

COMMON COUNCIL PROCEEDINGS
-Special Meeting-
December 10, 2010

Councilman-at-large Dolce called the Special Meeting to order at 3:45 PM.

Present: Councilmen Michalski, Muldowney, Councilwomen Floramo, Szukala, and Councilman-at-large Dolce.

Also Present: Mayor Frey, City Attorney Cerrie, DPW Director Gugino, Fiscal Affairs Officer Curtin, City Treasurer Woods, Clerk, Board of Assessors Mleczeko, Department of Development Gornikiewicz, and Police Chief Ortolano.

Clerk read Notice of Special Meeting.

RESOLUTION #88-2010
December 10, 2010

BY: ENTIRE COUNCIL

ADOPTION OF YEAR 2011 CITY BUDGET

RESOLVED, that the Mayor's 2011 Budget proposal was submitted to the Common Council on October 22, 2010 and received and filed at the regularly-scheduled Common Council meeting of November 1, 2010, and, it is further

RESOLVED, that the following are Common Council amendments to the Mayor's 2011 Budget proposal:

SUMMARY OF COMMON COUNCIL BUDGET CHANGES

Dated: December 10, 2010

GENERAL FUND

<u>ACCOUNT NO.</u>	<u>DEPT.</u>	<u>LINE</u>	<u>INCREASE</u>	<u>DECREASE</u>	<u>PAGE</u>
001-1640-1001	Cen Garage	OT	\$ 250.00	\$	11
001-1640-4023	" "	Rep/Main Veh	\$ 250.00		11
001-1640-4061	" "	Veh Fuel	\$25,000.00		11
001-1900-4150	General Svc	Siemens Lease	\$ 310.00		16
001-3120-1005	Police	Dispatch Wages		\$ 2,000.00	17
001-5110-4054	Maint of Streets	Sidewalk Program		\$ 5,000.00	29
001-5182-4013	Street Lighting	Electric	\$35,000.00		33
001-7350-4036	Adams Art Gallery	Contracted Svc	\$ 2,000.00		44
001-7450-4036	Historical Society	Contracted Svc	\$ 2,500.00		46
001-7520-4036	Lighthouse Property	Contracted Svc	\$ 500.00		48
001-7410-4036	Dunkirk Free Library	Contracted Svc		\$ 5,000.00	45
001-7550-4036	Celebrations	Fireworks		\$ 2,000.00	49
001-1900-1990	General Services	Contingencies		\$ 51,810.00	16
			<u>\$ 65,810.00</u>	<u>\$ 65,810.00</u>	

GENERAL FUND REVENUES

001-0001-1090-0903	Gen Fund Rev	School Tax Penalty	\$	\$ 1,000.00	1
001-1900-1990	General Services	Contingencies		\$ 1,000.00	16
001-0001-2016	Gen Fund Revenue	Cell Tower	\$ 18,000.00		3
001-1900-1990	General Services	Contingencies	\$ 18,000.00		16

WATER FUND

<u>ACCOUNT NO.</u>	<u>DEPT.</u>	<u>LINE</u>	<u>INCREASE</u>	<u>DECREASE</u>	<u>PAGE</u>
002-1900-4150	General Svc	Siemens Lease	\$ 77.00	\$	1
002-8320-4013	Water Purification	Electric	\$ 30,000.00		3
002-8320-4115	Water Purification	Sewer Fees	\$ 55,000.00		4
002-8340-1001	Water Distribution	Overtime	\$ 4,000.00		6
002-8340-4013	" "	Electric	\$ 700.00		6
002-8340-4710	" "	Gasoline	\$ 1,500.00		7
002-1900-1990	General Svc	Contingencies		\$ 91,277.00	1

WATER FUND REVENUES

002-0002-2140-1405	Water Fund Rev	Residential sls-non city		\$ 15,000.00	1
002-0002-2140-1406	" " "	" " "	\$	5,000.00	1
002-0002-2140-1410	" " "	Meter size chgs – town		\$ 7,000.00	1
002-1900-1990	General Services	Contingencies		\$ 27,000.00	1

