

COMMON COUNCIL PROCEEDINGS
August 5, 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, Director of Development Neratko, Personnel Administrator Heyden and Police Chief Ortolano.

Councilwoman-at-large Kiyak excused Building/Zoning Inspector Zurawski and Clerk, Board of Assessors Mleczko from tonight's meeting.

Absent: Fire Chief Ahlstrom.

Certification of July 16, 2013 meeting was read by City Clerk Lawrence.

RESOLVED: That the reading of the minutes of Tuesday, July 16, 2013 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Jamie Rocque, 11 Jackson Street, Silver Creek, New York and Mary and Mark Deas, 4422 Osborne Road, Fredonia, New York spoke on behalf of the Dunkirk Historical Lighthouse and Veterans Park Museum and Dunkirk Historical Museum and announced they will be holding a civil war reenactment at the Lighthouse on August 17th and 18th. Mrs. Rocque and Mr. and Mrs. Deas proceeded to explain the activities scheduled for that weekend and invited the public to attend.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Dolce complimented everyone involved with last weeks meeting regarding the Water District Resolution, advised he shares council's concerns regarding this matter and stated "it is imperative that we continue the dialogue and see what can arise from that."

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

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-at-large Kiyak advised this event has been cancelled.

Received and filed.

Petition from The Chautauqua County Center to block off three parking spots in the Graf Building Parking Lot on August 15th from 5:00 PM until 7:00 PM for their “Meet the Center Staff.” Also requesting the presence of the Mayor, City Clerk and City Hall Staff.

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

Councilwoman Szukala moved to approve. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Petition from Michael Jabot to hold a “Great Lakes Science Day” at Point Gratiot on September 27th from 9:00 AM until 1:30 PM.

Councilwoman-at-large Kiyak advised the group has reserved a pavilion for this event.

Received and filed.

Petition from Cassadaga Job Corps Academy for permission to conduct horse and carriage rides at Point Gratiot on August 29th from 7:00 PM until 9:45 PM for their annual prom.

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

Petition from the Dunkirk Local Development Corporation – Festivals Committee (Dunkirk Heritage Festival) for the City’s assistance and use of City facilities for their Summer on the Lake events at Washington Park on September 7th from 12:00 PM until 11:00 PM.

Councilwoman-at-large Kiyak advised a motion to approve contingent on prior proof of appropriate insurance by the sponsor and by all participating vendors or contractors naming the city as additional insured, including liquor liability insurance and proof of authority to sell and that the property is 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.

Councilwoman Szukala moved to approve. Seconded by Councilman Rivera.

Carried, all voting aye.

Prior Notice from Sue and Jim McDonald informing of dangerous trees in front of 55 N. Martin Street.

Received and filed.

Communication from City Clerk Lacy L. Lawrence appointing Grace Tarnowski to the position of Deputy City Clerk and Deputy Registrar of Vital Statistics for the City of Dunkirk effective July 30, 2013.

Received and filed.

Notice of Claim from Angel Collazo for damages to a basketball hoop allegedly caused by a City of Dunkirk employee.

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

Councilwoman Szukala moved to refer this to the City Attorney. Seconded by Councilman Michalski.

Carried, all voting aye.

Loudspeaker application from Richard Cain to use amplifiers and speakers at 21 Seel Street on August 3rd from 8:00 PM until 10:00 PM.

Loudspeaker application from Dunkirk Local Development Festivals Committee to use loudspeakers, amplifiers and musical equipment in Washington Park on September 7th from 12:00 PM until 11:00 PM.

Councilman Michalski advised the city's loudspeaker policy limits organizations to a four hour time limit and inquired why it is permissible for the city to surpass the four hour time limit.

City Attorney Szot advised there are exceptions for civic, municipal and city events.

Councilwoman-at-large Kiyak advised a motion to approve these application's was needed.

Councilwoman Szukala moved to approve these application's. Seconded by Councilman Rivera.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski thanked Councilwoman-at-large Kiyak and Department of Public Works Director Gugino for their work regarding last weeks Water District meeting.

Councilman Michalski advised the next Finance Committee Meeting will be held on August 12th.

Councilman Rivera also thanked Councilwoman-at-large Kiyak and Department of Public Works Director Gugino for their work regarding last weeks meeting and advised the next

Personnel Meeting will be held tomorrow, August 6th at 4:30 PM in the Mayor's Conference Room.

Councilman Gonzalez advised last weeks meeting was very informative, thanked everyone involved and announced the Public Works Meeting scheduled for tomorrow, August 6th, has been postponed until August 20th at 10:00 AM in the Mayor's Conference Room.

Councilwoman Szukala asked Department of Public Works Director Gugino for an update on the status of the city's tree truck and if bids have gone out for the street paving project.

