

**PUBLIC HEARING  
May 4, 2010**

Councilman-at-large Dolce called public hearing to order at 7:14 PM.

Present: Councilmen Michalski, Muldowney, Councilwoman 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 Mleczo, Personnel Administrator Heyden, and Police Chief Ortolano.

Absent: Building Inspector Zurawski, Director of Development Ahlstrom, Fire Chief Ahlstrom.

City Clerk Tuggle read Notice of Public Hearing.

Public Hearing was held for the purpose of giving interested persons an opportunity to comment on closing and abandoning portions of unopened Ounce Street (also known as White Street) between East Chestnut Street and the East City line.

**COMMENTS:**

No one spoke.

**Public Hearing closed at 7:15 PM**

**William D. Tuggle, City Clerk**

\*\*\*\*\*

**COMMON COUNCIL PROCEEDINGS**

**May 4, 2010**

The meeting was called to order at 7:15 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 Mleczo, Director of Development Ahlstrom, Personnel Administrator Heyden, and Police Chief Ortolano.

**RESOLVED:** That the reading of the minutes of Tuesday, April 20, 2010 be dispensed with.

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

Carried, all voting aye.

Councilman-at-large Dolce advised that Building Inspector Zurawski, and Fire Chief Ahlstrom were excused from tonight's meeting.

**PUBLIC COMMENTS:**

Harriet "Skeeter" Tower, 438 Swan Street, Dunkirk, NY spoke in regards to litter in the City, and stated that the City of Dunkirk needs to enforce littering a little bit more in order to keep the City beautiful. She advised of many neighbors out everyday picking up litter that is being thrown out of cars, and thrown by kids on their way to school. She stated that the City looks dirty, something needs to be done, and there are cities that fine people. It seems that Dunkirk could be doing better with regards to fining people. She also stated that she had brought this issue up to the principal of the Middle School, and he advised her that they do talk about it to the students, but she stated that there is no real enforcement.

Councilman Michalski advised that he wanted to clarify the Fredonia littering issue. He stated that he works in Fredonia, and that most of the littering that you see in Fredonia begins with the Police Department seeing kids with alcoholic containers. He advised that the Police get them for underage drinking; as the kids place the container on the ground, and the Police then get them for littering. That's where you see most of the littering tickets.

Mayor Frey stated that he agreed with Mrs. Tower. He stated that she lives in a tough area, not in a derogatory way but talking about the Middle School, as you have a lot of kids, a lot of people, a lot of traffic through there. He further stated that we should be doing a better job, and that he would like to work with her. We should perhaps take a step back and look at our laws, enforce them, get officers out of their cars, and do a better job.

Councilwoman Szukala advised that she would like to create an Adopt a Street Program. She would like to start with one street per ward, and have a local business, group or organization help with the cleaning up of that street. If there's a street within that ward that's an issue maybe we can target that street. She further stated that the Boys & Girls Club has been very helpful, and that they would be glad to help in the fourth ward. She advised that she will try to get this program up and running.

Councilwoman Floramo stated that she agreed with Mrs. Tower, and that the kids in school have been taught, and were given detention. She further stated that we need to talk to the older kids, and to the parents, it's all of us that have to do the work here.

Chief Orotolano suggested that we could work with the Middle School and get a program going like they have at the High School (Senior Sweep). If the kids are the one's littering, we could work with the school and make them go pick it up, they will learn their lesson.

Councilman Muldowney began by apologizing to Mrs. Tower, stating that she has organized a group, and that they had met six weeks ago right after the fire, but we weren't at the last meeting. He further stated that there is a meeting scheduled for next Wednesday where they can hopefully put together a meeting with a number of department heads, and come up with a plan. He also stated that Mr. Burnside from the Eighth Grade Middle School was looking into doing something similar like Senior Sweep with the eighth grade class. Maybe it would be a good project to incorporate that neighborhood, and make it a community thing. He further stated that he appreciated her efforts for stepping up and that we want more people like you. We will be putting a meeting together, we will be working with you. He also stated that this is a City wide issue.

Edna Sek, 7 Lake Front Boulevard, Dunkirk, NY stated that she does not want to take all the responsibility away from the children, as doing so is wrong. She also stated that she picks up trash everyday on Lake Front Boulevard, and places it in the barrels that were provided by the Department of Public Works. She further stated that it is good that we are all doing our part, however, the children should be taught through the schools, and different groups, the old fashioned way, the way we were taught.

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

Mayor Frey had nothing to report at this time.

**COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:**

Petition from Paul Lyons, DHS Principal requesting three police officers for prom supervision at the Moose Club on May 15<sup>th</sup>, from 7:45 PM to 12:15 PM.

Councilman Muldowney moved that permission be granted and referred this to the Police Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Petition from the Kosciuszko Club requesting to close Nevins Street between East Doughty Street and Courtney Street on Friday July 2, from 5:00 PM to 12:30 AM and Saturday July 3, from 1:30 PM to 12:30 AM for their "Annual Street Dance", with the support of the Parks, Police, and Fire Departments.