WASTEWATER FUND

003-1900-4150	General Services	Siemens Lease	\$ 97.00		
003-8130-4002	Wastewater Treat.	Supplies	\$ 1,000.00		3
003-8130-4016	" "	Electrical Supplies	\$ 1,500.00		3
003-8130-4022	" "	Repair to Equip	\$ 5,000.00		4
003-8135-2000	Industrial Pretreat.	Equipment	\$ 1,000.00		6
003-8135-4002	" "	Supplies	\$ 200.00		6
003-1900-1990	General Services	Contingencies		\$ 8,797.00	1

WASTEWATER FUND REVENUES

003-0003-2120-2123	Wastewtr Rev	Industrial Rents City		\$100,000.00	1
003-0003-2120-2128	" "	Industrial Rents Sub		\$ 50,000.00	1
003-1900-1990	General Services	Contingencies		\$150,000.00	1

and, it is

further

RESOLVED, that the Mayor's 2011 Budget, as changed by the Common Council amendments hereinabove listed, hereby is and shall be adopted as the City of Dunkirk Budget for Fiscal Year 2011, and, it is finally

RESOLVED, that the City of Dunkirk Fiscal Year 2011 Budget requires the raising of taxes in the amount of \$4,665,567.00

<u>TOTALS BY FUND:</u>	<u>EXPENDITURES</u>	<u>REVENUES</u>	
General		\$14,394,184	\$14,394,184
Water Treatment		\$ 2,450,600	\$ 2,450,600
Wastewater		\$ 4,170,912	\$ 4,170,912

Mayor Frey requested to move to executive session.

Councilman-at-large Dolce advised that he saw no reason to hold an executive session.

City Attorney Cerrie advised that this falls under section 105 F, dealing with the financial history of a corporation.

Mayor Frey advised that he had no problem if Council decided not to go into executive session.

Councilman-at-large Dolce countered "all of our budget meetings have been open to the public. I know that you want to discuss some things, if you want to discuss them now publicly, you can do that".

Mayor Frey advised that he received Council's budget December 8th and has spent the past two days working on Council's proposed changes. Mayor Frey distributed and explained to the Council his counterchanges to the Council's proposed changes of the 2011 City Budget.

Councilman-at-large Dolce advised Council they could either vote on Council's proposed budget or table this Resolution, and meet Monday to discuss Mayor Frey's changes. Councilman-at-large Dolce further advised that he preferred to vote on Council's proposed budget, but stated that he is willing to meet Monday to discuss the changes.

Councilman Muldowney advised this was the first he had seen of these changes that everyone has put a lot of time into this budget and that it would be worth Council's time to sit down look at the changes and see where everyone stands Monday.

Councilman-at-large Dolce agreed some items should be looked at again, however, he advised that some of the contingency lines were more conservative, and a more accurate amount was placed into those budget lines. Councilman-at-large Dolce reiterated that if Council wishes, this could be further discussed Monday.

Councilwoman Floramo advised that she would prefer to vote on Council's budget at this time, stating that a lot of time was put into this budget. Councilwoman Floramo further stated that she had no problem meeting on Monday if that was the wishes of the remaining Council members.

Councilman Michalski and Councilwoman Szukala both advised that they would be willing to meet on Monday.

Mayor Frey advised that he would be willing to meet with Council tomorrow morning.

Councilwoman Szukala suggested that since everyone was present; why not meet after the conclusion of this meeting to discuss these changes.

Councilman-at-large Dolce advised that Council will review the Mayor's changes this weekend, and will meet again on Monday at 5:00 PM. He further advised that this meeting is open to the public.

Councilwoman Floramo motioned to table this Resolution.