Department of Public Works Director Gugino advised the tree truck should be returned to the city by the middle of this month and the city has yet to request bids for the street paving project.

Councilwoman Szukala advised overtime was incurred by the Fire Department during last week's county fair (demolition derby) and stated there should be discussion before next year's county fair as to whether the city will be reimbursed for these services or if these services could be provided by the Fire Department without incurring overtime.

Mayor Dolce agreed there should be further discussion regarding this matter.

Councilman Gonzalez asked Department of Public Works Director Gugino how much did city earn from the recent vehicle auction.

Department Of Public Works Director Gugino advised the city received \$10,327.00 from the recent auction.

Councilwoman-at-large Kiyak asked Department of Development Director Neratko for an update on the Seawall grant application.

Department of Development Director Neratko advised upon discussion with Diego Siriani the grant application will move forward and proceed to explain the reconstruction process of the seawall.

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

Department of Public Works Director Gugino advised bids will be going out soon for the remaining work to be completed for this year at the treatment plant; filter bed six is just about complete and the final phase of the West End Waterline Project is in the beginning stages.

Councilwoman-at-large Kiyak advised the next Economic and Development Meeting will be held on Wednesday, August 14th at 11:00 AM in the Mayor's Conference Room.

Councilwoman Szukala asked Department of Public Works Director Gugino for an update on the Fourth Ward Drainage Project and the daily use of the street sweeper.

Department of Public Works Director Gugino advised there has been no change regarding that project; his department is short staffed and he is doing his best to prioritize the tasks that need to be completed by his department.

Councilwoman-at-large Kiyak stated she has also received several complaints regarding the street sweeper; there are other visible tasks that could be addressed by his department.

UNFINISHED BUSINESS:

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.

Councilman Michalski motioned to remove this Resolution from the table.

Councilwoman-at-large Kiyak advised if this Resolution remains on the table this Resolution will die on the table and it would need to be reintroduced as a new Resolution in the future.

Seconded by Councilman Gonzalez.

Vote to remove Resolution from table:

Ayes: Councilmen Michalski, Councilman Rivera, Councilman Gonzalez.

No: Councilwoman Szukala, Councilwoman-at-large Kiyak.

Carried, 3-2 Removed.

Councilman Michalski advised he initially had reservations paying this fee as he had concerns as to how this group spends this money, however upon research he has found this money is spent towards development versus administrative expense and is comfortable moving forward with this resolution.

Councilwoman Szukala advised she has no problem paying the group this money, however feels it is not pressing to pay the group today; this payment has been budgeted and would prefer to see the progress of this group within the next few months before the city makes this payment.

Councilwoman-at-large Kiyak advised she shares the same concerns as Councilwoman Szukala and stated even though the money has been budgeted, there is still time to make this payment and would prefer to see the progress of their plan.

Vote on Resolution:

Ayes: Councilmen Michalski, Councilman Rivera, Councilman Gonzalez.

No: Councilwoman Szukala, Councilwoman-at-large Kiyak.

Carried, 3-2.

RESOLUTION #50-2013
JULY 16, 2013

BY COUNCILMEN MICHALSKI, RIVERA, GONZALEZ:

SUPPORT FOR REGIONAL WATER DISTRICT

WHEREAS, Governor Andrew Cuomo, as part of his strategy to jumpstart New York State's economy and create jobs, has created ten Regional Economic Development Councils; and

WHEREAS, as part of the Regional Economic Development strategy, a unified funding process, the Consolidated Funding Application, has been developed and made available to distribute grant funds for job creation and regionally significant economic development projects; and

WHEREAS, in 2008 a comprehensive municipal water supply needs assessment was conducted by the Chautauqua County Department of Health for all the northern Chautauqua County communities (except for the Village of Silver Creek and the Town of Hanover), which found that immediate improvements are needed at the water filtration plants and storage and distribution facilities in every one of the region's communities; and

WHEREAS, in a 2010 Regional Water Feasibility Report and subsequent updates, funded by the Chadwick Bay Regional Development Corporation and contributions from the seven participating municipalities (not including the Village of Silver Creek and the Town of Hanover), it was determined that future upgrades to the region's water treatment plants and major storage and transmission lines to be in excess of \$70 million, if pursued separately by each community; and

WHEREAS, the 2010 Regional Water Feasibility Report estimated a regional water approach to delivering water service to the area, including expanded service to the Village of Silver Creek and the Town of Hanover, could reduce the costs of needed improvements, by an estimated \$32 million to \$35 million; and

WHEREAS, the combined northern Chautauqua municipalities supply water to approximately 43,000 residential users and a unique cluster of commercial tourist related industries, major Western New York food processors, and colleges, all whom are large water users with a combined direct labor workforce of over 5,000 employees, and who have repeatedly stressed the critical need for a stable, cost effective and reliable supply of water to ensure their continued presence and, in some cases, possible expansion in the area in the future; and

