

PUBLIC HEARING
December 7, 2010

Councilman-at-large Dolce called the Public Hearing to order at 6:12 PM.

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

Also Present: Mayor Frey, City Attorney Carrie, Public Works Director Gugino, Fiscal Affairs Officer Curtin, City Treasurer Woods, Building/Zoning Officer Zurawski, Clerk, Board of Assessors Mleczko, Director of Development Ahlstrom, Personnel Administrator Heyden, Police Chief Ortolano and Fire Chief Ahlstrom.

Notice of Public Hearing was read by City Clerk Tuggle.

Public Hearing was held for the purpose of giving interested persons an opportunity to comment on a Local Law to Amend Chapter 25 of the Dunkirk City Code Entitled "Dogs".

No one spoke.

Public Hearing adjourned at 6:13 PM

William D. Tuggle, City Clerk

COMMON COUNCIL PROCEEDINGS
December 7, 2010

The meeting was called to order at 6:13 PM by Councilman-at-large Dolce followed by the Pledge of Allegiance.

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

Also present: Mayor Frey, City Attorney Carrie, Public Works Director Gugino, City Treasurer Woods, Fiscal Affairs Officer Curtin, Building Inspector Zurawski, Clerk, Board of Assessors Mleczko, Director of Development Ahlstrom, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Certification of November 16, 2010 meeting was read by City Clerk Tuggle.

RESOLVED: That the reading of the minutes of Tuesday, November 16, 2010 be dispensed with.

Motion by Councilwoman Floramo to accept the minutes as presented. Seconded by Councilman Michalski.

Carried, all voting aye.

PUBLIC COMMENTS:

James Muscato, 280 Lake Shore Drive West, Dunkirk, New York asked Councilwoman Szukala where the City currently stands on the Dog/Cat Census.

Councilwoman Szukala advised that she has been in contact with the Fraternity conducting the Census that it is going well, and with few exceptions, the public has been very receptive. Councilwoman Szukala advised that the Fraternity has requested an extension through December 10th; once the Census is completed and finalized all of the information will be turned over to the Animal Control Officer. Councilwoman Szukala advised that the Animal Control Officer will then follow up where residents were unavailable.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Mayor Frey advised that Pearl Harbor occurred 69 years ago today. He further mentioned other wars such as: Korean, Vietnam, and Desert Storm; stating that we are part of a great generation. Mayor Frey stated 1 out of 4 deaths everyday in the United States is a veteran, with 680,000 veterans passing away per year. Mayor Frey further expressed concern in regard to our children and youth hanging onto this great history. Mayor Frey advised that very few people attended today's Pearl Harbor Ceremony held at the American Legion Post #62, and this ceremony will probably be abandoned in the future, which is sad for our country.

Mayor Frey advised that with the exception of one salt truck all the equipment in the Streets Department is up and running. He further advised that the salt truck will be on the road tomorrow. Mayor Frey complimented the Streets Department for all their work these past few days, and stated that we're looking at approximately 40 hours of overtime.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Petition from Alan Gens, DHS Athletic Director, requesting one police officer at Dunkirk Senior High School for the Winter sports season on the following dates: December 2nd from 6:30 PM to 8:30 PM, December 20, 2010, January 6, 10, 19, 21, February 1, 7, 11, 2011 from 6:00 PM to 9:00 PM, and January 18, 2011 from 6:00 PM to 8:00 PM. There will also be activity throughout the day and evening on December 28th and December 29th at the High School for the second annual Dunkirk Marauder Wrestling Tournament.

Councilman Muldowney motioned to amend this petition removing December 2nd from 6:30 PM to 8:30 PM as this date has already passed, and referred this petition to the Police Department. Seconded by Councilwoman Floramo.

Carried, all voting aye.

Petition from Sherri Mason requesting permission and support to hold a Duathlon (bike/run) on Sunday April 17, 2011. Race registration will begin at 8:00 AM at the SUNY Fredonia Business Technology Incubator with the race commencing in Downtown Dunkirk at 9:30 AM, and finishing at Memorial Park.

Councilman-at-large Dolce advised that Ms. Mason gave a presentation in regard to this petition during this evening's workshop.

Councilman Muldowney advised that he has spoken with this group in the past in regard to help offset costs incurred by the City to hold these events. He further stated that he was pleased that this group reached out to other agencies such as the Sheriff's office and New York State Police to help with this event.

Councilman Muldowney advised that policies for these events should be looked at again in January.

City Attorney Cerrie inquired if insurance was submitted with this petition.

Councilman-at-large Dolce advised that this petition would have to be accepted contingent upon insurance.

