

COMMON COUNCIL PROCEEDINGS
May 15, 2018

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

Councilman-at-Large Woloszyn asked everyone to remain standing for a moment of silence for the passing of longtime Fourth Ward Councilman John Woloszyn.

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

Also present: Mayor Rosas, City Attorney Morrisroe, City Treasurer Woods, City Assessor Mleczeko, City Clerk, Public Works Director Woodbury, Fiscal Affairs Officer Beach, Building Inspector Zurawski, HR Director Campola, Executive Assistant to the Mayor Westling, Director of Development Yanus, Fire Chief Edwards and Police Chief Ortolano.

Certification of the Tuesday, May 1, 2018 Common Council Meeting was read by City Clerk Ramos.

RESOLVED: That the reading of the Tuesday, May 1, 2018 Common Council Meeting be Dispensed with.

Councilman Williams made a motion to dispense with the minutes. Seconded by Councilman Civiletto.

Carried, all voting aye.

Mayor Rosas stated this was the second year we have worked with the middle school students and teachers in an effort to get our youth involved in the community and in things that matter to them. This year we also included the 8th graders at NCCS. Mayor Rosas announced first place winners Amisday Ceden from Dunkirk Middle School and Marc Patterson from NCCS Honorary Co-Mayors for the day . 2nd place winners are Kaitlyn Howard of Dunkirk Middle School and Nathan Pakulski of NCCS, these students will be sworn in as Honorary Councilmembers. 3rd place winners are Joe Gifford of Dunkirk Middle School and Fred Gullo from NCCS. Mayor Rosas administered the Oath of Office and had them take their seats.

PUBLIC COMMENTS:

Valerie Pawlak of Ruggles Street spoke in regards to the hospital.

Jim Fisher of Revitalize Dunkirk announced that their meeting will be Thursday, May 17th at 6:30 pm at the Fredonia Incubator building on Central Ave and the BYOC sunset watch (Bring your own chair) schedule for the summer. Sunday, June 10th at Point Gratiot, Sunday, July 15th at the Dunkirk Lighthouse, Sunday, August 19th at Wright Park and Sunday September 16th, location to be determined.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Rosas asked Director of Development Yanus to make an announcement. Director of Development Yanus invited everyone to a public hearing on Thursday, May 24th at 6:00pm in the Dunkirk High School Cafeteria in regards to the conceptual design plans for the Pier Improvements Project.

Mayor Rosas also stated that he feels compelled to respond since the comments that were made during the privilege of the floor are not true. I would like to make it clear to the public that the 2.5 million dollars that the City of Dunkirk was fortunate to win comes with strings attached, it comes with a purpose and it comes with a proposal that we put in stating that we would do the things that we plan on doing with those funds. That has nothing to do with the hospital. I just want to make it clear for the record and for the public.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Request from Jose A. Rodriguez to use Kochs Field and Promenshenkel Stadium for a Charity Softball Tournament in memory of Emmanuel "Manny" Escobar on Saturday, June 9th.

Councilman-at-Large Woloszyn stated 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 Civiletto.

Carried, all voting aye.

Request from Buffalo United Front Inc to use a portion of Memorial Park for a Free Family Fun Day on June 24th from 8:00am-6:00pm.

Councilman-at-Large Woloszyn stated 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.

Request from Shannon Ciciotti on behalf of Fredonia Central School to have their fifth grade students do a beach clean-up, rocks and mineral exploration, a social studies scavenger hunt and an outdoor art/English language arts project on June 8th from 9:00am-1:00pm.

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

Councilman Civiletto made a motion. Seconded by Councilman Williams.

Carried, all voting aye.

Request from The Kosciuszko Club to have Nevins Street closed to traffic between East Doughty Street and Courtney Street on Friday, July 6th and Saturday, July 7 for the Annual Street Dance from 5:00pm-12:00am. Also asking for support for the City Parks Department for use of picnic tables and band stands, Streets Department for barricades and the Police Department for patrolling in the area.

Councilman-at-Large Woloszyn stated a motion is 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.

Request from Dunkirk Lakeside Club to close Plover Street between Lake Shore Drive West and West Second Street on July 21st through July 22nd between the hours of 12 noon and 12 midnight. The Lake Side will be celebrating a 100 year Jubilee. We are also requesting support from the City of Dunkirk Police Department for patrolling in the area. Parks Department for picnic tables & Streets Department for use of barricades.

