

**PUBLIC HEARING
February 20, 2018**

The public hearing was called to order at 5:20 PM by Councilman-at-Large Woloszyn.

Present: City Attorney Morrisroe, City Treasurer Woods, Board of Assessors Mleczko, Clerk, DPW Director Woodbury, Building Inspector Zurawski, Fiscal Affairs Officer Beach, Director of Development Yanus, Executive Assistant to the Mayor Westling, Festivals & Special Events Coordinator Rosas, Personnel Administrator Heyden, Fire Chief Edwards and Police Chief Ortolano.

Notice of Public Hearing was read by Councilman-at-Large Woloszyn.

The public hearing was held for the purpose of giving interested persons an opportunity to comment on Resolution 21-2018 Authorization to update City Code: Increasing Parking Fines for the 1st time in decades.

Public Comments:

No one spoke.

Public Hearing closed at 5:23 PM

Edwin C. Ramos, City Clerk

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**PUBLIC HEARING
February 20, 2018**

The public hearing was called to order at 5:25 PM by Councilman-at-Large Woloszyn.

Present: City Attorney Morrisroe, City Treasurer Woods, Board of Assessors Mleczko, Clerk, DPW Director Woodbury, Building Inspector Zurawski, Fiscal Affairs Officer Beach, Director of Development Yanus, Executive Assistant to the Mayor Westling, Festivals & Special Events Coordinator Rosas, Personnel Administrator Heyden, Fire Chief Edwards and Police Chief Ortolano.

Notice of Public Hearing was read by Councilman-at-Large Woloszyn.

The public hearing was held for the purpose of giving interested persons an opportunity to comment on Resolution 25-2018 Creation of Local Law establishing responsible bidder requirements on Public Works Projects.

Public Comments:

No one spoke.

Public Hearing closed at 5:28 PM

Edwin C. Ramos, City Clerk

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COMMON COUNCIL PROCEEDINGS
February 20, 2018

The meeting was called to order at 5:30 PM by Councilman-at-large Woloszyn followed by the Pledge of Allegiance.

Present: Councilman Bamonto, Councilman Williams, Councilman Heenan, Councilman Civiletto, and Councilman-at-Large Woloszyn.

Also present: City Attorney Morrisroe, City Treasurer Woods, Board of Assessors Mleczeko, Clerk, DPW Director Woodbury, Building Inspector Zurawski, Fiscal Affairs Officer Beach, Director of Development Yanus, Executive Assistant to the Mayor Westling, Festivals & Special Events Coordinator Rosas, Personnel Administrator Heyden, Fire Chief Edwards and Police Chief Ortolano.

Excused: Mayor Rosas, Board of Assessors Mleczeko

Certification of the Tuesday, February 6, 2018 Common Council Meeting was read by City Clerk Ramos.

RESOLVED: That the reading of the Tuesday, February 6, 2018 Common Council Meeting be dispensed with.

Motion by Councilman Williams to accept the minutes as presented. Seconded by Councilman Bamonto.

Carried, all voting aye.

Councilman-at-Large Woloszyn turned the floor over to DPW Director Woodbury. DPW Director Woodbury invited Eagle Scout Jordan Cooley and his friends and family to come up front to be introduced. He presented him with a plaque in recognition of receiving his Eagle Scout.

PUBLIC COMMENTS:

Dave Wilkinson IBEW Business Manager & VP of Building Trades residing on Putnam Road in Cassadaga spoke about the Resolution for responsible bidding. I want to let the Council know that the building trades and its members support the responsible bidder law proposed by Councilman Williams. The law allows the municipality to specify criteria to qualify and require additional information regarding financial responsibility, accountability, reliability, skill, judgment and integrity. The law can require state certified apprentice programs and promote local contractors and a local work force. The law does not distinguish between union or non-union affiliation, only the ability to perform the work responsibly. I applaud Council and Mayor Rosas for once again demonstrating leadership, fiscal responsibility of tax dollars and their support of local construction workers and the meaningful jobs that we provide. Furthermore I challenge all municipalities and County leadership to recognize Dunkirk's courage and leadership and the responsible bidders law and to be like Dunkirk.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

1. Summons from Nationstar Mortgage LLC to answer mortgage complaint.

Received and Filed.