Councilwoman Szukala moved to accept this petition contingent upon receipt of insurance and referred it to the Police Department and Dept. of Public Works. Seconded by Councilwoman Floramo.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski advised that with the cooler weather upon us, we are still looking at opening the ice rink behind the Beach Hut; all that is needed is to plug in receivers, and for the Fire Department fill the rink with water.

Councilman Michalski advised that Siemen's, is still interested in placing a windmill by the Wastewater Treatment Plant. He further stated that Siemen's is in the process of determining what size windmill is needed with the manufacturer of the windmill. Councilman Michalski hopes to hear from Siemen's in January 2011.

Councilman Muldowney thanked Development Director Kory Ahlstrom in regard to the Bertges property on Lake Shore Drive, stating that there were two reputable groups interested in that property. Councilman Muldowney further stated that is another positive step in the development of the waterfront.

Councilwoman Floramo thanked Mayor Frey for recognizing Pearl Harbor today.

Councilwoman Floramo advised she received a letter from Building Inspector Zurawski advising that the property at 523 Columbus Avenue will be torn down this coming spring.

Councilwoman Floramo advised that she still is receiving complaints about residents placing their rubbish out too early on Main Street from Seventh Street to Fourth Street. Councilwoman Floramo further advised that something needs to be done about this, perhaps fine increases, because the residents in that area still are not cooperating.

Mayor Frey advised that we will have to sit down after the first of the year, and reevaluate this situation.

Councilwoman Szukala advised that the Town of Hanover installed solar panels that she spoke with Kathy Tampio from the Town and stated that Ms. Tampio provided her with information about the solar panel company. Councilwoman Szukala further advised that she will meet with the company next week so they could determine a dollar amount or proposal for the City.

Councilwoman Floramo advised that she was glad to hear this and that the Dunkirk Schools were designed for sunlight, however, they did not pursue solar panels.

Councilman-at-large Dolce asked City Attorney Cerrie what is the progress of the Animal Control Agreement that Council approved last September, and asked if contracts were signed as the trial period begins in January. Councilman-at-large Dolce asked City Attorney Cerrie if the Town has a revised copy of the agreement.

City Attorney Cerrie advised that contracts have not been signed, and that the Town has a revised copy of the agreement.

Councilman-at-large Dolce advised residents that Council will be on WDOE December 16th at 9:00 AM.

Councilman-at-large Dolce advised that there will be a Public Hearing this Friday, December 10, at 3:30 PM in the Conference Room in regard to the 2011 City Budget.

Councilman-at-large Dolce further advised that there will be a Special Meeting following the Public Hearing at 3:45 PM in the Conference Room to adopt the 2011 budget, and advised that the Mayor will be present at the Public Hearing.

UNFINISHED BUSINESS:

RESOLUTION #84-2010
November 16, 2010

By: ENTIRE COUNCIL

INTRO NO. 3 TO LOCAL LAW NO. 3-2010
CITY OF DUNKIRK

A LOCAL LAW TO AMEND CHAPTER 25
OF THE DUNKIRK CITY CODE ENTITLED "DOGS"

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 25 of the Dunkirk City Code entitled Dogs, to allow the City of Dunkirk to better enforce the requirements of the Agriculture and Markets Law of the State of New York, and the Dunkirk City Code governing dogs, including updating licensing fees, dog control provisions, and by clarifying restrictions and penalties for violations.

Section 2 **Amendment of City Code.**

Chapter 25 of the Dunkirk City Code is hereby amended as follows:

Amend

§ 25-6. Penalties for offenses [Amended 7-2-1979; Amended ___-___-2010]

Any person violating the provisions of this chapter shall be subject to a fine and/or imprisonment as set forth in § 119 of Article 7 of the New York State Agriculture and Markets Law.

- A. Any person, firm or corporation violating any provision of § 25-2 of this Chapter, shall be guilty of a violation and shall be subject to penalties as set forth hereafter.**
- B. Any person, firm or corporation taking part in or assisting in any violation of § 25-2 of this Chapter, shall also be subject to the penalties herein.**
- C. Each day that a violation of this Chapter is committed or is permitted to exist, shall constitute a separate offense.**
- D. Penalties shall be as follows:**
 - 1. For the first violation by any person, owner or harborer within a three year period, such person, owner or harborer shall be subject to a fine of not less than \$35.00 and not more than \$100.00**
 - 2. For a second violation by any person, owner or harborer within a three year period, such owner or harborer shall be subject to a fine of not less than \$60.00 and not more than \$150.00**
 - 3. For a third violation by an person, owner or harborer with a three year period, such person, owner or harborer shall be subject to a fine of not less than \$100.00 and not more than \$200.00 and/or imprisonment for a period onot exceeding fifteen (15) days.**

Any person taking part or assisting in any violation of this article shall also be subject to the penalties herein.