Councilman-at-Large Woloszyn stated 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 Civiletto.

Carried, all voting aye.

Request from Northern Chautauqua Soccer Association to use the city park at North Pangolin Street approximately 3 evenings per week 6:00pm-7:30pm through October.

Councilman-at-Large Woloszyn stated a motion is 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.

Request from Charlotte M Herlong for a Resolution to have no amplification in Washington Park unless it's for government business, city, county or state.

RECEIVED AND FILED.

Notice of Claim from Jonathan Roy for alleged damages to his vehicle after hitting several pot holes.

Councilman-at-Large Woloszyn advised a motion was needed to refer to the law

department.

Councilman Williams made a motion. Seconded by Councilman Civiletto.

Carried, all voting aye.

Loudspeaker application from Kosciuszko Club to use Microphone, Amplifier & Speakers on July 6th & 7th.

Councilman-at-Large Woloszyn stated 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 Civiletto.

Carried, all voting aye.

Loudspeaker application from Dunkirk Lakeside Club to use Amplifier, Speakers & Band Equipment on July 20th, 21st & 22nd from 12:00pm-11:30pm.

Councilman-at-Large Woloszyn stated 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 Civiletto.

Carried, all voting aye.

Loudspeaker application from Alberta Lockett to use a Bluetooth speaker at 93 Lincoln Avenue on July 20th & 21st from 5:00pm-7:00pm.

Councilman-at-Large Woloszyn advised this permit was pulled pending further information.

Councilman-at-Large Woloszyn advised there was a walk in communication. Request from The Special Olympics requesting permission to use 6th Street to Central Avenue ending at the local Track and Field meet in SUNY Fredonia on Wednesday, May 30th from 9:00am-9:30am.

Councilman-at-Large Woloszyn stated a motion is 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:

Councilman Williams inquired to Police Chief Ortolano what the process is to look in to the need for a traffic light; a phone call was received from a First Ward resident about the traffic light at Second and Roberts also Wednesday, May 23rd at 4:00pm in the Mayors conference room

we will be having our DPW meeting and Thursday May 24th Council will be on WDOE viewpoints.

Police Chief Ortolano stated a traffic study would need to be done, but this is a truck route so removing any traffic light could cause a liability issue. We will check the loops to make sure they are cycling properly.

Councilman Bamonto announced that the adult co-ed softball league starts next Tuesday. we have 10 teams this year. Fast pitch starts the first week of June and inquired to DPW Director Woodbury for an update on Howard Street.

DPW Director Woodbury stated that Wednesday and Friday of last we had a multi story crane lift 12, 15 ton sections of the new Howard Avenue culvert into place. 14 ft wide x 9 ft deep. After they were placed and connected together, myself and the Mayor carefully inspected the installation and we approved.

Councilman Heenan did not speak.

Councilman Civiletto stated that we had a review of Fire pits in the City, the resolution has been pulled so we can gather additional information.

Councilman-at-Large Woloszyn stated there will be a Finance Committee Meeting on Thursday at 4pm in the Mayors Conference Room.

Councilwoman Howard did not speak.

Councilman Pakulski did not speak

Councilman Gifford stated that he wrote about getting stores from surrounding areas to open stores here locally so people don't have to drive to Erie or Buffalo to go shopping.

Councilman Gullo stated that he focused his essay on School Resource Officers in every school.

Honorary Mayor Patterson stated that his essay was about filling in the empty spaces around Dunkirk and turning it more into a hotspot with commercial areas and stores, adding more houses so more people can live here, making it bigger and better.

Honorary Mayor Cedenó stated that her essay was about welcoming the new families, a lot of people come from Puerto Rico and they are mainly all Hispanic. I wanted everyone to welcome them so they can live here and feel like this is a special place.