WHEREAS, the delivery of safe, dependable, good quality water is vital to the economy of northern Chautauqua County, and will support agricultural producers and agricultural-related and supporting industries throughout Western New York; and

WHEREAS, after much deliberation, the City of Dunkirk Common Council has determined it is advantageous to join together, with the assistance of Chautauqua County, to seek to create a northern Chautauqua County regional county water district; now, therefore, be it

RESOLVED, that the City of Dunkirk hereby supports the County of Chautauqua as the lead applicant to submit a grant application, on behalf of the County of Chautauqua and the northern Chautauqua County communities, in the amount of \$38 million to the New York State Consolidated Funding Application of the Western New York Regional Economic Development Council for the purpose of exploring the establishment of a northern Chautauqua County regional water district, and it is further

RESOLVED, that the City Clerk is hereby authorized and directed to forward a certified copy of this adopted resolution to the Office of the Chautauqua County Executive and the Clerk of the Chautauqua County Legislature.

Councilman Rivera motioned to remove this Resolution from the table for vote. Seconded by Councilwoman Szukala.

Carried, all voting aye. Removed.

Councilwoman Szukala motioned to amend this Resolution by substitution. Seconded by Councilman Rivera.

Carried, all voting aye. Amended.

RESOLUTION #50-2013
JULY 16, 2013

BY COUNCILMEN MICHALSKI, RIVERA, GONZALEZ:

SUPPORT FOR REGIONAL WATER DISTRICT

RESOLVED, that the City of Dunkirk hereby re-affirms its support for regionalization, including the possible economic benefits of a regional Northern County water system, and supports the County of Chautauqua in seeking grant opportunities in order to explore the economic benefits of a regional water system to the ratepayers of the City; and, be it finally

RESOLVED, that the City Clerk is hereby authorized and directed to forward a certified copy of this adopted resolution to the Office of the Chautauqua County Executive and the Clerk of the Chautauqua County Legislature.

Councilwoman Szukala advised council received information regarding the progress of the grant application this afternoon, including the 2012 Wendel Report, and read the following e-mail she sent to Kathy Tampio:

“Kathy:

As per our conversation, I am officially requesting that the following wording be included in the grant application in at least one area.

The included Wendel Report from 2010 is only to be used as a previous analysis. Sections of this report are now out of date and inaccurate. This is for reference use ONLY to show the project and the progress to date.”

Councilwoman Szukala stated due to ongoing discussions and amendment to this resolution she is now willing to support pursuing grant funds and stated “I don’t think it can get any more simple than the wording we are going to pas this evening and with that I can support looking for grant dollars and moving forward.”

Councilman Rivera advised he initially was in favor of tabling this resolution so questions and concerns could be and answered and addressed, they were answered during last weeks meeting and stated we can move forward looking for grant dollars.

Councilwoman-at-large Kiyak read the following statement regarding the resolution supporting the Regional Water District:

“The Common Council has taken a serious, measured and realistic approach in endorsing an application being submitted by the County to obtain grant funding to aid in the creation of a regional water district in Western New York.

After many months of bits and pieces of information, the Council requested a public meeting to discuss the plan’s specifics and we’d like to thank Kathy Tampio, Executive Director of the Chadwick Bay Group, Patrick Brennan of the Brennan Group, Rick Henry of Clark, Patterson and Lee and County

Executive Greg Edwards for their time and presentation this past Tuesday evening.

Although details of the plan were not provided to the City, we were promised that the grant application will essentially be an overall summary of the plan. Council requested a copy of the application for review prior to tonight's meeting, which we received today. Although the application provides a narrative that explains the basic overall plan in the first 18 pages, it also includes the Wendel Feasibility Study drafted in 2010 which outlines some outdated information, and I would like to request that the County make note of this fact in their final application."

Councilwoman-at-large Kiyak read a portion of the County's application:

"The first step in developing a regional water system delivery system is to refine and finalize how a regional water district will be structured, administered and designed to provide adequate, safe, quality and affordable water supply to all users in the region that want a dependable public water supply. Important issues regarding the acquisition and incorporation of existing assets into the new regional system, staffing and the composition of the districts Governing Board will have to be clearly defined and approved by all the participating communities."

Councilwoman-at-large Kiyak advised the details of the water district have yet to be defined and presented to potential participants and stated:

"As elected officials, we have a duty and an obligation to the residents of Dunkirk to ensure our due diligence on their behalf and to insure that a more cost-effective solution for the tax and ratepayers of Dunkirk is in the works. Regionalization is a goal that we all support and we must be prudent to the point of caution as the process moves forward."

