

PUBLIC HEARING
July 2, 2013

The public hearing was called to order at 5:15 PM by Councilwoman-at-large Kiyak.

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

Also present: Mayor Dolce, City Attorney Szot, City Treasurer Woods, Clerk, Board of Assessors Mleczko, Director of Development Neratko and Police Chief Ortolano.

Notice of Public Hearing was read by Councilwoman-at-large Kiyak.

The public hearing was held for the purpose of giving interested persons an opportunity to provide written or oral comment, views or data in regards to the prospective renewal of the franchise with Time Warner NY Cable LLC.

Councilwoman-at-large Kiyak asked City Clerk Lawrence has the clerk's office received any concerns or questions.

City Clerk Lawrence advised the clerk's office has not received any questions or comments from the public regarding this matter.

Councilwoman-at-large Kiyak advised residents still had an opportunity to submit questions or comments to the City Clerk's Office and if such comments were submitted they would receive a timely response.

PUBLIC COMMENTS:

Jerome Gavin, 117 Chestnut Street, Dunkirk, New York had several questions regarding the agreement such as length of the contract, clause regarding penalty to Time Warner Cable if payment to the city is not received in a timely manner, equipment Time Warner will be providing to the city, rate of reimbursement to residents and inquired if the contract would be made available to the public before the city signs it.

Mayor Dolce advised this is the first step in the contract negotiations and this meeting is a requirement before the city can proceed with negotiations with Time Warner.

Mr. Gavin inquired what the city is seeking in regards to the length of contract.

Mayor Dolce advised ten years is the standard length of contract and stated the city will be accepting public comments throughout the remaining month of July and this will be discussed further at the next Cable Board Meeting to be held at the end of this month.

Edna Sek, 7 Lakefront Boulevard, Dunkirk, New York advised city residents are upset with what is currently on ACCESS 12 as it has nothing to do with the City of Dunkirk.

Councilwoman-at-large Kiyak advised Mrs. Sek this is a public hearing to discuss the contract with Time Warner.

Mrs. Sek thanked Dan McGill for his 30 years of service and Christa Haynes for her 20 plus years of service to ACCESS 12 and inquired when and where can she voice her concerns regarding ACCESS 12.

Councilwoman-at-large Kiyak advised she can submit her questions or concerns to the city and there will be another public hearing regarding the contract with Time Warner.

Councilwoman Szukala advised Mrs. Sek her questions and concerns should be addressed at the monthly Cable Board Meetings and the dates and times of those meetings are available on the city's website.

Mayor Dolce advised the next Cable Board Meeting will be held on July 24th at 4:30 PM in the Conference Room.

Public Hearing closed at 5:24 PM

Lacy Lawrence, City Clerk

**COMMON COUNCIL PROCEEDINGS
July 2, 2013**

The meeting was called to order at 5:31 PM by Councilwoman-at-large Kiyak followed by the Pledge of Allegiance.

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

Also present: Mayor Dolce, City Attorney Szot, Public Works Director Gugino, City Treasurer Woods, Building Inspector Zurawski, Clerk, Board of Assessors Mleczeko, Director of Development Neratko, Personnel Administrator Heyden and Police Chief Ortolano.

Councilwoman-at-large Kiyak excused Fiscal Affairs Officer Halas from tonight's meeting.

Absent: Councilman Gonzalez, Fire Chief Ahlstrom.

Certification of June 18, 2013 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, June 18, 2013 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Harriet "Skeeter" Tower, Swan Street, Dunkirk, New York spoke on behalf of Washington PARC and Academy Heights Neighborhood Association and read the following:

"As residents of the historic Academy Heights Neighborhood and the Washington PARC Neighborhood we are opposed to the sudden emergence of a plan to erect a billboard sized lighted sign at the corner of Fifth and Central. This is not compatible with our neighborhoods, diminishes the name of the family Brooks who donated their house and their land for this very hospital. This is a family name of great significance in the history of our community, especially as it relates to the economic well being and the health of this area. There is already a first class, handsome sign in front of the hospital. At no time have we been informed that a huge contemporary sign was to be part of the parking lot development. We were appreciative that you were willing to keep the hitching post and the dismounting stone. Where are they in the signage sketch? They will be greatly diminished under this massive sign.