2. Request from Dunkirk PBA to use the established Lakefront 5K route in the City of Dunkirk for a 5K run/walk to be held on June 3rd, 2018 in honor and memory of K9 Officer Matthew Hazelton.

Councilman-at-Large Woloszyn advised a motion is needed to refer to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Williams made a motion. Seconded by Councilman Bamonto.

Carried, all voting aye.

3. Request from Samantha Vacanti on behalf of Pitching for Paws to hold the 2nd Annual Pitching for Paws Co-Ed Softball Tournament at Promenschenkel Stadium and Koch's field in Point Gratiot on July 28, 2018.

Councilman-at-Large Woloszyn advised a motion is needed to refer to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Williams made a motion. Seconded by Councilman Bamonto.

Carried, all voting aye.

4. Notice from Mike Civiletto of a pothole on the corner of Lincoln and Courtney.

Received and Filed.

5. Request from 716's Finest Car Club to use the three main pavilions of Point Gratiot Park, the main parking lot, permission for vendors, extra trash barrels and trash pick-up on Saturday, August 25, 2018 to hold their 2nd Annual Car Show.

Councilman-at-Large Woloszyn advised a motion was needed to refer to the appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Williams made a motion. Seconded by Councilman Civiletto.

Carried, all voting aye.

6. Request from Denise E. Hoyt on behalf of Ardent Solutions to use a portion of the parking lot at the Graf Building at the intersection of Central Avenue and

West 3rd Street for a Child Passenger Safety Seat Check Event on a day to be determined during the summer of 2018.

Councilman-at-Large Woloszyn stated that City Clerk Ramos has been asked to contact the individual to obtain more information before a vote can be taken.

NO ACTION TAKEN

7. Loudspeaker Application from:

- a. Samantha Vacanti on behalf of Pitching for Paws to have a DJ, microphone, and speakers at Promenschenkel Stadium during a softball tournament to be held on July 28, 2018.
- b. John R. Miga on behalf of Dunkirk Memorial Post 62 for band music at 211 Central Avenue on May 28, 2018 during the Memorial Day BBQ.
- c. Minerva Robb on behalf of 716's Finest to have DJ equipment, loudspeaker, amplifiers and band music at Point Gratiot Park on August 25, 2018 during their 2nd Annual Car Show.

Councilman-at-Large Woloszyn advised a motion was needed to refer to appropriate departments as well as approve subject to appropriate insurances and usual conditions.

Councilman Bamonto made a motion. Seconded by Councilman Williams.

Carried, all voting aye.

**REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:
UNFINISHED BUSINESS:**

Councilman Williams stated that on Wednesday, February 28, 2018 at 4:00pm there will be a DPW meeting in the Mayor's conference room and City Council members will be on WDOE viewpoints Thursday at 8:45 and inquired to Treasurer Woods for an update on the credit card system.

Treasurer Woods stated that the card readers have been installed thanks to Dan Manzella. Training will take place this week. Once all questions are resolved we will take credit card payments.

Councilman Bamonto stated that on Wednesday, February 21st at 6:00pm there will be a men's basketball organizational meeting in the Mayors conference room and games will be played at the middle school this year.

Councilman Civiletto stated that the notice he put in about the pothole was remedied the next day and thanked the Streets Dept.

UNFINISHED BUSINESS:

RESOLUTION #21-2018
February 6, 2018

BY: ENTIRE COUNSEL

**AUTHORIZATION TO UPDATE CITY CODE: INCREASING PARKING FINES
FOR THE 1ST TIME IN DECADES**

WHEREAS, the City of Dunkirk (“Dunkirk”) has parking fines for various parking violations established under the Dunkirk City Code § 76; currently APO violations are \$20.00, Parking Meters are \$6.00, Handicapped are \$50.00 and all the rest of the violations are \$10.00; and,

WHEREAS, Dunkirk has not raised its parking fines in at least two decades, if not three; and,

