

COMMON COUNCIL PROCEEDINGS
June 4, 2013

The meeting was called to order at 5:32 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, Clerk, Board of Assessors Mleczo, Director of Development Neratko, Community Development Block Grant Program Administrator Gornikiewicz, Personnel Administrator Heyden, Fire Chief Ahlstrom and Lieutenant Polowy.

Councilwoman-at-large Kiyak advised Lieutenant Polowy is in attendance tonight for Police Chief Ortolano and excused Building Inspector Zurawski from tonight's meeting.

Certification of May 21, 2013 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, May 21, 2013 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

No one spoke.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce commended Tim Gornikiewicz, Nicole Waite and the Festivals Committee for their work on the Picnic in the Point, stated Camp Gross will take place this year and advised residents details will be available on the city's website, newspaper and radio.

Mayor Dolce advised the city received 13 Requests for Qualifications (RFQ's) regarding the city's fire halls and stated approving the RFQ's will begin in the near future.

Mayor Dolce advised the Music on the Pier series will begin this Thursday and the Wreck & Roll Festival will be held this Friday and Saturday.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Communication from Councilwoman Szukala requesting to use city picnic tables, trash cans and trash bags on June 20th for the "12th Annual Senior Sweep Program."

Councilwoman-at-large Kiyak stated a motion to approve was needed and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilman Michalski moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from ALS Association Upstate New York for permission to hold their 1st Annual ALS Walk Dunkirk on July 20th at Point Gratiot from 9:00 AM until 1:00 PM. Also requesting the use of bandstands, trash barrels, trash pickup and permission to erect tents.

Councilwoman Szukala inquired if the bandstands will be dropped off during normal working hours or will the city incur any overtime expense from this event.

Department of Public Works Director Gugino advised the bandstands will be dropped off during normal working hours and the city will not incur any overtime expenses from this event.

Councilwoman-at-large Kiyak advised a motion to approve contingent appropriate 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 Rivera.

Carried, all voting aye.

Loudspeaker application from Kerry O'Rourke for a stereo with speakers on June 29th from 12:30 PM until 3:30 PM at the Large Pavilion at Point Gratiot.

Loudspeaker application from Cott Beverages for loudspeakers and amplifiers on August 18th from 1:00 PM until 5:00 PM at Large Pavilion at Point Gratiot.

Loudspeaker application from Dunkirk Lighthouse and Dunkirk Historical Society to use loudspeakers from August 16th thru 18th from 7:00 PM until 11:00 PM at the Dunkirk Lighthouse.

Loudspeaker application from Dustin LuKach for band and public address system on June 21st from 5:00 PM until 9:00 PM at the Large Pavilion at Point Gratiot.

Councilwoman Szukala advised individuals are only allotted a two hour time slot and the loudspeaker applications submitted by Kerry O'Rourke and Dustin LuKach need to designate a two hour time slot.

City Clerk Lawrence advised the clerk's office will notify these individuals they are only allotted a two hour time slot and must notify the clerk's office as to the two hours they choose.

Councilwoman-at-large Kiyak advised a motion to approve these applications was needed contingent on the applications by Kerry O'Rourke and Dustin LuKach designating a two hour time slot.

Councilman Rivera moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Communication from Building/Zoning Officer Zurawski regarding Inspection of 79 W. Doughty Street to Common Council.

Received and Filed.

Communication from Building/Zoning Officer Zurawski regarding Inspection of 128 Lincoln Avenue to Common Council.

Received and Filed.

Councilman Michalski had nothing to report.

Councilman Rivera thanked Nicole Waite, Tim Gornikiewicz and Steve Neratko for their work on the Picnic in the Park and advised the next Personnel Meeting will be held on June 27th at 10:00 AM in the Conference Room.

Councilman Rivera advised residents Music on the Pier begins this Thursday, the Wreck & Roll Festival will be held this Friday and Saturday and the Farmers Market is now open.

Councilman Gonzalez apologized for failing to notify the proper personnel regarding the cancellation of this morning's Public Works Meeting and advised it has been rescheduled for June 18th at 10:00 AM in the Conference Room.

