

**COMMON COUNCIL PROCEEDINGS**  
**June 7, 2011**

The meeting was called to order at 6:31 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 Cerrie, Public Works Director Gugino, Fiscal Affairs Officer Curtin, City Treasurer Woods, Clerk, Board of Assessors Mleczko, CDBG Program Administrator Gornikiewicz, Personnel Administrator Heyden, Fire Chief Ahlstrom and Police Chief Ortolano.

Councilman-at-large Dolce advised that Director of Development Ahlstrom and Building Inspector Zurawski were excused from tonight's meeting.

Certification of May 17, 2011 meeting was read by City Clerk Mleczko.

**RESOLVED:** That the reading of the minutes of Tuesday, May 17, 2011 be dispensed with.

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

Carried, all voting aye.

**PUBLIC COMMENTS:**

Jim Pasierb, 66 N. Jerboa Street, Dunkirk, NY commented relative to the proposed meeting on June 25th with Mayor Frey, asking why the Mayor is going to spend city money to bring picnic tables to their "green space". He stated that this was to talk them into "just four houses or how about six"? He stated that again the answer was no, four months of saying no and still resolution 18-2011 has not been rescinded, and reminded that this was an election year.

Mr. Pasierb also spoke in regards to the Agenda, wondering if another portion could be added at the end of the meeting to allow the public to comment after comments have been made by the Council.

Councilman-at-large Dolce advised that this could be looked into.

Dick Mirth, 119 E. Green Street, Dunkirk, NY spoke in regard to development in Dunkirk and Pangolin Street, stating his thoughts as follows:

"Councilman Muldowney said he was proud of what had been accomplished in the last few years and indicated I had overlooked the positive aspects. Perhaps he missed my main point, there is no plan, and without a plan it is hard to tell what is good and bad. The three election year projects mentioned in my previous comments had several problems that make for poor development.

**The Boardwalk:**

- \* The building provides subsidized space that competes with private enterprise in the same area. The Boardwalk at \$220 per square foot cost too much. The same developer is now proposing \$100 per square foot housing just blocks away.
- \* Local builders were not involved in the construction.
- \* The City has spent thousands of dollars on festivals and music to draw crowds for the shops.
- \* Additional thousands of public dollars have been spent on parking.
- \* The rent does not cover the maintenance, loan interest, and paying back the loan to build the building. The building is not sustainable without a continuous draw on city funds.

**Memorial Park:**

- \* The project was not needed. \$173,000 was spent.
- \* The Mayor exceeded the amount he could legally spend on the project.
- \* The Council sat on their hands while and after the spending took place.

**Loft Apartments:**

- \* The project was rushed through just before the Election.
- \* The project cost the taxpayers a million dollars plus the building.
- \* The work was not done by local craftsmen.
- \* The project added apartments to the thousands we already have.
- \* The shops are hard to rent and have not drawn many customers.

The above points indicate why I am not impressed by the projects that have been completed. They do not fit into any sustainable plan. There is no plan. Peace-meal without a plan is waste . . . spending money is not a plan".

Skeeter Tower, Academy Heights Neighborhood Association inquired about the use of Washington Park for their fundraiser, asking if approval was given as it was not mentioned at the last meeting.

Councilwoman Floramo advised that this changed from a yard sale to something better, insurance will be provided, and it will be presented at the next meeting.

Skeeter Tower also spoke about the high level of litter throughout the city. She recommended that signs should be put up at entry points in the city, she was happy that the police would be keeping up on infractions, and stated that it was inconsiderate of people to be doing this and if we can teach them it will be better for the city.

Jim Pasierb, 66 N. Jerboa Street, Dunkirk, NY stated that DHS graduation ceremonies would be taking place at 10:30 AM on June 25th, suggesting that the meeting date with the taxpayers and Mayor may have to be changed.

Jim Muscato, 280 Lake Shore Dr. West, Dunkirk, NY spoke in regard to Resolution #35-2011, requesting what type of training, and who would be trained.