Carried, all voting aye. **Tabled.**

RESOLUTION #89-2010
December 10, 2010

BY: ENTIRE COUNCIL

2011 APPROPRIATIONS APPROVAL

WHEREAS, the Common Council of Dunkirk, has, by resolution, adopted a budget for Fiscal Year 2011, now, therefore, be it

RESOLVED, that the specified amounts in the column labeled Adopted Budget in the General Fund, Water Treatment and Wastewater Budget be approved for expenditure for such items, effective January 1, 2011.

Councilwoman Floramo motioned to table this Resolution.

Carried, all voting aye. **Tabled.**

RESOLUTION #90-2010
December 10, 2010

By: ENTIRE COUNCIL

AUTHORIZING WARRANT FOR 2011 BUDGET

WHEREAS, the 2011 Budget for the City of Dunkirk, New York has been adopted by resolution and funds have been appropriated for expenditure, now, therefore, be it

RESOLVED, that the attached warrant be delivered to the City Treasurer and a tax levy of \$4,665,567 be established at a rate of \$16.851630 per \$1,000 of assessed valuation based upon the total City assessed valuation of \$276,861,392.

Councilwoman Floramo motioned to table this Resolution.

Councilman-at-large Dolce advised that these Resolutions will be presented again at a Special Meeting that will be held, Tuesday, December 21st at 5:00 PM.

Carried, all voting aye. **Tabled.**

RESOLUTION #91-2010
December 10, 2010

By: ENTIRE COUNCIL

**AUTHORIZING CITY TREASURER AND FISCAL AFFAIRS OFFICER
TO APPROPRIATE FUNDS FROM THE RESERVE FUND
TO BALANCE 2011 GENERAL FUND BUDGET**

WHEREAS, the City of Dunkirk established a Tax Stabilization Reserve Fund to lessen or prevent a necessary tax increase to finance a portion of the City's annual budget; and

WHEREAS, the necessary steps have been taken to comply with the Office of the New York State Comptroller's guidelines to use a portion of this Reserve Fund to balance the 2011 City Budget; now, therefore, be it

RESOLVED, that the Common Council hereby authorizes the City Treasurer and Fiscal Affairs Officer to appropriate \$100,000 from the Tax Stabilization Reserve Fund to be used to balance the 2011 General Fund Budget.

Councilwoman Floramo motioned to table this Resolution.

Carried, all voting aye. **Tabled.**

RESOLUTION #92-2010
December 10, 2010

BY: ENTIRE COUNCIL

**INTRO NO. 4 TO LOCAL LAW NO. 4-2010
CITY OF DUNKIRK**

**A LOCAL LAW TO AMEND CHAPTER 31 FEES, ARTICLE II SEWER RATE
SCHEDULE
SECTION 31-17(A)
OF THE DUNKIRK CITY CODE
ENTITLED "SEWER RENTS: IN-CITY USER FEE SCHEDULE"**

BE IT ENACTED by the City Council of the City of Dunkirk, New York, as follows:

Section 1 **Intent.**

It is the intent of this Local Law to amend Chapter 31, Article II, Section 31-17(A) "Sewer Rents: In-City User Fee Schedule" to reflect an increase to cover costs to operate the wastewater system.

Section 2 **Amendment of City Code.**

Chapter 31, Article II, Section 31-17(A) of the Dunkirk City Code is hereby amended as follows:

ARTICLE II

**Sewer Rate Schedule
[Adopted 2-5-1991 as L.L. #1-1991]**

DELETE

§ 31-17(A) SEWER RENTS: IN-CITY USER FEE SCHEDULE. [Amended 12-14-2009 as L.L. #4 (Intro No. 5) 2009; Amended 12-3-2002 as L.L. #3 (Intro No. 3) 2002; Amended 5-20-03 as L.L. #3-2003]

RATES WILL BE EFFECTIVE AS FOLLOWS:

FOR THOSE ACCOUNTS BILLED ON A QUARTERLY BASIS, THE FOLLOWING RATES WILL TAKE EFFECT NOVEMBER 1, **2009** AND WILL BE FULLY REFLECTED IN THE THREE (3) MONTH BILLING CYCLE ENDING JANUARY 31, **2010**. [Amended 12-14-2009 as L.L. #3 (Intro No. 4) 2009]

AND

FOR THOSE ACCOUNTS BILLED ON A MONTHLY BASIS, THE FOLLOWING RATES WILL TAKE EFFECT JANUARY 1, **2010** AND WILL BE FULLY REFLECTED IN THE) MONTHLY BILLING CYCLE ENDING JANUARY 31, **2010**. [Amended 12-14-2009 as L.L. #3 (Intro No. 4) 2009]

I. SIGNIFICANT INDUSTRIAL USER (Permit level of less than 250 lb per day)

Charge (\$) (monthly) = Volume + Loading

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00 /1,000 gallons
	4,000,000 and greater	\$1.01 /1,000 gallons
<u>Loading Gallons</u>	BOD ₅	\$0.25 lb
	TSS	\$0.14 lb
	NO ₃ -N	\$0.51 lb

#BOD₅ calculated on loading (#) of daily permit level

Permit Charge: \$1.52 times daily permit level. [Twenty-five percent (25%) daily permit level times twenty-five cents (\$0.25) per pound times thirty and four-tenths (30.4) days per month.]

II. SIGNIFICANT INDUSTRIAL USER (Permit level of 500 lbs or greater per day)

Charge (\$) (monthly) = Volume + Loading + Permit Charge

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00/1,000 gallons
	4,000,000 and greater	\$1.01/1,000 gallons
<u>Loading Gallons</u>	BOD ₅	\$0.25 lb
	TSS	\$0.14 lb
	NO ₃ -N	\$0.51 lb

*Less a 250 mg/L exemption

BOD₅ calculated on loading (#) that exceeds twenty-five percent (25%) of daily permit level

Permit Charge: \$1.52 times daily permit level. [Twenty-five percent (25%) daily permit level times twenty-five cents (\$0.25) per pound times thirty and four-tenths (30.4) days per month.]

III. INDUSTRIAL USER

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00/1,000 gallons
	4,000,000 and greater	\$1.01/1,000 gallons

IV. COMMERCIAL USER

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00/1,000 gallons
	4,000,000 and greater	\$1.01/1,000 gallons

V. EXEMPT USER

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00/1,000 gallons
	4,000,000 and greater	\$1.01/1,000 gallons

VI. RESIDENTIAL USER

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$3.00 /1,000 gallons
	4,000,000 and greater	\$1.01 /1,000 gallons

ADD

§ 31-17(A) SEWER RENTS: IN-CITY USER FEE SCHEDULE. [Amended 12-____-2010 as L.L. #4 (Intro No. 4) 2010; Amended 12-14-2009 as L.L. #4 (Intro No. 5) 2009; Amended 12-3-2002 as L.L. #3 (Intro No. 3) 2002; Amended 5-20-03 as L.L. #3-2003]

RATES WILL BE EFFECTIVE AS FOLLOWS:

FOR THOSE ACCOUNTS BILLED ON A QUARTERLY BASIS, THE FOLLOWING RATES WILL TAKE EFFECT NOVEMBER 1, 2010 AND WILL BE FULLY REFLECTED IN THE THREE (3) MONTH BILLING CYCLE ENDING JANUARY 31, 2011. [Amended 12-____-2010 as L.L. #4 (Intro No. 4) 2010; Amended 12-14-2009 as L.L. #3 (Intro No. 4) 2009]

AND

FOR THOSE ACCOUNTS BILLED ON A MONTHLY BASIS, THE FOLLOWING RATES WILL TAKE EFFECT JANUARY 1, 2011 AND WILL BE FULLY REFLECTED IN THE MONTHLY BILLING CYCLE ENDING JANUARY 31, 2011. [Amended 12-____-2010 as L.L. #4 (Intro No. 4) 2010; Amended 12-14-2009 as L.L. #3 (Intro No. 4) 2009]