WHEREAS, according to the Bureau of Labor Statistics consumer price index, the dollar experienced an average inflation rate of 2.99% per year. Prices in 2017 are 197.1% higher than prices in 1980; that is, \$100.00 in the year 1980 is equivalent in purchasing power to \$297.07 in 2017, a difference of \$197.07 over 37 years¹; and,

WHEREAS, peer municipalities such as Fredonia² and Westfield³ have since raised their parking fines, such that at \$6.00, Dunkirk’s parking meter fines are the lowest in the area; and

WHEREAS, these increased fines can be allocated toward a fund to replace the old parking meters with new meters on an annual rotation until all parking meters are replaced; now, therefore be it

¹ <http://www.in2013dollars.com/1980-dollars-in-2017>

² <http://fredoniapolice.org/vital-info/parking/>

³ <https://ecode360.com/11159917>

Councilman Williams made a motion to remove from the Table. Seconded by Councilman Civiletto.

Carried, all voting aye.

Vote on Resolution.

Carried, all voting aye.

RESOLUTION #25-2018
February 6, 2018

BY: COUNCILMAN WILLIAMS

**CREATION OF LOCAL LAW ESTABLISHING RESPONSIBLE BIDDER
REQUIREMENTS ON PUBLIC WORKS PROJECTS**

WHEREAS, it is the intent of this Local Law, a draft of which is attached herein, to enhance the City of Dunkirk's ("Dunkirk's") ability to identify the lowest "responsible bidder" on public works construction project by instituting more comprehensive submission requirements and an evaluation system which follows New York State General Municipal Law; and,

WHEREAS, The City, based on its experience, has determined that quality workmanship, efficient operation, safety and timely completion of projects are not necessarily assured by awarding a public works contract solely based on low price; and,

WHEREAS, this Local Law establishing uniformity of guidelines for determining the responsibility of bidders will assure efficient use of taxpayer dollars will promote public safety and is in the public interest; now, therefore be it

RESOLVED, the City of Dunkirk Common Council authorizes the attached local law to be added to the Dunkirk City Code, contingent on first holding the necessary public hearing.

Councilman Williams made a motion to remove from the Table. Seconded Councilman Bamonto.

Carried, all voting aye.

Councilman Williams thanked Dave Wilkinson, the IBEW Business Manager for speaking so eloquently about the Resolution and stated that responsible bidding ensures public dollars go to contractors both union and non union that adhere to a set of accountability measures. Responsible bidding insures tax payers will get the best bang for their buck because of the fairness of people that would be putting in on the bids. It will allow those applying for public work to compete fairly and agree to follow all relevant regulations and it ensures there will be well trained people on the job. This language mirrors the NYS responsible bidders language.

Vote on Resolution.

Carried, all voting aye.

PREFILED RESOLUTIONS:

RESOLUTION # 26 -2018
February 20, 2018

BY ENTIRE COUNCIL:

AUTHORIZING BUDGET LINE MODIFICATIONS
For Fiscal Year 2018

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 2018, ending December 31, 2018; now, therefore, be it

RESOLVED, that the Fiscal Affairs Officer is hereby authorized and directed to make the following modifications to the Fiscal Year 2018 budget:

Fund 1 - General Fund

Account Number	Department	Line	Change
001.0001.2264	Police	Restricted Drug Enforce	\$ 8,970.00
001.3120.4240	Police	Restricted Drug Purch	\$ 8,970.00
TOTAL			\$ -
(Asset Forfeiture/Drug Task Force)			

Account Number	Department	Line	Change
001.0001.2263	Police	Drug Task Force	\$ 5,337.25
001.0001.2288	Police	Stoneguard Grant	\$ 3,697.48

001.3120.1001	Police	Overtime	\$ 9,034.73
TOTAL			\$ -
(Drug Task/Stoneguard Reimbursement for Overtime)			

Account Number	Department	Line	Change
001.0001.2705.7060	Police	Donations-Police	\$ 50.00
001.3120.4439	Police	K-9 Expenses	\$ 50.00
TOTAL			\$ -
(Donation in Memory of K-9 Officer)			

Account Number	Department	Line	Change
001.0001.4000	Fire	FEMA/CFDA#97	\$ 26,560.00
001.3410.2000	Fire	Equipment	\$ 26,560.00
TOTAL			\$ -
(FEMA Grant to reimburse for Equipment)			

Carried, all voting aye.