As two active neighborhood groups, Washington PARC, which is adjacent to the hospital as well as Academy Heights, in whose neighborhood the hospital resides, we would be expected to be consulted regarding any such plan and the values of these neighborhoods taken into consideration. To consult a small sampling of homes and medically focused businesses in the community within 100 feet of the sign is not adequate when considering the negative impact of this sign on the entire neighborhood. We request a delay in the plans and a thorough review of the design so that these concerns can be addressed.

Let us bring to your attention that we did not stand in your way of developing your parking lot and removing an historic structure and the removal of Spoke Folk, although we were in fact dismayed to lose yet another historic building in the city. We have had to tolerate the issues of noisy middle of the night snow removal from your lot, numerous staff and patients smoking on our streets, throwing smoking materials carelessly about and modeling negative health habits to your youth. We have endured your staff and patient cars parking in front of our homes and taking up precious parking spaces. It appears many staff parking on residential streets do so to facilitate smoking out of the elements off grounds during breaks, especially now with your new non-smoking policies. This makes a hardship on nearby homeowners who can not only find a place to park, but must contend with smoking residue. We implore you to be a good neighbor and to make adjustments to this plan which we find so abhorrent as we try to preserve and protect this neighborhood where we live and where you work."

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce advised the Village of Silver Creek thanked the City of Dunkirk for storing weapons for the Village and stated the city is continuing to work on shared services with local municipalities however this specific shared service with the Village has not been finalized.

Mayor Dolce advised there is a Resolution on tonight's agenda regarding authorizing payment on Chadwick Bay Funds for 2013 and stated the city will pay this fee this year in the interest of regionalism however Mayor Dolce stated he believes it is not necessary to continue to pay an assessment fee for discussions therefore, this will be the last assessment fee payment the city will pay to Chadwick Bay Regional Development Corporation.

Mayor Dolce advised the city will be accepting public comments regarding the Time Warner Cable contract thru the end of the month and encouraged residents to attend the Cable Board Meeting on July 24th to express their concerns.

Mayor Dolce advised the city has received the 2012 City Audit, all three funds are in the black and stated we need to keep the three fund balance positive to erase past negative fund balances.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from The Resource Center and Filling the Gap, Inc. requesting permission to sell newspapers at various Dunkirk intersections on July 10th from 6:00 AM until 10:00 AM. Also, requesting Police assistance from the Dunkirk/Fredonia line from Central Avenue to Washington Park and to use Washington Park to host their Victory Celebration on Friday, July 19th for the "Annual Laurel Run."

Councilwoman Szukala inquired if the group has been notified as to what street corners they are allowed to sell their newspapers.

City Clerk Lawrence advised the group has been notified as to the street corners they are allowed to sell their newspapers.

Councilwoman-at-large Kiyak advised a motion to approve the sale of newspapers between the hours of 6:00 AM and 10:00 AM, in addition to the relay race held on July 19th was needed contingent on the sponsor providing appropriate, valid certificate of insurance naming the City as an additional insured and contingent on the sponsor providing to the city a list of all participating vendors and contractors and that the premises are left in the same condition as prior to the event and referred this to the Department of Public Works, Police Department, Fire Department and Law Department.

Councilwoman Szukala moved to approve. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Ana Pacheco to use a bounce house at Point Gratiot on July 4th from 11:00 AM until 6:00 PM.

Councilwoman Szukala had concerns regarding the late notification of this petition, inquired if department heads have concerns regarding this petition and asked when will the bounce house be taken down and removed.

City Clerk Lawrence advised she does not have a pavilion rented, intends to use one of the smaller shelters and her event is from 11:00 AM until 6:00 PM.