VII. SIGNIFICANT INDUSTRIAL USER (Permit level of less than 250 lb per day)**Charge (\$) (monthly) = Volume + Loading**

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75 /1,000 gallons
	4,000,000 and greater	\$1.60 /1,000 gallons

<u>Loading Gallons</u>	BOD ₅	\$0.25 lb
	TSS	\$0.14 lb
	NO ₃ -N	\$0.51 lb

#BOD₅ calculated on loading (#) of daily permit level

Permit Charge: \$1.52 times daily permit level. [Twenty-five percent (25%) daily permit level times twenty-five cents (\$0.25) per pound times thirty and four-tenths (30.4) days per month.]

VIII. SIGNIFICANT INDUSTRIAL USER (Permit level of 500 lbs or greater per day)**Charge (\$) (monthly) = Volume + Loading + Permit Charge**

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75/1,000 gallons
	4,000,000 and greater	\$1.60/1,000 gallons

<u>Loading Gallons</u>	BOD ₅	\$0.25 lb
	TSS	\$0.14 lb
	NO ₃ -N	\$0.51 lb

*Less a 250 mg/L exemption

BOD₅ calculated on loading (#) that exceeds twenty-five percent (25%) of daily permit level

Permit Charge: \$1.52 times daily permit level. [Twenty-five percent (25%) daily permit level times twenty-five cents (\$0.25) per pound times thirty and four-tenths (30.4) days per month.]

IX. **INDUSTRIAL USER**

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75/1,000 gallons
	4,000,000 and greater	\$1.60/1,000 gallons

X. **COMMERCIAL USER**

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75/1,000 gallons
	4,000,000 and greater	\$1.60/1,000 gallons

XI. **EXEMPT USER**

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75/1,000 gallons
	4,000,000 and greater	\$1.60/1,000 gallons

XII. **RESIDENTIAL USER**

Charge (\$) (monthly) = Volume

<u>Volume</u>	Less than 4,000,000 gallons	\$4.75/1,000 gallons
	4,000,000 and greater	\$1.60/1,000 gallons

Section 3 Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

Councilman Michalski moved to table this Resolution for a Public Hearing to be held, Tuesday, December 21st at 5:50 PM.

Carried, all voting aye. **Tabled.**

RESOLUTION #93-2010

December 10, 2010

BY: ENTIRE COUNCIL

**RESCINDING RESOLUTION #87-2010 ENTITLED
AUTHORIZING MAYOR TO SIGN LEASE AGREEMENT WITH
VERIZON WIRELESS FOR SPACE ON THE CELL TOWER**

WHEREAS, it was brought to the attention of City Attorney, Michael Cerrie, that pursuant to the State Environmental Quality Review Act ("SEQRA"), a negative declaration must be issued by the City of Dunkirk before the City can approve the Verizon Wireless Agreement for space on the cell tower; now, therefore, be it

RESOLVED, that Resolution #87-2010 be rescinded, so a negative declaration can be issued before the Common Council authorizes the Mayor to execute an Agreement with Verizon Wireless for space on the cell tower.

Councilwoman Szukala questioned why this Resolution is being rescinded.

City Attorney Cerrie advised this is a procedure formality, and that Resolution #94 (State Environmental Quality Review act Determination of Environmental Significance Negative Declaration) should have been enacted prior to giving the Mayor authorization to sign Resolution #93.

Councilwoman Floramo asked how is a negative impact determined.

City Clerk Tuggle advised that the study has been completed.

City Attorney Cerrie reiterated that the study has been completed, and that is has been reviewed by himself, Public Works Director Gugino, and Police Chief Ortolano. City Attorney Cerrie further advised this was a matter of following proper procedure and that the same contract would be signed.