RESOLUTION #27-2018
FEBRUARY 20, 2018

BY: ENTIRE COUNCIL

**AUTHORIZING MAYOR TO EXECUTE A LEASE AGREEMENT FOR A
COPY MACHINE IN THE SENIOR CENTER, RECREATION DEPARTMENT,
AND YOUTH DEPARTMENT**

WHEREAS, there is no current lease agreement for a copy machine to be shared by the Senior Center, Recreation Department and Youth Department; and

WHEREAS, the City is able to enter into a new equipment lease contract at One Hundred Ten and Eleven Cents (\$110.11) per month; and

WHEREAS, this contract falls below the requirement now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute a lease agreement with Toshiba Business Solutions for an office copier for the Senior Center, Recreation Department and Youth Department which includes maintenance and supplies at a monthly payment of One Hundred Ten Dollars and Eleven Cents (\$110.11), for the next sixty three (63) months; and, be it finally

RESOLVED, that funds for this lease be allocated from supplies accounts #001.7310.4002, #001.6772.4002, #001.7140.4003, and #001.6772.400.

Carried, all voting aye.

RESOLUTION # 28-2018
FEBRUARY 20, 2018

BY COUNCILMAN WILLIAMS:

**ACCEPTING APPLICATION FOR WATER AND SEWER SERVICE
FOR THE ATHENEX MANUFACTURING FACILITY IN TOWN OF DUNKIRK**

WHEREAS, the City of Dunkirk supplies water and sewer service to Route 5 in the Town of Dunkirk, at out-of-city rates; and

WHEREAS, the attached application for new water and sewer service was reviewed by DPW and recommended for approval; now, therefore, be it

RESOLVED, that the Athenex Manufacturing Facility may establish water and sewer accounts with the City of Dunkirk provided it pre-pay all connection and meter fees at the out-of-city rate and establish accounts to pay usage fees billed at the out-of-city rates.

Carried, all voting aye.

RESOLUTION #29-2018
February 20, 2018

BY: ENTIRE COUNCIL

**AUTHORIZATION TO UPDATE CITY CODE: REQUIRING TWO SIGNATURES
ON CHECKS INSTEAD OF ONE**

WHEREAS, multiple check signing provides the substitution of signature authority in case of emergencies, illness, vacations, or death and the additional accountability is preferred for the disbursement of City funds; and

WHEREAS, other local municipalities require two signatures on checks such as City of Buffalo, and Village of Fredonia; and

WHEREAS, it is not currently covered under Section 2-11.02 D of the City code; now, therefore, be it

RESOLVED, the City of Dunkirk Common Council authorizes the following changes to Article XI of the Dunkirk City Code, contingent on first holding the necessary public hearing:

§ 2-11.02 D will include a subcategory that will state all checks must signed by 2 approved signatories that will include the City Treasurer, and the Mayor in order to create contingencies that allow for illness, vacations and the other absences of a signatory. The Deputy City Treasurer may act as a substitute signatory as necessary for the City Treasurer per §2-11.03 of the City Code.

Councilman Williams made a motion to Table the Resolution for a public hearing at the next council meeting at 5:20 PM. Seconded by Councilman Bamonto.

Il voting aye.

TABLED

RESOLUTION #30-2018
February 20, 2018

BY: COUNCILMAN HEENAN

**AUTHORIZING LICENSE AGREEMENT WITH NOAA TO RE-ESTABLISH A
FEDERAL LAKE LEVEL GAUGE IN DUNKIRK HARBOR**

WHEREAS, the City of Dunkirk has had federal water level gauges of different types to aid navigation of Lake Erie since the mid 1800s; and

WHEREAS, the National Oceanic and Atmospheric Administration (“NOAA”) seeks to install the latest version of their small solar-powered lake level gauge to be internet accessible to boaters and others affected by changing lake levels in Dunkirk Harbor at an isolated and railing protected point on Dunkirk’s City Pier; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute the NOAA license agreement for this water level gauge.