Councilwoman Szukala asked City Treasurer Woods to clarify the revenue total from the parking meters and asked if the money has been deposited into the proper account.

City Treasurer Woods advised the city has received \$1,680.03 in parking meter fees and the revenue has been deposited into the proper account.

Councilwoman Szukala asked Department of Public works Director Gugino for an update on the Willowbrook Avenue Water Tank and the city's street sweeper.

Department of Public Works Director Gugino advised the street sweeper has been repaired and placed back into service on Monday.

Department of Public Works Director Gugino stated work on the Willowbrook Water Tank is near completion and advised interior, aesthetic, plumbing and electrical work is all that is needed to complete the tank.

Councilwoman Szukala asked for a time frame for completion and what is to become of the old tank.

Department of Public Works Director Gugino advised the tank is scheduled to be completed by the end of summer and the old tank will be placed out to bid for demolition.

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 proceeded to explain the contractors tasks and progress, advised everything is going well and stated a meeting was held last week with the construction crew, operators and engineers.

Councilwoman-at-large Kiyak advised the next Economic and Development Committee Meeting will be held on Wednesday, June 12th at 11:00 AM in the Mayor's Conference Room.

Clerk, Board of Assessors Mleczo announced the Board of Assessment Review will be held on Tuesday, June 11th and advised residents to call the Assessors Office for details.

PRE-FILED RESOLUTIONS:

RESOLUTION #34-2013
JUNE 4, 2013

BY THE ENTIRE COUNCIL:

**DIRECTING BUILDING INSPECTOR TO SERVE NOTICE TO
REPAIR OR REMOVE
(79 West Doughty Street (79.20-8-74))**

WHEREAS, by Resolution #27-2013, the Building Inspector was directed to inspect the building or structure situate at premises designated as 79 West Doughty Street, Dunkirk, NY 14048 (79.20-8-74), and to report the results of such inspection to this Common Council, in accordance with the provisions of Chapter 18 of the City of Dunkirk Code; and,

WHEREAS, the Building Inspector has provided to the Common Council an inspection report, dated May 30, 2013, and this Council has received and reviewed such report of such inspection; and,

WHEREAS, the Building Inspector reports that, in his opinion, the building or structure at premises designated as 79 West Doughty Street, Dunkirk, NY 14048 (79.20-8-74) is a danger to the health, safety or welfare of the public and should be repaired or removed; and

WHEREAS, it would be in the best interests of the public for the City's Building Inspector, to serve a notice to repair or remove upon the owner and all other persons having an interest in such property or structure; now, therefore, be it

RESOLVED, that the Building Inspector is hereby directed to service a notice to repair or remove upon the owner and all other persons having an interest in the building or structure situate at premises designated as 79 West Doughty Street, Dunkirk, NY 14048 (79.20-8-74), either personally or by registered mail, addressed to his/their last known address(es) as such appears on the current tax roll of the City of Dunkirk, in compliance with the conditions of Chapter 18 of the City of Dunkirk Code; and, be it further

RESOLVED, that the Building Inspector is hereby directed to report his determination and recommendation within five (5) days of any hearing held in accordance with the provisions of Chapter 18 of the City of Dunkirk Code.

Councilwoman Szukala asked City Attorney Szot for an explanation on the difference between a prior resolution on demolitions, this resolution under consideration and the resolution that will follow this resolution.

City Attorney Szot advised the city is following the same steps as it did last year for the property located at 209 Swan Street and stated "in Chapter 18 of the City Code there's basically three steps that need to happen where the council authorizes or directs actually the building inspector to do certain things to give the property owner and anyone who has any interest in the property some due process rights; to give them notice there is an issue that they need to remove or air the issue." City Attorney Szot continued "the next step if you approve these two resolutions is to have or give an opportunity to have a hearing like in the 209 Swan Street. My presumption or our presumption is they're not going to take advantage of that opportunity; the three resolutions are just taking each part of the Chapter 18 of the Code and authorizing it in sequence."

Councilwoman-at-large Kiyak asked will the city be placing liens on these properties.

