been actively discussing this now for over four years (both under the current administration and the past administration).

After speaking with many residents, some finically stable and some on fixed incomes, the majority of them did agree that it is up to us to act in the cities best interest and fix the wall so it will last for years to come. Nobody wants to be part of an administration that raises taxes or user fees. This is one of the things that elected officials have been tasked with today.

There will be an upcoming tax increase affecting 49-50% of residents. There will also be an upcoming user fee within the WW fund #3 (which affects 100% of the users). There will never be a perfect time to spend an estimate 4 million dollars. However, Dunkirk has been given several grant opportunities to help with the seawall project.

If we decide today, to not go forward, not only will we lose these monetary grants, but we will be leaving a much needed project to the next group of officials to deal with. By doing that they will be starting from the beginning, loosing engineering costs with a costly price tag, permit fees, and grant opportunities. There is no doubt that a few more harsh winters will add additional costs to repair.

Please know that I do not take this vote lightly, nor do I fault those whom do not agree with this route to fix the seawall. For me, I will be supporting the award of the bid to move forward with this project."

Councilwoman-at-large Kiyak read the following prepared statement:

"I don't want to be perceived as an obstructionist, but rather a realist.

First, I'd like to state some of the facts facing the City at this time.

- The infrastructure that delivers water to our homes and businesses is aging and has been ignored and neglected for many years now. It is probable that the lines have been even more stressed than usual with the harsh winter we just experienced. These lines being out of sight means their out of mind – ignoring replacing these lines would be at our own risk of water delivery. So far, the tab for repairing the lines this year is over \$80,000, and that's not including the last four major repairs in the past 2 months. This issue has not been taken seriously by either previous administrations

nor the current one, since the only plan in place is CDBG funding, which is limited at best.

- The seawall over at the water treatment plant is beginning to fail, and could imperil the water treatment plant. The cost to replace it has been estimated at ½ million dollars.
- We've spent almost \$30,000 on a fire hall study – and we have no idea of the final recommendations yet, never mind the costs involved.
- The Bertges payment will be coming up again – another \$50,000.
- The fire chief asked council to forgo replacing his vehicle this year because of the tremendous increase in overtime for his department – that will be an additional \$20-35,000 for that vehicle next year.
- Speaking of overtime, we are only 6 months into the year and overtime is already over \$56,000 more this time, this year, than last.
- Although we've recently received grant funding for dredging at the harbor, the City still needs to come up with \$50,000 match. And this amount should be put aside every year, anticipating dredging being needed every 5 years or so.
- The NRG PILOT payment is going to be reduced by more than \$48,000 in 2015 – how are we going to replace that amount in Fund 1?
- HUD repayment may amount to close to \$1 million dollars – again, where do we make up this shortfall in Fund 1?
- As of today, Contingency lines in Funds 1, 2 and 3 have been depleted by well over \$100,000, and over \$30,000 in contracted services in Fund 2 has been spent, leaving a zero balance. We're only halfway through 2014. Where will the funding come from when these lines are completely depleted?
- There is a need for replacing and upgrading equipment over at the WWTP, with a price tag of close to \$8 million dollars.
- It is uncertain whether there is a major shortfall in our revenues for Funds 2 and 3. We were informed last night by our auditors that if their numbers are correct, the combined shortage of revenue could amount to almost \$400,000.

I know I'm missing other shortages in this list, including how the budget will be affected by the closing of Carriage House in 2015.

The costs involved in this project should not be affected by whether we do it now or delay it since the project is a replacement. Not a repair.

Does the wall need attention? Absolutely. Does the entire wall need to be replaced at this time, all the way from Wright Park to the High Rise? No, it does not. I don't know who made the decision, or why it was made, to replace the entire wall instead of the portion that truly needs repair/replacement, but not doing the cosmetic replacement could potentially save the City millions. But this has not been considered by the mayor nor the council.

Perhaps the design of this wall should also be reviewed before moving forward, to ensure we are not spending money on overdesigning. From what I understand, this wall is being designed to withstand ocean waves and salt water, neither being an issue with Lake Erie.

Another consideration is to replace the wall in stages, starting with the area by Wright Park. This would perhaps allow funding to be budgeted, rather than raising taxes and sewer rates.

Last year, when I suggested to my colleagues and the mayor that we raise the cost of the senior center to \$5.00 from the present yearly membership of \$1, it was unanimously shot down, stating that seniors are on a fixed income and cannot afford a \$4/year increase. But now they believe seniors can afford anywhere from \$30-\$50 a year increase, for up to 20 years?

If we are going to raise taxes, it should be replace our aging water infrastructure. The County is looking to the City to be the major provider of water to 9 surrounding municipalities. To me, this is a much larger priority than a mostly cosmetic fix to a beachfront wall.

Last night at the finance meeting, the mayor assured the committee that there were budget lines that could be reduced to pay for this project, perhaps avoiding bonding altogether. If this is the case, why are we moving forward with this project and not seriously exploring the lines the mayor claims can be reduced? Why is this Council in a rush to raise taxes and sewer rates? These grants are good through the end of 2015, which gives us plenty of time to reevaluate before taking this drastic step.

In conclusion, these are some of the reasons I cannot vote in favor of this project at this time.”

Councilwoman-at-large Kiyak then advised that if this resolution passes she “believes the next prudent step would be to undertake a city-wide tax re-evaluation of all the housing stock beginning with the First Ward, whose residents will reap the most benefit with this new wall. Especially since a re-evaluation hasn’t been done since 1996.”

Vote on Resolution:

Ayes: Councilman Michalski, Councilman Rivera, Councilman Gonzalez and Councilwoman Szukala

No: Councilwoman-at-large Kiyak

Resolution carried, 4-1.