Department of Public Works Director Gugino advised the smaller shelters are on a first come first serve basis, is concerned where the bounce house will be place in Point Gratiot in regard to electricity usage and asked if individual could get in contact with him for further discussion.

Councilman Michalski advised it is not the city's responsibility to guarantee electricity or the availability of shelters as the burden regarding this is on the petitioner.

City Attorney Szot stated it is up to council as to whether or not they want to approve this petition however, if they do approve this, liability insurance must be submitted to the city.

Councilwoman-at-large Kiyak advised a motion to approve contingent on prior proof of appropriate insurance naming the city as additional insured and the premises are left in the same condition as prior to the event and the bounce house is taken down the same day and referred this to the Department of Public Works.

Councilman Michalski moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Petition from Naomi Gonzalez to erect a tent (20x30) in Wright Park on July 27th from Noon until closing.

Councilwoman Szukala advised she has concerns regarding this petition as no Department Heads have signed off on this petition.

Department of Public Works Director Gugino advised he has concerns regarding the placement of the tent in Wright Park.

City Clerk Lawrence advised Ms. Gonzalez is open to any suggestion as to where the city will allow her to erect the tent as she is holding a family reunion.

Councilwoman-at-large Kiyak had a concern regarding the size of the tent.

Councilman Michalski suggested council approve this petition contingent upon Ms. Gonzalez contacting DPW Director Gugino and discussing tent location.

Department of Public Works Gugino advised he would like to discuss placement of the tent with Ms. Gonzalez as he has concerns with underground infrastructure (water, gas, electric lines).

Councilwoman-at-large Kiyak advised a motion to table this petition until the next Common Council Meeting was needed.

Councilman Rivera moved to table this petition. Seconded by Councilwoman Szukala.

Carried, all voting aye. TABLED.

Petition from Pillar of Fire Fellowship to host a Christian Hip-hop and R&B concert in Washington Park on August 17th from 3:00 PM until 6:00 PM.

Councilwoman Szukaka advised Department of Public Works Gugino did not signoff on the loudspeaker application and inquired as to why.

Department of Public Works Gugino advised he had several concerns regarding this event being held at this location and advised there maybe other locations within the city that would be better suited for this venue.

Councilwoman Szukala motioned to table this petition until the next council meeting as more information from the petitioner was needed. Seconded by Councilman Rivera.

Carried, all voting aye. TABLED.

Loudspeaker application from ALS Association Upstate New York for loudspeakers and sound systems at Point Gratiot on July 20th from 9:00 AM until 1:00 PM.

Councilman Michalski moved to approve this loudspeaker application. Seconded by Councilman Rivera.

Carried, all voting aye.

Loudspeaker application from Taqueria Mexicana for loudspeakers at 45 Lake Shore Drive East on July 4th from 3:00 PM until 10:30 PM.

Rosemary Lockett, 103 Park Avenue, Dunkirk, New York asked the common council members to deny this application as she lives directly behind Taqueria Mexicana and stated the past three years her family has not been able to enjoy their July 4th family barbecue due to the loud music from this establishment.

Councilwoman Szukala advised this establishment falls within the city's harbor front district.

Councilwoman-at-large Kiyak inquired if there was a decibel range which they must abide by.

Police Chief Ortolano advised his department will monitor that area.

Councilwoman-at-large Kiyak stated although the application was not submitted within the proper 30 day prior notice a motion to approve was needed.

Councilwoman Szukala moved to approve this application. Seconded by Councilman Rivera.

Ayes: Councilman Rivera, Councilwoman Szukala, Councilwoman-at-large Kiyak.

No: Councilman Michalski.

Carried, 3-1.

Loudspeaker application from George Rivera to use a radio/CD player at 58 E. Front Street on July 4th from 3:00 PM until 5:00 PM.

Councilwoman-at-large Kiyak stated although the application was not submitted with the proper 30 day prior notice a motion to approve was needed.