UNFINISHED BUSINESS:

RESOLUTION #47-2018
April 17, 2018

By: Councilmembers Bamonto & Williams

**PROPOSED LOCAL LAW & REFERENDUM TO CHANGE TERMS OF DUNKIRK
COUNCIL MEMBERS FROM 2 YEARS TO 4 YEARS**

WHEREAS, at one point historically, most state and local legislative bodies were elected to two-year terms in the State of New York, including the Dunkirk Common Council; and

WHEREAS, over time, legislative bodies such as the Buffalo Common Council and the Erie County Legislature held public referendums where citizens voted on changing their elected terms to four-year terms, as they found the cost, time and energy spent on re-election campaigns to be a drain on the time and energy that could be spent on legislating and addressing constituent concerns; and

WHEREAS, all elected officials in the City of Dunkirk were elected to two-year terms; and

WHEREAS, the elected term of the Mayor of Dunkirk was changed from two to four years several years ago via local law adoption and a referendum vote; and

WHEREAS, said position is still as accountable to the voters and citizens of Dunkirk as it was when under a two-year term, and

WHEREAS, NYS Municipal Home Rule Law §23 sets forth certain areas in which a referendum is required after the adoption of a local law; and

WHEREAS, one of the local laws requiring a mandatory referendum or vote under §23 is changing the term of an elected office; therefore, be it

RESOLVED, that this Council vote on a local law extending term limits from two-year terms to four-year terms, followed by the mandatory public hearing to be held at the next scheduled Common Council Meeting; and be it further

RESOLVED, that if Council passes this Resolution, then said term change must be placed before the voters of Dunkirk via Referendum in this year's General Election to be held on November 6, 2018.

Councilman-at-Large Woloszyn advised a motion was needed to take this off the Table.

Councilman Williams made a motion. Seconded by Councilman Civiletto.

Carried, all voting aye.

Councilman Williams stated that this resolution isn't something that if passed today, this will not go into law. If passed today, it would go out to the voters of the City of Dunkirk to decide whether a council term would be 2 or 4 years.

Honorary Mayor Marc Patterson stated that he wants to make sure the Council members realize that 4 years is a long time.

Councilman Civiletto stated that he will be voting yes and let the voters of the City of Dunkirk decide.

Councilman Heenan stated that he respects what the other council members words they spoke.

Councilman Bamonto stated that he respects what the other council members say as well.

Councilman-at-Large Woloszyn stated that the Observer previously had an article in the paper stating that this motion is very selfish of us as Councilmembers and that we are only looking out for ourselves. I disagree with that, it's not up to us. We are giving this option to the public to vote on if the term is 2 or 4 years.

Vote on Resolution.

Ayes: Councilmen Williams, Civiletto and Councilman-at-Large Woloszyn.

No: Councilmen Bamonto and Heenan.

Motion passes.

PREFILED RESOLUTIONS:

RESOLUTION #52-2018
May 15, 2018

BY: COUNCILMEMBERS BAMONTO AND CIVILETTO

**AUTHORIZING LEASE-TO-PURCHASE ONE (1) VEHICLE
FOR POLICE DEPARTMENT THROUGH STATE CONTRACT PC 67571**

WHEREAS, the City of Dunkirk Police Department is in need of one (1) new automobile for use by the Police Department; and

WHEREAS, one (1) suitable vehicle is available for purchase through a State Contract Bid; and

WHEREAS, sufficient funds are available in the Police Department's Budget [Rent/Lease Account 001-3120-4150]; and

WHEREAS, the cost of one (1) vehicle is \$30,700.00 from DeLacy Ford, Inc. (including extended warranty service contract, trade in, and financing charges); now, therefore, be it

RESOLVED, that the Mayor is authorized and empowered to execute a two-year lease-to-purchase agreement, on behalf of the City of Dunkirk, with DeLacy Ford, Inc., 10361 Transit Road, Elma, New York 14059-0437, and/or Ford Motor Credit, for the purchase of one (1) Year 2018 Ford Police Interceptor SUV for the sum of Thirty Thousand Seven Hundred Dollars (\$30,700.00) (including extended warranty service

contract, trade in, and financing charges), with such funds to come from Account 001-3120-4150.

Carried, all voting aye.