Fire Chief Ahlstrom advised that this resolution was more for the technicality of filling out forms for Medicare and Medicaid requirements, and the privacy of everyone involved. He stated this resolution was not for further EMT or personnel training, and that all of our personnel in the Fire Department will be trained on site by the company's personnel.

**COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:**

Mayor Frey extended condolences to Fire Chief Ahlstrom, Firefighter Kevin Ahlstrom, Department of Development Kory Ahlstrom and the entire family for their recent loss.

Mayor Frey also advised that our DHS Baseball Team won the game in Niagara Falls on Monday and would be continuing on to the final four in Binghamton this weekend. He congratulated them stating that they make us very proud.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Communication from the City of Buffalo Common Council advising of their Local Law prohibiting natural gas drilling, disposition of natural gas exploration & product wastes within their city, and urging Dunkirk to consider adoption of same.

Received and filed.

Petition from David Pagan requesting permission for a jumper near Koch's Pavilion on June 25th from noon to closing for a birthday party.

Councilwoman Szukala moved that permission be granted contingent upon insurance. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Starr Waller on behalf of MAD DADS requesting to use the basketball courts at Wright Park on Saturday, August 27th from 10:00 AM to 4:00 PM, loudspeaker permit, outdoor basketballs, picnic tables & trash barrels. (Raindate August 28th).

Councilman Michalski moved that permission be granted for the basketball courts, a separate loudspeaker application to be completed, and referred this to the Public Works Department and PBA. Seconded by Councilwoman Floramo.

Carried, all voting aye.

Petition from AJ Burnside & Kurt Warmbrodt requesting a donation for the Girls & Boys Track & Field Teams Invitational's this Spring.

Councilman-at-large Dolce advised that this was pulled at the workshop.

Petition from Pamela McGraw requesting to put up two tarps (10 x 10) and one screened tent (12 x 12) in the park area at Point Gratiot on July 3rd for their family reunion.

Councilwoman Floramo moved that permission be granted and referred this to the Police and Public Works Departments. Seconded by Councilman Michalski.

Carried, all voting aye.

Petition from Kory Ahlstrom on behalf of the Dunkirk Festivals & Events Committee advising of the summer events kicking off on Friday, June 17th with the Firemen's hose races on the city pier from 5:00 to 9:00 PM, and requesting a Police Officer during the Friday concert and throughout Saturday, June 18th for the events on the pier.

Councilwoman Floramo moved that permission be granted and referred this to the PBA and Public Works Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Notice of Claim from Hector Rodriguez vs. the City of Dunkirk & Police Department for personal injuries and property damages allegedly due to being hit by a city owned vehicle on West Talcott Street.

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

Carried, all voting aye.

Loudspeaker applications from:

Iglesia Pentecostal Church for drums, guitar, microphone/amplifier & musical instruments on June 25th, July 2nd & August 6th from 5:00 to 9:00 PM behind the Family Dollar Pavilion on Third Street. (Pulled contingent upon approval of owner of pavilion).

Councilman-at-large Dolce advised that permission was needed from the owner before permission could be granted.

Dunkirk Elk's Club for a loudspeaker at the Lighthouse on June 14th at 6:00 PM for Flag Day Ceremonies.

Councilwoman Floramo moved that permission be granted and referred this to the Public Works Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Lisa Leavitt on behalf of Harvest Chapel for live music, microphones, speakers & sound system on July 22nd & 29th in Washington Park from 4:30 to 8:00 PM.

Councilman Michalski moved that permission be granted and referred this to the Public Works Department & PBA. Seconded by Councilman Muldowney.

Carried, all voting aye.

Raymond Rosas for amplifiers, microphones & guitars on July 4th at E&R's Latin Flavor on Lake Shore Drive East from 3:00 to 10:45 PM.

Councilwoman Floramo moved that permission be granted and referred this to the PBA. Seconded by Councilman Michalski.

Carried, all voting aye.

#### **REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:**

Councilman Michalski advised that the city was again accepting applications for the "Rising Star Program", with applications available at Service Hardware, Add Lumber, Home Depot and Bargain Outlet. He informed that this program awarded \$100 per month for extensive improvements made to someone's home.