Carried, all voting aye.

RESOLUTION #31-2018
February 20, 2018

BY: ENTIRE COUNCIL

**SEQR Resolution: Wastewater Treatment Plant Improvements – Including
Aeration System and Forcemain Upgrades**

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 9 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Dunkirk City Council has reviewed the Capital Improvement Program, including the newly added Aeration System and Forcemain upgrades, proposed for the Wastewater Treatment Plant in the City of Dunkirk, and

WHEREAS, the City Council of the City of Dunkirk has classified the action as a Type II action that is not subject to SEQR review; and

WHEREAS, the City of Dunkirk has determined that the proposed project, which is a Type II action, will not have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, Article 8.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Dunkirk, after considering the action proposed herein, reviewing the criteria contained in Section 617.5 part c2 of the Rules and Regulations of the SEQRA Regulations, determines that the action is a Type II action and is not subject to SEQR review; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to sign required documentation indicating that the proposed action is a Type II action.

Carried, all voting aye.

RESOLUTION #32-2018
February 20, 2018

BY: ENTIRE COUNCIL

WWTP Emergency Repair Resolution

WHEREAS, it was identified that the influent chamber isolation gates, sewer lines from the pump station to the grit system and the stormwater pump piping have failed and are no longer functioning as intended; and

WHEREAS, the failure of the gates, and sewer piping screen, limits the ability for the City to pump sewage through the treatment plant, potentially resulting in sewage backups and discharges; and

WHEREAS, the City's engineers on the project have submitted a memorandum to the City in which they give the opinion that the failing gates, sewer lines and stormwater pump piping constitutes a danger to the health, safety and property of City residents.

THEREFORE, BE IT RESOLVED, that said gate, sewer line and storm pump piping failure constitutes a public emergency as that term is defined by New York State General Municipal Law §103(4) requiring immediate action that could not await comparative bidding procedures, as also delineated in the Dunkirk Procurement Policy, an appendix of the Dunkirk City Charter.

Carried, all voting aye.

RESOLUTION #33-2018
February 20, 2018

BY: ENTIRE COUNCIL

AN AMENDING AND RESTATING BOND RESOLUTION, DATED FEBRUARY 20, 2018, OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "CITY"), FURTHER AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JUNE 21, 2016 AND AMENDED ON JUNE 6, 2017, AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT PRIMARILY AT THE WATER POLLUTION CONTROL PLANT IN THE CITY, AT AN ESTIMATED MAXIMUM COST OF \$14,500,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$14,500,000 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, on June 6, 2017 the Common Council of the City of Dunkirk, Chautauqua County, New York (the “City”) adopted an amending bond resolution (the “2017 Amending Bond Resolution”) entitled:

AN AMENDING AND RESTATING BOND RESOLUTION, DATED JUNE 6, 2017, OF THE COMMON COUNCIL OF THE CITY OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE “CITY”), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JUNE 21, 2016, AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT PRIMARILY AT THE WATER POLLUTION CONTROL PLANT IN THE CITY, AT AN ESTIMATED MAXIMUM COST OF \$10,146,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,146,000 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 has previously issued bond anticipation notes pursuant to the 2017 Amending Bond Resolution, but has not yet entered into permanent financing arrangements (i.e., the issuance of long-term serial bonds); and

WHEREAS, the Common Council has been advised that additional capital improvements are necessary and proper; and

WHEREAS, the City desires to perform additional capital improvements at the Water Pollution Control Facility to upgrade facilities that failed in January 2018 as well as to perform upgrades to the Water Pollution Control Facility aeration system and air supply blowers to handle current loadings and proposed future loadings from any expansion of the system; and

WHEREAS, the Common Council has also been advised that the cost of the proposed modified project has increased due to such modifications; and