RESOLUTION #53-2018

May 15, 2018

By: ENTIRE COUNCIL

**AUTHORIZING MAYOR TO EXECUTE LICENSE
AGREEMENT FOR OPERATION OF WRIGHT PARK REFRESHMENT STAND**

WHEREAS, John Dolce of 29 North Ocelot Street, Dunkirk, New York has for many years operated the Wright Park Refreshment Stand, known as the Beach House Grill; and

WHEREAS, it would be beneficial to the City to continue to allow Mr. Dolce to operate the Beach House Grill, now therefore be it

RESOLVED, that the Mayor is hereby authorized and directed, to execute a license agreement with John Dolce, and to execute any and all documents related to the agreement, on behalf of the City of Dunkirk, to operate the Wright Park Refreshment Stand, known as Beach House Grill, upon the following terms and conditions:

- TERM: May 15, 2018 through September 31, 2020
- LICENSE FEE: One Thousand Nine Hundred and Sixty Dollars (\$1909.62) for the year 2018, Two Thousand Ten Dollars (\$2010.00) for the year 2019, and Two Thousand Sixty Dollars (\$2060.00) for the year 2020
- LOCATION: Structure commonly known as Beach House Grill at Wright Park, consisting of two (2) rooms (8'x18' and 13.33'x18');
- OPERATION: Memorial Day Weekend through Labor Day;
- INSURANCE: Statutory Workmen's Compensation and public liability coverage as per City regulations.

Carried, all voting aye.

RESOLUTION #54-2018

May 15, 2018

BY: COUNCILMEMBERS CIVILETTO AND WILLIAMS

**AUTHORIZATION FOR CITY TO EXECUTE WATER SUPPLY LINE
EASEMENT WITH ATHENEX**

WHEREAS, the City of Dunkirk wishes to expedite the construction of the Athenex manufacturing plant in the Town of Dunkirk; and

WHEREAS, the City will supply water and sewer service to the Athenex plant; and

WHEREAS, Athenex's plant requires an easement to construct a water supply line that will pass over the parcel on Stegelske Avenue identified as tax lot 79.08-3-80; and

WHEREAS, Athenex has already contacted the owner of the property and received permission for the easement; now, therefore be it

RESOLVED, that the Mayor is authorized and directed to execute an easement to be drafted by the Law Department and attorneys for Athenex and its contractors to meet the above-described requirement between the City of Dunkirk and Athenex.

Carried, all voting aye.

RESOLUTION #55-2018
MAY 15, 2017

BY: ENTIRE COUNCIL

**AUTHORIZING GRANT APPLICATION
WESTERN NEW YORK
DOWNTOWN REVITALIZATION INITIATIVE: ROUND THREE**

WHEREAS, the City of Dunkirk is applying for funding for investment in the city's downtown to unlock dormant potential in ways that create and propel the resurgence of the urban core, through a grant of the Western New York Downtown Revitalization Initiative (DRI): Round Three Application; and

WHEREAS, the City was awarded \$2.5 million dollars in Round Two of the DRI grant awards, now being used to revitalized the Central Avenue corridor and the waterfront near the pier; and

WHEREAS, the City has been encouraged to apply again, in hopes of being awarded up to \$10 million dollars to continue and expand on the resurgent City of Dunkirk's continued revitalization; and

WHEREAS, it is in the best interest of the City to apply for State Grant funding for this project; now, therefore, be it

RESOLVED, that the Dunkirk Common Council does hereby authorize the Mayor and the Development Department to complete any paperwork and/or application necessary to apply for funding through the DRI: Round Three.

Carried, all voting aye.

RESOLUTION #56-2018
MAY 15, 2018

BY: COUNCILMEMBER HEENAN

AUTHORIZING SUMMER HOURS FOR CITY HALL EMPLOYEES

WHEREAS, the City of Dunkirk's departments and staff that work at City Hall typically work from 9AM to 5PM; and

WHEREAS, other cities, villages and towns have instituted summer hours between Memorial Day weekend and Labor Day weekend; and

WHEREAS, the City should have the option of adopting summer hours for city hall departments and staff, be it 8AM to 4PM, or 8:30AM to 4:30PM; and

WHEREAS, such changes in the work schedule are subject to Department Head approval, and subject to review by union representatives for the respective bargaining units affected by any change in work schedule; now, therefore, be it

RESOLVED, that the Dunkirk Common Council does hereby authorize the Mayor and the City Hall departments and staff to have the option of summer hours from the Tuesday after Memorial Day weekend through to the Tuesday after Labor Day weekend.

Councilman-at-Large Woloszyn stated there is an amendment to this Resolution.

Vote on Amendment.

Carried, all voting aye.