City Attorney Szot advised the city will place liens on the properties but enforcement of the liens is another matter.

Carried, all voting aye.

RESOLUTION #35-2013

JUNE 4, 2013

BY THE ENTIRE COUNCIL:

**DIRECTING BUILDING INSPECTOR TO SERVE NOTICE TO
REPAIR OR REMOVE
(128 Lincoln Avenue (79.19-3-35))**

WHEREAS, by Resolution #28-2013, the Building Inspector was directed to inspect the building or structure situate at premises designated as 128 Lincoln Avenue, Dunkirk, NY 14048 (79.19-3-35), and to report the results of such inspection to this Common Council, in accordance with the provisions of Chapter 18 of the City of Dunkirk Code; and,

WHEREAS, the Building Inspector has provided to the Common Council an inspection report, dated May 30, 2013, and this Council has received and reviewed such report of such inspection; and,

WHEREAS, the Building Inspector reports that, in his opinion, the building or structure at premises designated as 128 Lincoln Avenue, Dunkirk, NY 14048 (79.19-3-35) is a danger to the health, safety or welfare of the public and should be repaired or removed; and

WHEREAS, it would be in the best interests of the public for the City's Building Inspector, to serve a notice to repair or remove upon the owner and all other persons having an interest in such property or structure; now, therefore, be it

RESOLVED, that the Building Inspector is hereby directed to service a notice to repair or remove upon the owner and all other persons having an interest in the building or structure situate at premises designated as 128 Lincoln Avenue, Dunkirk, NY 14048 (79.19-3-35), either personally or by registered mail, addressed to his/their last known address(es) as such appears on the current tax roll of the City of Dunkirk, in compliance with the conditions of Chapter 18 of the City of Dunkirk Code; and, be it further

RESOLVED, that the Building Inspector is hereby directed to report his determination and recommendation within five (5) days of any hearing held in accordance with the provisions of Chapter 18 of the City of Dunkirk Code.

Carried, all voting aye.

RESOLUTION #36-2013
JUNE 4, 2013

BY THE ENTIRE COUNCIL:

CONSENT FOR CABLE SYSTEM TRANSFER
(TIME WARNER NY CABLE LLC to TIME WARNER CABLE NORTHEAST LLC)

WHEREAS, Time Warner NY Cable LLC ("Franchisee"), an indirect, wholly-owned subsidiary of Time Warner Cable Inc. ("TWC") currently holds a franchise granted by the City of Dunkirk, NY (the "Community") to own and operate a cable system in the Community (the "Franchise"); and,

WHEREAS, TWC is undertaking an internal reorganization (the "Transaction") whereby, pursuant to a series of concurrent interim steps, the Franchise will be held by Time Warner Cable Northeast LLC, an indirect, wholly-owned subsidiary of TWC; and,

WHEREAS, the Transaction will not result in a transfer of control; TWC will retain ultimate ownership and management authority over the local cable system; and,

WHEREAS, TWC has filed FCC Form 394 with the Community and has provided the Community with all information regarding the Transaction as required by applicable law (collectively, the "Application"); and,

WHEREAS, the Community has reviewed the Application and determined that the Transaction is in the best interests of the Community and its residents and that Time Warner Cable Northeast LLC has the legal, technical and financial qualifications to

operate the cable system under the Franchise and all applicable local, state and federal laws; now, therefore be it

RESOLVED, the Community consents to and approves of the Transaction to the extent required by the terms of the Franchise and applicable law;

The Community confirms that the Franchise is valid and in full force and effect and there are no defaults under the Franchise;

Effective upon the closing of the Transaction (the "Closing Date"), Time Warner Cable Northeast LLC shall be responsible for any obligations and liabilities under the Franchise; and,

This Resolution shall take effect upon its passage and publication in accordance with applicable law.

Councilwoman Szukala inquired if this would change anything on the city's behalf or is this an internal reorganization within Time Warner and will this affect the city's current contract.

City Attorney Szot advised this is an internal corporate restructuring of Time Warner and does not affect the city's current contract.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 5:49 PM

Lacy Lawrence, City Clerk