WHEREAS, the Common Council now wishes to modify the 2017 Amending Bond Resolution for the purposes of: (a) identifying and clarifying the modified scope of the project, (b) increasing the estimated maximum cost of the project from \$10,146,000 to \$14,500,000 and (c) increasing the amount of serial bonds authorized to be issued from \$10,146,000 to \$14,500,000 and to make other modifications to the 2017 Amending Bond Resolution as may be consistent with law; and

WHEREAS, the Common Council now wishes to amend and restate (in its entirety) the 2017 Amending Bond Resolution for the reasons identified above, and to make other modifications to the 2017 Amending Bond Resolution as may be consistent with law; and

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 City is hereby authorized to undertake a capital improvements project generally consisting of the reconstruction of and the construction of improvements to the water pollution control plant in the City including, but not limited to, the replacement of various sewer line and storm water pump piping, replacement of the influent chamber facilities, replacement of various equipment for the aeration system and blowers, installation of two new mechanical bar screens, compactor and control package equipment, improvements to one concrete tank involving the installation of a new grit removal system, improvements to the solids dewatering and sludge stabilization system, installation of new pumps, replacement of emergency generator, installation of a plant wide Supervisory Control and Data Acquisition (SCADA) system, lighting system upgrades, replacement of various windows and doors, replacement of unit heater controls, installation of boiler equipment and various concrete improvements, and all preliminary work and necessary equipment, materials and site work, as well as other such improvements as more fully identified in (or contemplated by) a revised preliminary engineering report prepared by Wendel (the "Engineer") and any preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$14,500,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds of the City in an aggregate principal amount not to exceed \$14,500,000 hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received (including, but not limited to, grant funds from the New York State Environmental Facilities Corporation). Unless paid from other sources or charges, the cost of such improvements is to be paid by the levy and collection of taxes on all the taxable real property in the City to pay the principal of such bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the purpose is 40 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 the 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 will 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 will 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, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 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 details 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 City 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 June 21, 2016 or within 60 days prior to the earlier of (a) June 21, 2016 or (b) the date of any earlier expression by the City of its intent to reimburse such expenditures) 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 (or reaffirmation) of the City's original

declaration of its "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 may 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) 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 determined that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") are required.

SECTION 12. To the extent applicable, the City Treasurer is hereby authorized to execute and deliver in the name and on behalf of the City a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the City Treasurer and the City Clerk and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 13. 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 14. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

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

(b) 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 20 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 15. 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 the Local Finance Law, in a newspaper having a general circulation in the City and hereby designated as the official newspaper of the City for such publication.

SECTION 16. Nothing in this amendment shall affect the validity of the June 21, 2016 Bond Resolution or the 2017 Amending Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 17. This Resolution is effective immediately.

* * * * *

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

Councilman Williams inquired for clarification if there would be a need for further council authorization or is this extending the line of money that we are borrowing and requested that DPW Director Woodbury to explain what led us to this.

City Attorney Morrisroe stated that this opens the door for the additional financing

needed and there will contract and bidding process once we get past the emergency hump. And those contracts would have to come before council.

DPW Director Woodbury introduced Brian Sibigia PE from Wendel Engineers.

Brian Sibigia PE stated that there are two 20 inch pipes where the sewage goes into the plant and they get pumped up to the processes that remove the pollutants. These 2 pipes failed and there was a temporary bypass that was put in to allow some sewage to keep going thru the plant. These are going to be replaced with one new large size line to basically do the same thing. EFC gave you a zero percent loan that they are allowing the City to increase and I think the savings on just the emergency portion is over a million dollars over the 20 years and its going to be even more for the four million dollar project.

Councilman Heenan inquired to Brian Sibigia what the life span on the work we are doing is and is this below ground or above ground. Is that the natural lifeline of this or is there maintenance that we can do to help prolong the life.

Brian Sibigia PE stated that he projects about 40 years for the force main part and about 20-30 years for the aeration. It is in general the natural lifetime, but maintenance could make it last longer.

Councilman Civiletto inquired how much money we can save on electric by upgrading to new blowers.

DPW Director Woodbury stated these blowers don't have any bearings to touch anything. They rotate on air so it's almost zero friction, at every stage of this we are looking to save money on chemicals and energy. This is a much greener energy source. Energy savings is a big part of the savings on this project.