RESOLUTION #56-2018
MAY 15, 2018

BY: COUNCILMEMBER HEENAN

AUTHORIZING SUMMER HOURS FOR CITY HALL EMPLOYEES

WHEREAS, the City of Dunkirk's departments and staff that work at City Hall typically work from 9AM to 5PM; and

WHEREAS, other cities, villages and towns have instituted summer hours between Memorial Day weekend and Labor Day weekend; and

WHEREAS, the City should have the option of adopting summer hours for city hall departments and staff, be it 8AM to 4PM, or 8:30AM to 4:30PM; and

WHEREAS, such changes in the work schedule are subject to Department Heads staffing and rotating shifts as needed for offices that need to remain open until 5:00 pm, and subject to review by union representatives for the respective bargaining units affected by any change in work schedule; now, therefore, be it

RESOLVED, that the Dunkirk Common Council does hereby authorize the Mayor and the City Hall departments and staff to have the option of summer hours from the Tuesday after Memorial Day weekend through to the Tuesday after Labor Day weekend.

Carried, all voting aye.

RESOLUTION #57-2018
MAY 15, 2018

BY: COUNCILMEMBER CIVILETTO

AMENDING CITY CODE REGARDING OUTDOOR FIRES

WHEREAS, the City of Dunkirk's City Code § 32-117 regarding outdoor fires reads as follows:

§ 32-117. Outdoor fires prohibited; food preparation excepted.

- A. Except as otherwise provided in this section, no person shall kindle, start or maintain any outdoor fire in the City of Dunkirk without written authorization of the Chief of the Fire Department. **[Amended 7-21-1970; 10-20-1970]**
- B. Notwithstanding the foregoing subsection, the cooking or preparation of food by outdoor fire is permitted. **[Amended 7-21-1970; effective 8-1-1970]; and**

WHEREAS, this language is vague and does not delineate between types of fires, types of fire devices, fuel source, distance from existing structures, or what can be burned; and

WHEREAS, much has changed in our world since 1970, more than 48 years ago; and

WHEREAS, it is in the best interest of the City to modify this language to reflect those changes, prevent unnecessary risk of fires, toxic and environmental hazards, and yet, allow people the chance to have the modern conveniences of fire pits, barbeque grills and portable fire devices; now, therefore, be it

RESOLVED, that the following modifications be submitted first to a public hearing at the next regularly scheduled Common Council meeting, and then a vote of this Common Council:

PROPOSED LANGUAGE

§ 32-117. Outdoor fires: rules and prohibitions.

- A. **Open Burning:** The *open* burning of wood, vegetation, plastics or household trash is prohibited. Burning trash is prohibited statewide in all cases, per the New York State Department of Environmental Conservation (NYS DEC). This shall include the burning of these materials in outdoor fire pits, barrels, camp fires, cooking grills, or chimneys. Open burning is defined as any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open fires include burning in barrels or modified barrels. Open fires do not include burning in outdoor furnaces or boilers that are used to heat buildings when the devices are actually used for such purpose. 6 CRR-NY 215.1(a) **[Amended 5-15-2018]**
- B. **Outdoor Cooking Fires:** The outdoor cooking food is permitted only when cooking grills or stoves are utilized and they are fueled by propane, natural gas or charcoal briquettes. Cooking grills shall be placed at least 10 feet from any structure and not placed under any

combustible awning or roof. Using cooking grills on first or second floor porches are prohibited and subject to a fine. **[Amended 5-15-2018]**; and

- C. **Outdoor Fireplaces:** Outdoor fireplaces or fire pits are permitted only when fueled by untreated, dry wood (not pressure treated or plywood), propane or natural gas. The devices should be at least 10 feet, from any structure and not under an awning or roof. **When fueled by wood**, they must be at least 20 feet from any structure and not under an awning or roof, and should be in a contained pit or portable fireplace, preferably covered. They must be placed on stone, slate, asphalt, gravel or concrete. **As an exception to the open fire rules, Wood burning outdoor fireplaces are subject to the following NYS DEC restrictions:**

- Campfires less than 3 feet in height and 4 feet in length, width or diameter are allowed.
- Small cooking fires are allowed.
- Fires cannot be left unattended and must be fully extinguished.
- Only charcoal or clean, untreated or unpainted wood can be burned. **See NYS DEC Section 215.3. [Amended 5-15-2018]**

Councilman-at-Large stated Resolution has been pulled.

ADJOURNMENT:

Councilman Pakulski moved to adjourn. Seconded by Councilman Williams.

Carried, all voting aye.

Adjourned at 6:12PM

Edwin C. Ramos, City Clerk