Vote on Resolution as amended:

Carried, all voting aye.

PRE-FILED RESOLUTIONS:

RESOLUTION #51-2013

August 5, 2013

BY COUNCILWOMAN SZUKALA:

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

WHEREAS, by Resolution No. 28-2013, the Building Inspector was directed to inspect the building or structure situate at premises designated as 128 Lincoln Avenue,

Dunkirk, NY 14048 (79.1-3-35) 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 provided to Council an inspection report (dated May 30, 2013), which this Council has received and reviewed; and,

WHEREAS, the Building Inspector reported 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, by Resolution No. 35-2013, the Building Inspector was 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 (79.1-3-35), 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, the Building Inspector was further 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; and

WHEREAS, the Building Inspector provided to the owner an opportunity to be heard as to whether a reasonable basis exists for the owner (or other interested parties) to be relieved of an order to repair or remove the building or structure under consideration; and,

WHEREAS, the owner (or other interested parties) failed to utilize the opportunity to be heard and did not appear at such opportunity to be heard, and the owner failed to comply with the notice to repair or remove within the time provided or any extension thereof; and,

WHEREAS, the Building Inspector has reported to the Common Council his determination, dated July 24, 2013, and this Common Council has received and reviewed such determination; now, therefore be it

RESOLVED, that the Building Inspector is hereby to take all appropriate steps and procedures as directed by Chapter 18 of the Dunkirk City Code to repair or remove the building or structure at premises designated as 128 Lincoln Avenue, Dunkirk, NY 14048 (79.19-3-35) in that such is a danger to the health, safety or welfare of the public and should be repaired or removed.

Carried, all voting aye.

RESOLUTION #52-2013
August 5, 2013

BY COUNCILWOMAN SZUKALA:

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

WHEREAS, by Resolution No. 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 provided to Council an inspection report (dated May 30, 2013), which this Council has received and reviewed; and,

WHEREAS, the Building Inspector reported 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, by Resolution No. 34-2013, the Building Inspector was 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, the Building Inspector was further 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; and

WHEREAS, the Building Inspector provided to the owner an opportunity to be heard as to whether a reasonable basis exists for the owner (or other interested parties) to be relieved of an order to repair or remove the building or structure under consideration; and,

WHEREAS, the owner (or other interested parties) failed to utilize the opportunity to be heard and did not appear at such opportunity to be heard, and the owner failed to comply with the notice to repair or remove within the time provided or any extension thereof; and,

WHEREAS, the Building Inspector has reported to the Common Council his determination, dated July 24, 2013, and this Common Council has received and reviewed such determination; now, therefore be it

RESOLVED, that the Building Inspector is hereby to take all appropriate steps and procedures as directed by Chapter 18 of the Dunkirk City Code to repair or remove the building or structure at premises designated as 79 West Doughty Street, Dunkirk, NY 14048 (79.20-8-74) in that such is a danger to the health, safety or welfare of the public and should be repaired or removed.

Carried, all voting aye.

RESOLUTION # 53-2013
AUGUST 5, 2013

BY THE ENTIRE COUNCIL:

AUTHORIZING GRANT APPLICATION
LAKE FRONT BOULEVARD SEAWALL RECONSTRUCTION

WHEREAS, the City of Dunkirk is applying for funding for the reconstruction and redevelopment of the "seawall" along Lake Front Boulevard through the New York State Consolidated Funding Application of the Western New York Regional Economic Development Council; and

WHEREAS, as a requirement of these programs, the City must obtain approval and endorsement of the governing body of the municipality in which the project will be located; now, therefore, be it

RESOLVED, that the Dunkirk Common Council does hereby approve and endorse the City's application for a grant under the Consolidated Funding Application for the Lake Front Boulevard "seawall" project and authorizes the application be made to the Western New York Regional Economic Development Council.

Councilman Michalski asked Department of Development Director Neratko if the grant application deadline was August 12th and who will be writing the application.

Department of Development Director Neratko advised he will be writing the grant application and the deadline is August 12th.

Councilwoman Szukala advised she spent time with Department of Development Neratko discussing the details of the grant and research regarding this matter has been completed.

Carried, all voting aye.

Councilwoman Szukala motioned to go into an Executive Session to discuss collective negotiations pursuant to article fourteen of the civil service law; it is expected that no business will be taken after the Executive Session concludes. Seconded by Councilman Rivera.

Carried, all voting aye.

Executive Session called to order at 6:06 PM.

Councilwoman Szukala moved to adjourn the Executive Session at 6:35 PM and reconvene to the regular Council Meeting. Seconded by Councilman Rivera.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Gonzalez.

Carried, all voting aye.

Adjourned at 6:35 PM

Lacy Lawrence, City Clerk