Councilman Muldowney commented on the DHS Baseball victory this past week, wishing them the best this coming weekend.

Councilman Muldowney also addressed Mr. Mirth, stating he did not want to go back and forth on this subject, but advised that there have been thousands of people on the pier and Boardwalk then there have been four years ago. He also stated that there are upscale lofts, where that building had nothing done to it in forty-five years. Councilman Muldowney therefore stated that he preferred to take a positive outlook on this and where we are headed. He further advised of the new bike path and some private development going on along the waterfront, and although all of these things don't happen as quickly as we would like, this was his view on the matter.

Councilman Muldowney also spoke relative to the meeting with the Pangolin park area residents, stating that a good point was made advising of graduation ceremonies, but felt that they were coming to the table with some pre-conclusions, and the city was willing to sit down in hopes of benefiting everyone involved.

Councilman Muldowney stated that he appreciated Mr. Mirth's comments, that at the last meeting they actually agreed upon something, and he would be at a meeting whenever scheduled to continue back and forth with ideas to see if they can possibly meet in the middle.

Councilwoman Floramo questioned if all the clubs use private commercial haulers to pick up their trash, as a letter was received by one of the proprietors stating this.

Councilman Michalski advised that per the City Code, businesses are to contract out for trash collection services. He advised that there were some smaller businesses in the city that do have their trash picked up by the city, but had no idea why or when those contracts were put in place. He stated that he would try to find out why, and exactly which businesses they were.

Councilwoman Floramo questioned when the aide representing Brian Higgins was here, and Mayor Frey advised that she was here once a month on a Friday.

Councilwoman Floramo also questioned if any of the people at the Boardwalk are on the Committee, as she felt they could set their own rent payments.

Mayor Frey stated that the tenants had nothing to do with this, and he and Development Director Ahlstrom advised her that the agency (Boardwalk Committee) through the Development Department set those fees, and that our Treasurer and Fiscal Affairs Officer are also involved in this.

Councilwoman Szukala was happy to report a \$50.00 donation for fireworks from Fredonia resident Andrew Cristina.

Councilwoman Szukala also spoke as a "mom" and secondly as Councilwoman advising that when her son was struck while riding his bicycle on May 29th, that the Police & Fire Departments were magnificent. She thanked all involved and related that some baking was sent to the Police and Fire Departments. She also stated that it was good to hear when our departments are doing above and beyond of what they are supposed to do, they were very accommodating and cannot thank them enough.

Councilwoman Floramo stated that our Police & Fire Departments were very patient and efficient with her also.

Councilman-at-large Dolce advised of the Finance Committee Meeting this Monday at 5:00 PM, and stated that there would be discussion relative to continuing summer meetings (July and August) started by Councilwoman Dudzic in the four wards.

Councilman-at-large Dolce advised that he read an article in the Observer in regard to Pomfret conducting an engineering study for water contracts. He advised that there was a question from a Pomfret resident asking if Dunkirk was looked into for water. He advised that he did send a letter to Pomfret Officials last Fall and our Administration basically saying "that we are here, would like to meet with you, and let us know what we can do". He further advised that unfortunately, only one Councilperson from Pomfret responded, but wanted it known that we did reach out to them, and we are here.

Mayor Frey informed that we have had two or three meetings with the Town of Pomfret, and advised that Pat Cristina, Trustee put it very well stating when someone said "have you tried to get water from the City of Dunkirk" and she responded "they would bring it to us in buckets". Mayor Frey stated that is exactly what we would do, we have our door open, have negotiated several times, and are working with them.

Councilman-at-large Dolce requested that Council or a representative be a part of this in the future, as he did make the extension.

Program Administrator Tim Gornikiewicz advised that the movie "Yogi Bear" would be shown this Friday in the parking lot at First Ward Falcons. He advised that refreshments would be available along with free popcorn.