Councilman-at-large Dolce advised that he was under the impression that today's meeting was being held for the purpose of adopting the 2011 budget, and stated that he was not thrilled to find these Resolutions in regard to the cell tower on today's agenda. He further stated that these Resolutions could have waited until Council's next meeting scheduled for December 21st, and recommends that this Resolution be pulled and presented at that time.

Councilwoman Floramo agreed with Councilman-at-large Dolce.

City Attorney Cerrie advised this was a meeting of the Board, and pulling this Resolution would just delay the procedure.

Councilman Muldowney advised this was a clerical error, and questioned if delaying the vote on this Resolution would result in losing revenue for the month of January. He further advised that with the holiday season approaching, would there be enough time for both parties to sign the necessary contracts so that January's revenue would not be lost.

Councilman Michalski advised that he respects Councilman-at-large Dolce's perspective, but stated he does not understand why this Resolution would be voted on any differently today, then it would be on December 21st.

Councilwoman Floramo advised that Council has been presented late Resolutions or unfunded Resolutions in the past and that it has to stop. Councilwoman Floramo further advised that perhaps the only way to stop these late Resolutions is to not accept them.

Councilman-at-large Dolce advised that he would need time to read Resolution #94.

Councilwoman Floramo motioned to table this Resoluiton until Council's next meeting on December 21st.

City Clerk Tuggle read the roll call with Councilman Michalski voting no.

Councilman Muldowney asked what would be the proper procedure in tabling this Resolution. He further advised that he understands Councilman-at-large Dolce's frustration and respects his position in regard to these late Resolutions.

Councilman-at-large Dolce advised if there were not enough votes to table this Resolution at this time, this Resolution will be voted on as is. Councilman-at-large Dolce further advised that he questioned where was the Resolution in regard to the shared agreement with the Town of Dunkirk; stating if that Resolution could wait until the December 21st meeting then this Resolution could also wait until that meeting.

City Clerk Tuggle proceeded with the vote stating that Councilman Michalski has a no vote on this Resolution.

Ayes: Councilwoman Floramo, Councilman-at-large Dolce.

No: Councilmen Michalski, Muldowney, Councilwoman Szukala.

Motion to table denied 3 to 2.

Vote on Resolution:

Ayes: Councilmen Michalski, Muldowney, Councilwoman Szukala,

No: Councilwoman Szukala, Councilman-at-large Dolce.

Carried, 3 to 2.

RESOLUTION #94-2010
DECEMBER 10, 2010

BY: ENTIRE COUNCIL

**STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”)
DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE
NEGATIVE DECLARATION**

WHEREAS, New York RSA No.3 Cellular Partnership d/b/a Verizon Wireless (“Verizon Wireless”) proposes to construct and operate a wireless telecommunications facility on property to be leased from the City of Dunkirk (the “Lease”), located at 334 Lynx Street in the City, known as Tax Map Nos. 79.14-6-21 and 79.14-6-22 (the “Project”); and

WHEREAS, Verizon Wireless has applied to the Common Council for approval of the Lease; and

WHEREAS, the Common Council is fully familiar with the proposed location and the surrounding area; and

WHEREAS, the Project is an unlisted action under SEQRA and the Common Council is the only involved agency and, therefore, the Lead Agency; and

WHEREAS, DPW Director Gugino, City Attorney Cerrie, and Police Chief Ortolano have reviewed the Project, the Lease and the Environmental Assessment Form and all other materials submitted in connection therewith, now, therefore, be it

RESOLVED that based upon DPW Director Gugino, City Attorney Cerrie, and Police Chief Ortolano’s thorough and careful review of the Project, the Lease, and Verizon Wireless’s materials, including the Short Form Environmental Assessment Form, site plan and all other materials submitted in connection therewith, the Common Council hereby accepts the recommendation of DPW Director Gugino, City Attorney Cerrie and Police Chief Ortolano, and thereby determines that the Project and the Lease will not result in any significant environmental impacts and hereby issues a negative declaration pursuant to SEQRA.