Carried, all voting aye.

RESOLUTION #34-2018

February 20, 2018

BY: ENTIRE COUNCIL

**AUTHORIZATION TO CONTRACT WITH
STC CONSTRUCTION TO INSPECT STORM PUMP LOCATED AT THE
WASTEWATER TREATMENT PLANT**

WHEREAS, the City of Dunkirk ("Dunkirk") has recognized it must address inadequacies at the City's wastewater treatment plant that urgently require repair and/or replacement; and

WHEREAS, the New York State Environmental Facilities Corporation (NYS EFC) granted the City of Dunkirk's application for funding in the amounts of \$2,543,750 in grant funds and \$7,602,250 in zero-interest loan funds for these replacements and repairs at the Wastewater Treatment Plant; and

WHEREAS, pursuant to General Municipal Law §104-b(2)(f) and the City of Dunkirk Procurement Policy Paragraph 6(a) (Professional services) in an Appendix to the Dunkirk City Code dated February 1, 2009, and amended September 19, 2018 the Common Council, in its sole discretion may dispense with the competitive bidding process, and the solicitation of alternative proposals or quotations when contracting for professional services; and

WHEREAS, the proposal does not meet the \$20,000 threshold for said amended procurement policy; and

WHEREAS, the City has chosen to contract with STC Construction, 63 Zoar Valley Road, PO Box 459, Springville, New York 14141 (STC Construction) to provide an inspection team to assess the integrity of storm pumps.

WHEREAS, the inspection of the storm pump thimble is required to continue work on the wastewater treatment plant, a \$14,900 contract is recommended by DPW and the City's consulting engineers; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute a \$14,900 contract with STC Construction contingent upon the contractor first supplying all necessary approvals from EFC to meet their funding requirements for this work.

Carried, all voting aye.

RESOLUTION #35-2018
February 20, 2018

BY: ENTIRE COUNCIL

**AUTHORIZATION TO CONTRACT WITH
WENDEL FOR WWTP EMERGENCY ADDITIONAL CAPITAL UPGRADE
PROJECT MANAGEMENT**

WHEREAS, the City of Dunkirk ("Dunkirk") has recognized it must address inadequacies at the City's wastewater treatment plant that urgently require repair and/or replacement; and

WHEREAS, the New York State Environmental Facilities Corporation (NYS EFC) granted the City of Dunkirk's application for funding in the amounts of

\$2,543,750 in grant funds and \$7,602,250 in zero-interest loan funds for these replacements and repairs at the Wastewater Treatment Plant; and

WHEREAS, this Common Council has passed Amended Bond Resolution #29 of 2018 increasing the funding necessary to complete the additional emergency repairs, estimated at an additional cost of \$4,000,000; and

WHEREAS, pursuant to New York State General Municipal Law §103(4) and the Dunkirk Procurement Policy, an appendix of the Dunkirk City Charter, the Common Council, in its sole discretion may dispense with the competitive bidding process, and the solicitation of alternative proposals or quotations when contracting for professional services when the work addresses a public emergency; and

WHEREAS, Wendel WD Architecture, Engineering, Surveying, and Landscape Architecture, PC (“Wendel”) already serves as project manager and engineer for the WWTP capital improvement project; and

WHEREAS, per the City’s request, because of the emergency circumstances laid out in Resolution #33 of 2018, Wendel has submitted its proposal for engineering services related to the emergency forcemain failure, replacement and repair of forcemain, gate facilities and aeration system, including blowers; and

WHEREAS, Wendel will provide the necessary preliminary design and engineering report, design development and contract documents, bidding services and construction services for a proposed contract cost of \$650,000; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute a \$650,000 contract with Wendel contingent upon the firm first supplying all necessary approvals from EFC to meet their funding requirements for this work.

Carried, all voting aye.

ADJOURNMENT:

Councilman Heenan moved to adjourn. Seconded by Councilman Williams.

Carried, all voting aye.

Adjourned at 5:58 PM

Edwin Ramos, City Clerk