Councilwoman Szukala moved to approve this application. Seconded by Councilman Michalski.

Carried, all voting aye.

Loudspeaker application from Pillar of Fire Fellowship to use a sound system in Washington Park on August 17th from 3:00 PM until 6:00 PM.

Councilwoman-at-large Kiyak advised this loudspeaker application has been tabled until the next Common Council Meeting.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised the next Finance Committee Meeting will be held on Monday, July 8th at 4:15 PM to review the 2012 City Audit with representatives from Johnson, Mackowiak and Associates LLP and encouraged the public to attend.

Councilman Michalski asked Department of Public Works Director Gugino if the county will come back to cleanup the Westside beach behind the High Rise and will the Eastside of Wright Park Beach will be cleaned up.

Department of Public Works Gugino advised his crew will cleanup the portion of the beach behind the High Rise however, his crew will not cleanup the Eastside of Wright Park Beach as that portion of the beach is not open to the public for swimming.

Councilman Rivera advised the next Personnel Committee Meeting will be held on August 6th with a time to be determined and the next Planning Board Meeting has been rescheduled to July 9th at 6:00 PM.

Councilman Rivera advised residents to have a safe July 4th.

Councilwoman Szukala inquired about the Fire Department Building Assessment quotes and asked Mayor Dolce will there be any preliminary numbers available for the Public Safety Meeting to be held on July 23rd.

Mayor Dolce advised the city received 14 RFQ's and stated there has not been any progress since receiving the quotes and there would not be any preliminary numbers available for the next Public Safety Meeting.

Councilwoman Szukala spoke to Building/Zoning Officer Zurawski regarding the tall grass surrounding the Norfolk & Southern train tracks and the demolition of the Community Christmas building in the Fourth Ward.

Building/Zoning Officer Zurawski advised letters have been sent in the past to Norfolk & Southern but they have never responded to these letters and demolition of the Community Christmas building has begun however it has been held up due to the heavy equipment in that area due to the construction of the Millennium Parkway.

Councilwoman Szukala asked Department of Public Works Director Gugino for an update and goal date on the Fourth Ward Drainage Project.

Department of Public Works Director Gugino advised he has no goal date, there was too much rain in June when he intended to work on this project and currently the daily task list for his department is quite extensive and approaching frustration levels.

Councilwoman Szukala inquired if the part-time summer workers help alleviate the work load for his department.

Department of Public Works Director Gugino advised the part-time summer workers are not skilled to operate the equipment.

Councilwoman-at-large Kiyak advised the next Economic and Development Committee Meeting will be held on July 10th at 11:00 AM in the Sterns Building Conference Room.

Councilwoman-at-large Kiyak spoke in regard about a letter submitted to the Common Council Members by Department of Public Works Director Gugino on June 19th and read the summary paragraph at the end of the letter:

“In summary, we are not able to do any of the normal work we wish to do nor any preventive maintenance at the level that I feel we need to sustain reliable service to the residents and taxpayers. For example, tree cutting, hot patching, making street signs, routine sewer flushing, sinkhole repairs, drain reconstruction, fourth ward drainage project, hydrant flushing, water valve turning and routine maintenance, crosswalk and school zone painting and striping, etc. all must be postponed until time and manpower is available.”

Councilwoman-at-large Kiyak inquired if no personnel changes have occurred in the past couple of months in the Streets Department and we have in fact hired eight part-time employees for the summer to help in streets and parks and we’ve reduced citywide recycling to twice a month, what services are the taxpayers paying DPW personnel to do? Councilwoman-at-large Kiyak further inquired just how long does “postponed until time and manpower is available” translate into?

Mayor Dolce advised a daily report is e-mail to council members of what the DPW does on a day-to-day basis and stated “I think we can all agree they are doing a sufficient amount of work on a day-to-day basis, if there’s anything specific on there that you don’t think is a good use of time, feel free to ask Tony or I. They’re doing the work; it’s just not being done as fast as we all like it to be done.”