- E. If a dog seized under the provisions of Section 25 is not redeemed within the redemption time periods provided by the New York State Agriculture and Markets Law, the owner shall forfeit all title to such dog and the dog shall be sent to the SPCA. Anyone that picks up an at-large dog in the City of Dunkirk, must notify the Dog Control Officer or the Dunkirk Police Department, and surrender the dog upon request, before removing the dog from the City, subject to fine. There will be a fee of Seventeen Dollars (\$17.00) per day boarding fee, payable by the owner of the seized dog.**

ADD

§ 25-10. Licensing of Dogs: [Added as LL #__-2010 on _____]

- A. All dogs in the City of Dunkirk must be licensed with the City Clerk by the age of four (4) months and are required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license.**
- B. All dog licenses for unspayed or unneutered dogs will be paid for a period of one year and will expire at the end of the month one year from the date of issue. Dog licenses for spayed or neutered dogs may be purchased for a one year, two year or three year period and will expire at the end of the month one year, two years or three years from the date of issuance as the case may be. Dog licenses are not transferrable.**
- C. All new dog licenses must be purchased in person at the City Clerk's Office with proof of current rabies shot. All renewal of dog licenses may be purchased by visiting the City Clerk's Office or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be NO refund of fees for a one year license.**
- D. All fees will be used in funding the administration of the Dogs Law of the City of Dunkirk**
- E. This annual dog license fee shall be charged for all licenses becoming effective on or after the effective date of this local law.**

§ 25-11. Liability of City Officials. [Added as LL #__-2010 on _____]

No officer, agent or employee of the City of Dunkirk shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the City of Dunkirk as the result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the City Attorney until the final determination of the proceedings thereon.

§ 25-12. Separability. [Added as LL #__-2010 on _____]

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3 Effective Date.

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

Councilman Michalski moved to remove this Resolution from the table for vote.

Carried, all voting aye. Removed

Vote on Resolution: Carried, all voting aye.

PRE-FILED RESOLUTIONS:

RESOLUTION #85-2010
DECEMBER 7, 2010

By: ENTIRE COUNCIL

**CONSENT TO EXTEND
CITY ATTORNEY’S CONTRACT**

WHEREAS, Section 2-6.01 of the City Code provides that the City Attorney shall be appointed by the Mayor, with the consent of the Common Council, and

WHEREAS, pursuant to Section 2-6.01 of the City Code, Mayor Richard Frey has appointed Michael Robert Cerrie as the part-time City Attorney, and

WHEREAS, Mr. Cerrie is willing and able to continue as the part-time City Attorney, subject to the consent of the Common Council, and

WHEREAS, the City Attorney’s contract is due to expire on December 31, 2010, now, therefore, be it

RESOLVED, that Michael Robert Cerrie’s contract with the City of Dunkirk, as the part-time City Attorney, be extended to December 31, 2011, and shall continue to be paid at the rate of \$500.00 per week.

Carried, all voting aye.

RESOLUTION #86-2010
December 7, 2010

By Councilman Muldowney:

**AUTHORIZING LEASE AGREEMENT WITH
CHAUTAUQUA COUNTY FAIR ASSOCIATION**

WHEREAS, the Chautauqua County Fair Association (“Fair”) is the owner of the premises known as the Chautauqua County Fair Association Agricultural and Expo Building (“Premises”), formerly the Roll Arena, which is located on the Chautauqua County Fairgrounds; and,

WHEREAS, the City wishes to lease the premises from the Fair in order to utilize it for recreational programs and activities; and,

WHEREAS, the Fair is willing to lease the premises to the City for the sum of \$700.00 per month for the period from January 1, 2011 through April 1, 2011; now, therefore, be it

RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Chautauqua County Fairgrounds Association, Central Avenue, Dunkirk, NY 14048, to lease the premises at the Fairgrounds from January 1, 2011 through April 1, 2011, at the rate of \$700.00 per month; and be it further

RESOLVED, that the funds for such rental payments be made from Account No. 001-7140-4150-000 (Rent/Lease).

Carried, all voting aye.

RESOLUTION #87-2010
DECEMBER 7, 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 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 Szukala thanked City Attorney Cerrie for providing the Council with information for their review, and stated that this agreement will provide a good source of revenue for the City.

Councilman-at-large Dolce agreed with Councilwoman Szukala that this will provide revenue for the City, and although 20 years sounds lengthy, from his research, 20 years seems to be the standard length of time for these types of contracts.

Mayor Frey advised that he hopes to be around in 20 years to renew this contract.

City Attorney advised that the value of this contract will increase every year.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourned. Seconded by Councilwoman Floramo.

Carried, all voting aye.

Adjourned at 6:32 PM

William D. Tuggle, City Clerk