RESOLUTON #54-2014

JUNE 17, 2014

BY: COUNCILMAN RIVERA

**AUTHORIZATION TO GRANT EASEMENTS FOR NATURAL GAS PIPELINE TO
NRG**

WHEREAS, NRG’s subcontractor for easements and rights-of-way acquisition has determined that the new natural gas pipeline needed to refuel the Dunkirk generating station must be built through a vacant parcel owned by the City of Dunkirk designated as parcel 79.17-1-79; and

WHEREAS, the NRG subcontractor made formal requests for the easements to accomplish this construction through said City parcel on June 10, 2014, and provided the name of the corporation that will build this pipeline for NRG, and such is Dunkirk Gas Corporation (“Dunkirk Gas”) with a corporate address of 211 Carnegie Center, Princeton, NJ 08540; and

WHEREAS, Dunkirk Gas has formally offered to pay the City of Dunkirk a fee for these necessary easements through said City parcel; and

WHEREAS, the City Department of Public Works has examined the proposed location of these requested easements necessary to re-power NRG with natural gas and, with due diligence, recommends rapid approval by Council to authorize and direct City granting of these easements so as to minimize or avoid any interference with the 2014 reconstruction in the City of Dunkirk of New York State Route 5 by the New York State Department of Transportation; now, therefore, be it hereby

RESOLVED, that the Mayor is authorized and directed to execute the easements for Dunkirk Gas through City parcel 79.17-1-79 and to authorize the City Treasurer to accept the fee payment for these easements and deposit such in the appropriate City revenue account.

Councilman Rivera asked City Engineer Woodbury to explain this resolution.

City Engineer Woodbury advised that in order to bring in high volume high pressure natural gas to the NRG Plant to power the turbines, it requires a tap on the transcontinental gas pipeline and the best route the Public Service Commission has approved with NRG is approximately 200 feet of right of way on city property.

Carried, all voting aye.

UNFINISHED BUSINESS:

RESOLUTION #45-2014

JUNE 3, 2014

BY: COUNCILWOMAN SZUKALA

**SEQRA DETERMINATION FOR LAKEFRONT BOULEVARD SEAWALL
REPLACEMENT**

(A city-rebuilding project with community enhancement emphasis)

WHEREAS, following published Legal Notice, sealed bids for the replacement of the Lakefront Boulevard Seawall, with significant portions of the project including correcting neighborhood blight and ADA-accessibility to enhanced community recreational areas, and protection of vital but lake-vulnerable neighborhood infrastructure, were opened and read aloud in the Dunkirk City Clerk's Office at 2:00 p.m. on May 27, 2014; and

WHEREAS, said bids were received and reviewed by the Department of Public Works, and the Department of Public Works recommends that the lowest responsible bidder be awarded bids for said seawall replacement with said community enhancement emphasis; and

WHEREAS, that, following review and determination in accordance with the SEQRA environmental assessment form prepared by the City's consulting professional engineers for this project, that the proposed action will not result in any significant adverse environmental impacts; now, therefore, be it hereby

RESOLVED, that the Mayor is authorized and directed to execute the SEQRA document, on behalf of the City of Dunkirk, with the determination that based on the environmental assessment form information that the proposed action will not result in any significant adverse environmental impacts.

Councilwoman-at-large Kiyak advised a motion was needed to remove Resolution #45-2014 from the table.

Councilman Michalski made a motion to remove this resolution from the table. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Councilwoman-at-large Kiyak advised that this resolution was replaced with #52-2014.

Vote on Resolution:

Ayes: None

No: Councilman Michalski, Councilman Rivera, Councilman Gonzalez, Councilwoman Szukala and Councilwoman-at-large Kiyak.

Resolution defeated, 0-5.

RESOLUTION #46-2014

JUNE 3, 2014

BY: COUNCILWOMAN SZUKALA

**AWARDING BID FOR LAKEFRONT BOULEVARD SEAWALL REPLACEMENT
(A city-rebuilding project with community enhancement emphasis)**

WHEREAS, following published Legal Notice, sealed bids for the replacement of the Lakefront Boulevard Seawall, with significant portions of the project including correcting neighborhood blight and ADA-accessibility to enhanced community recreational areas, and protection of vital but lake-vulnerable neighborhood infrastructure, were opened and read aloud in the Dunkirk City Clerk's Office at 2:00 p.m. on May 27, 2014; and

WHEREAS, said bids were received and reviewed by the Department of Public Works, and the Department of Public Works recommends that the lowest responsible bidder be awarded bids for said seawall replacement with said community enhancement emphasis; now, therefore, be it

RESOLVED, that, following review and determination in accordance with the SEQRA environmental assessment form prepared by the City's consulting professional engineers for this project, and upon review and recommendation of the Director of Public Works, the following lowest responsible bid be accepted and awarded

Bidder/Contractor
S. St. George Enterprises, Inc.
3689 Webster Road
Fredonia, NY 14063

Cost
\$3,895,000.00

and, be it further

RESOLVED, that the Mayor is authorized and directed to execute any and all documents, on behalf of the City of Dunkirk, with the above-named contractor, for the described work, 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.

Councilwoman-at-large Kiyak advised a motion was needed to remove Resolution #46-2014 from the table.

Councilman Michalski made a motion to remove this resolution from the table. Seconded by Councilman Rivera.

Carried, all voting aye.

Vote on Resolution:

Ayes: Councilman Michalski, Councilman Rivera, Councilman Gonzalez and Councilwoman Szukala

No: Councilwoman-at-large Kiyak

Resolution carried, 4-1.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:59 PM

Nicole Joiner, City Clerk