Councilwoman-at-large Kiyak inquired what does “all must be postponed until time and manpower is available” translate to.

Mayor Dolce stated the projects will be completed however work on some of the projects will be delayed.

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

Department of Public Works Director Gugino proceeded to explain progress of the consent order, completion date for the project is on schedule and advised Hill Engineering is putting together a bid package for the 2013 Resolution and hopes to have the Resolution out to bid this fall.

City Clerk Lawrence advised the City Clerk’s Office will be closed this Friday, July 5th between 12:45 PM and 2:15 PM; this will be announced in the Observer and apologized for any inconvenience.

Department of Development Director Neratko advised the next Planning Board Meeting will be held on Tuesday, July 9th at 6:00 PM in the Mayor's Conference Room.

Independent Audit of City Finances – FY 2012.

Received and Filed.

Hardcopy of 2012 Independent Audit of City Finances available for public inspection in the City Clerk's Office Monday thru Friday between 9:00 AM to 5:00 PM.

PRE-FILED RESOLUTIONS:

RESOLUTION #40-2013
JULY 2, 2013

BY THE ENTIRE COUNCIL:

**AUTHORIZING AGREEMENT FOR INDEPENDENT CONTRACTOR
(ANIMAL CONTROL OFFICER)**

WHEREAS, the City of Dunkirk requires from time to time the services of an Animal Control Officer, and

WHEREAS, Steven A. Purol has been providing such services for the City and is ready, willing and able to continue providing such services on an Independent Contractor basis, in a good and workmanlike manner, now, therefore, be it

RESOLVED, that the Mayor is hereby directed and authorized to execute an independent contractor agreement with **Steven A. Purol, 17 University Park, Fredonia, New York 14063**, for Animal Control Officer and certain parking enforcement services, effective July 1, 2013 through June 30, 2014, for Twenty-Four Thousand Dollars and Zero Cents (\$24,000.00), payable at the rate of Two Thousand Dollars and Zero Cents (\$2,000.00) per month, with fuel reimbursement up to Eight Hundred Dollars and Zero Cents (\$800.00) per year.

Carried, all voting aye.

RESOLUTION #41-2013
JULY 2, 2013

BY COUNCILWOMAN SZUKALA:

**AUTHORIZE AGREEMENT FOR INDEPENDENT CONTRACTOR
(Housing, Building & Zoning Enforcement Department)**

WHEREAS, the City of Dunkirk, through its Housing, Building & Zoning Enforcement Department (the "Department") has a need for assistance with various projects; and

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

WHEREAS, Wendy Spinuzza is ready, willing and able to provide such services as an independent contractor for the City, and 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 **WENDY SPINUZZA**, 175 Eagle Street, Fredonia, New York 14063, as an independent contractor to provide independent contracting services and assistance with various projects commencing July 1, 2013, and for a period of up to one (1) month, with payment of Seventeen Dollars and Fifty Cents (\$17.50) per hour up to thirty-five (35) hours per week, contingent upon such being made available, with such funds drawn from Account No. 001-3620-4440.

Carried, all voting aye.

RESOLUTION #42-2013
JULY 2, 2013

BY COUNCILMEN MICHALSKI and RIVERA

AUTHORIZING CITY OF DUNKIRK LOCAL SHARE (2013)
CHADWICK BAY REGIONAL DEVELOPMENT CORPORATION

WHEREAS, the City of Dunkirk has been a participant in the Chadwick Bay Regional Development Corporation (the "CBRDC"); and

WHEREAS, each participating municipality is levied an annual *per capita* local share (\$.50 *per capita*) for membership in the CBRDC; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to release the City of Dunkirk's local share (2013) for the Chadwick Bay Regional Development Corporation in the amount of \$6,281.50.

Councilwomen Szukala advised the council members have several questions and concerns regarding payment to this group, there are several municipalities who are not willing to go forward and pay their share of the 2013 payment stated "does not mean we are not in favor of the group or going forward."