REASONS SUPPORTING THE NEGATIVE DECLARATION:

1. **Air, Water, Noise, Waste, Erosion, Drainage, Site Disturbance Effects:** The Project will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce minimal, if any disturbance of soil and vegetation, with minimal storm run-off.

2. **Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character:** The Project will not adversely

affect agricultural, archeological, historical, natural, or cultural resources. The Project is a public utility which must be located as and where necessary to provide essential wireless telecommunications service. Although a facility of this nature will be visible, as a Co-location, its overall visibility will be minimized to the maximum extent possible.

3. Vegetation, Fish, Wildlife, Significant, Habitats, Threatened or Endangered Species. No plant or animal life will be adversely affected by the Project.

4. Community Plans, Use of Land or Natural Resources. The Project is in keeping with the official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.

5. Growth, Subsequent Development, etc. The Project will not induce any significant or adverse growth or subsequent development.

6. Long Term, Short Term, Cumulative, or Other Effects. The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.

7. Critical Environmental Area. The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, subdivision 617.14(g).

8. Public Health and Safety. The Project will have no adverse impacts on the public health. The Board recognizes that the Project will enable Verizon Wireless to provide reliable wireless telecommunications service to the City, enabling individuals, businesses and emergency service providers access to this essential service. The Project will promote the general health, safety and welfare of the citizens of the City by providing access to a modern, reliable system of wireless telecommunications service.

and, be it further

RESOLVED, that DPW Director Gugino, City Attorney Cerrie, and Police Chief Ortolano finds that none of the criteria for determining significance set forth in § 617.7(c)(1)(i)-(xii) would be implicated as a result of this Project; and, be it finally

RESOLVED, that notice of this determination of non-significance shall be filed to the extent required by the applicable regulations under SEQRA or as may be deemed advisable by the Common Council.

Vote on Resolution:

Ayes: Councilmen Michalski, Muldowney, Councilwomen Floramo, Szukala.

No: Councilman-at-large Dolce.

Carried, 4 to 1.

RESOLUTION #95-2010
DECEMBER 10, 2010

BY: ENTIRE COUNCIL

**AUTHORIZING MAYOR TO SIGN LEASE AGREEMENT WITH VERIZON
WIRELESS
FOR SPACE ON THE CELL TOWER**

WHEREAS, the City of Dunkirk owns a cell tower within the City limits;
and

WHEREAS, the City intends to lease space on the cell tower to interested parties; and

WHEREAS, the City has been approached by Verizon Wireless to lease space on the cell tower and to erect a building within the fenced in property; and

WHEREAS, the Common Council has issued a negative declaration pursuant to State Environment Quality Review Act ("SEQRA"); and

WHEREAS, the proposed lease agreement is for a five (5) year contract at the rate of \$1500 per month for the first year, with a 3% increase each additional year, and an automatic five (5) year renewal, with a continuous annual 3% increase each year thereafter, for four (4) additional five (5) year extension terms; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to executed any and all documents pertaining to the lease agreement with New York RSA No. 3 Cellular Partnership, a New York Partnership, d/b/a Verizon Wireless, One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920.

Councilwoman Floramo advised that she voted incorrectly on a prior Resolution, and questioned if her prior vote could be rescinded.

City Clerk Tuggle advised that her vote could not be rescinded.

Vote on Resolution:

Ayes: Councilmen Michalski, Muldowney, Councilwoman Szukala,
Councilman-at-large Dolce.

No: Councilwoman Floramo

Carried, 4 to 1.

Councilwoman Floramo questioned who had insurance on the cell tower.

City Attorney Cerrie advised that the city would need no additional insurance, and that both parties have their own insurance.

Adjournment:

Councilwoman Szukala moved to adjourn. Seconded by Councilman Michalski.

Carried, all voting aye.

Adjourned at 4:06 PM

William Tuggle, City Clerk