Tim Gornikiewicz also advised that they started their Housing Rehab Program this past Monday, and applications were available in the Department of Development Office or on line.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #33-2011**  
**JUNE 7, 2011**

**BY COUNCILWOMAN SZUKALA AND COUNCILMAN MULDOWNEY:**

**APPOINTMENTS TO BOARD OF ASSESSMENT REVIEW**

**WHEREAS**, the Common Council wishes to appoint William Rivera to a five (5) year term on the Board of Assessment Review, as provided for by the Real Property Tax Law, Section 523, now, therefore, be it

**RESOLVED**, that this Common Council hereby appoints William Rivera, 516 Woodrow Avenue, Dunkirk, New York 14048, to a five (5) year term on the Dunkirk Board of Assessment Review, which term starts immediately (due to a vacancy) and will expire on September 20, 2015.

Councilwoman Floramo questioned if this was the same person that was nominated for First Ward Councilman.

Mayor Frey advised her that this was his father.

Carried, all voting aye.

**RESOLUTION #34-2011**  
**JUNE 7, 2011**

**BY ENTIRE COUNCIL:**

**INTRO NO. 6 TO LOCAL LAW NO. 6-2011**  
**CITY OF DUNKIRK, NEW YORK**

**A LOCAL LAW ADDING APPENDIX 3 TO THE**  
**DUNKIRK CITY CHARTER**  
**ENTITLED "CITY OF DUNKIRK WHISTLE BLOWER POLICY"**

**CITY OF DUNKIRK WHISTLE BLOWER POLICY**

1. Every member of the Dunkirk Common Council (the "Council") and all elected and appointed officials, and employees of the City of Dunkirk (the "City") thereof, in the performance of their duties, shall conduct themselves with honesty and integrity, and observe the highest standards of business and personal ethics, as set forth in the Code of Ethics of the City of Dunkirk (the "Code"). (See Chapter 30 of the City Code).

2. Each Council member, elected and appointed official or employee of the City, is responsible to report any violation of the Code (whether suspected or known) to the Councilman-at-Large. Reports of violations will be kept confidential to the extent possible. No individual, regardless of their position with the City, will be subject to any retaliation for making a good faith claim, and any employee who chooses to retaliate against someone

who has reported a violation shall be subject to disciplinary action, which may include termination of employment. Regardless, any claim of retaliation will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate offense.

3. The Councilman-at-Large is responsible for immediately forwarding any claim to the City Attorney's office, who shall investigate and handle the claim in a timely manner.

4. This policy shall go into effect July 1, 2011, and will be reviewed annually.

Councilman-at-large Dolce advised that this was done on the recommendation of our auditors.

Councilwoman Szukala moved to table Local Law 6-2011 with a Public Hearing to be held on June 21st at 5:50 PM.

Carried, all voting aye. Tabled.

#### **NEW BUSINESS:**

#### **RESOLUTION #35-2011** **JUNE 7, 2011**

#### **BY ENTIRE COUNCIL:**

#### **AWARDING OF CONTRACT FOR THIRD PARTY BILLING FOR DUNKIRK FIRE DEPARTMENT AMBULANCE SERVICE**

**WHEREAS**, the Common Council has reviewed the RFP's received by the City in regards to third party billing for Ambulance Services provided by the Dunkirk Fire Department, and

**WHEREAS**, the Fire Chief has made a recommendation based on the RFP's, now, therefore, be it

**RESOLVED**, that this Common Council hereby authorizes Mayor Richard Frey to negotiate and sign an agreement with Enhanced Management Services, Inc. of Danville, PA, to provide third party billing, based on the information received in the RFP.

Councilman-at-large Dolce advised that his concern was answered via e-mails, this resolution was choosing one of the RFP's, and what will be forthcoming will be a resolution establishing a pay-rate schedule at zero co-pay to the city residents. Councilman-at-large Dolce stated that they felt that the taxes residents pay was enough for any co-pays.

Vote on resolution: Carried, all voting aye.

Councilwoman Szukala moved to adjourn. Seconded by Councilwoman Floramo.

Carried, all voting aye.

---

**Adjourned at 7:05 PM**

**Tom Mieczko, City Clerk**

\*\*\*\*\*