Councilman Rivera advised he also has questions, does not feel comfortable passing this Resolution tonight and made a motion to table this Resolution until the next Common Council Meeting.

Councilwoman-at-large Kiyak asked if there was a timetable regarding passage of this Resolution and stated this payment has been budgeted within the city's budget for 2013.

Mayor Dolce advised there is no hard deadline for payment and the city is one of three municipalities who have not paid their local share.

Councilman Michalski advised it is important for the city to be involved with the regionalism of the water district and stated he would like to know where the money is being spent.

Department of Development Director Neratko advised financial statements are posted on their website.

Mayor Dolce advised there is a meeting scheduled next week with the engineer of this project and he requested preliminary numbers two months ago to determine if this is a viable option for the city and Northern Chautauqua County.

Councilman Rivera motioned to table this Resolution to the next Common Council Meeting to be held on July 16, 2013. Seconded by Councilwoman Szukala.

Carried, all voting aye. TABLED.

RESOLUTION #43-2013
JULY 2, 2013

BY COUNCILMEN MICHALSKI, RIVERA and GONZALEZ:

AUTHORIZING BUDGET LINE TRANSFERS
(Tree Trimming – Repair to Equipment)

WHEREAS, the tree-trimming “bucket truck” is inoperative and requires unexpected emergency repairs; and,

WHEREAS, the Tree Trimming – Repair To Equipment budget line has insufficient funds for this unexpected expense, and the Central Garage – Vehicle Fuel budget line has available funds; now, therefore, be it

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

001-1640-4061 Central Garage – Vehicle Fuel	Decrease \$20,000.00
001-8560-4022 Tree Trimming – Repair To Equipment	Increase \$20,000.00

Councilwoman Szukala advised she had concerns taking \$20,000.00 from the vehicle fuel line within the budget to repair this vehicle and perhaps the city could have pursued other avenues such as contacting other municipalities or contracting tree trimming companies and asked Department of Public Works Director Gugino to submit to council what equipment he will be looking to replace next year so council can budget and accommodate his department.

Department of Public Works Director Gugino proceeded to explain his comfort in spending the money to repair the vehicle and the benefits of the city trimming trees in-house.

Mayor Dolce advised as a past member of the common council he can recall when the city went without a tree trimming truck and stated "I remember when we went without one; the list adds up quick; those calls come in frequently and that list gets unattainable." Mayor Dolce further advised he would prefer tree trimming remains in-house versus hiring tree trimming contractors.

Councilwoman-at-large Kiyak inquired about the life usage of a tree trimming vehicle.

Department of Public Works Gugino advised vehicles are certified for 20 years for the prevention of electrocution and this vehicle has seven years remaining.

Councilman Michalski advised the fuel line is nine percent under to date, spoke with Fiscal Affairs Officer Halas regarding this and stated he is comfortable with taking the money from this budget line to repair the vehicle.

Councilwoman-at-large Kiyak advised she has spoken with Fiscal Affairs Officer Halas regarding the cost to repair this vehicle and stated "based on his experience with other companies this was not an outlandish amount to pay for this part" and asked Department of Public Works Director Gugino if it is imperative to repair this vehicle now.

Department of Public Works Gugino proceeded to explain the purpose of his letter was to keep council informed to the status and needs of his department.

Councilman Rivera spoke in regard to this repair and advised Department of Public Works Director Gugino answered his questions and concerns regarding this matter.

Councilwoman-at-large Kiyak inquired if this vehicle could be loaned out to surrounding municipalities such as Fredonia as a shared service.

Department of Public Works Gugino replied absolutely.

Vote on Resolution:

Ayes: Councilman Michalski, Councilman Rivera, Councilwoman-at-large Kiyak.

No: Councilwoman Szukala.

Carried, 3-1.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Rivera.

Carried, all voting aye.

Adjourned at 6:29 PM

Lacy Lawrence, City Clerk