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

Carried, all voting aye.

Petition from Erika Beato, 43 Point Drive N, requesting on street parking for a wedding reception on May 22<sup>nd</sup>, from 3:00 PM to 9:00 PM for approximately 25 cars.

Councilman-at-large Dolce stated that questions regarding this petition were discussed, and worked out during the workshop session.

Councilman Muldowney moved that permission be granted and referred this to the Police Department. Seconded by Councilwoman Szukala.

Carried, all voting aye.

Petition from Michael R. Cerrie on behalf of the Nathan George Foundation requesting to use School #7 and the Stadium for the second annual Nathan George co-ed slo-pitch tournament on Saturday, August 14<sup>th</sup> (Rain date August 15<sup>th</sup>).

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

Carried, all voting aye.

Petition from Casey Mazurek requesting permission to use Promenschenkle Stadium on Sunday, July 11<sup>th</sup>, with permission for vendors, a tent for alcohol sales, and for the possibility for a bounce house and a band from 6:00 PM to 9:00 PM for the “Joe Karnes Memorial softball Tournament”.

Councilman-at-large Dolce stated that this petition would be approved contingent upon proof of insurance being shown.

Councilwoman Floramo moved that permission be granted and referred this to the City Attorney, Parks and Police Departments. Seconded by Councilman Michalski.

Carried, all voting aye.

Loudspeaker applications from:

The Nathan George Foundation for music/loudspeakers at the Stadium on August 14<sup>th</sup> from noon to 4:00 PM for their softball tournament. (Rain date August 15<sup>th</sup>).

Councilwoman Szukala moved to accept and referred this to the Dept. of Public Works, and Police Department. Seconded by Councilman Muldowney.

Carried, all voting aye.

Pastor Antonio Villegas for drums, guitars, speakers, amplifier and microphone on May 15<sup>th</sup>, June 12<sup>th</sup>, July 29<sup>th</sup>, 30<sup>th</sup>, 31<sup>st</sup>, and August 28<sup>th</sup> from 5:00 PM to 9:00 PM for church services at the pavilion behind Family Dollar.

Councilman Muldowney moved to amend this resolution as he had a problem with the four hour time limit. He moved to amend this to approve May 15<sup>th</sup>, and June 12<sup>th</sup> from 5:00-7:00PM instead of 5:00 PM to 9:00 PM, and then do a review of this and then they can come back and reapply for the other dates. Councilwoman Floramo stated that the loudspeaker permit policy was already done for organizations, and perhaps we should go with May 15<sup>th</sup> and look at the other dates afterwards. She further stated that we already have a policy for four hours questioning if there would be a problem. Councilman Muldowney advised that this was discussed in the workshop, advising that the council has the authority to lengthen or shorten times for individual groups.

Motion to amend was seconded by Councilwoman Floramo.

Councilman-at-large Dolce clarified that this was an application, not a resolution.

Vote on amendment to loudspeaker application: Carried, all voting aye.

Jason Krzyzanowicz for a 4 piece band with amplifiers on June 19<sup>th</sup> from 7:00 PM to 9:00 PM at the Fireman’s Grounds for an engagement party.

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

Carried, all voting aye.

Demetrios “Jaime” Tsirtsakis on behalf of Demetris Restaurant for live music/outside entertainment on the patio bar from May thru October, from 9:00 PM to 1:00 AM.

Councilwoman Floramo advised any taverns that have music, that she, and others, will be measuring decibels, as there have been problems in the past with loud music.

Councilman Muldowney moved that permission be granted and referred this to the city Attorney. Seconded by Councilman Michalski.

Carried, all voting aye.

Loyal Order of Moose Lodge #89 for a DJ at Point Gratiot large pavilion on August 29<sup>th</sup> from 3:00 PM to 7:00 PM.

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

Carried, all voting aye.

Timothy Wdowiasz on behalf of the First Ward Falcon Club for a live band at the Stadium softball field (area behind right field) on July 16<sup>th</sup> from 7:00 PM to 11:00 PM.

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

Carried, all voting aye.

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

Councilman Michalski advised that a meeting was held prior to today’s workshop; and they met with Bestway Disposal regarding contracting out the city’s trash collection. He also stated that another meeting will be held to further discuss this subject.

Councilman Michalski announced that Robert and Maureen Peterson of 407 McKinley Avenue were the first winner’s in the “Rising Star Program”. He further stated that the Home Depot has also joined this program, and that the monthly award would be increased from \$50.00 to \$100.00.

Councilman Muldowney had nothing to report at this time.

Councilwoman Floramo had nothing to report at this time. However, she did thank the Department of Public Works for promptly fixing a sign that she had mentioned to Mr. Gugino, and advised that the Council would be on WDOE May 12<sup>th</sup> from 9:30 AM – 10:00 AM.

Councilwoman Szukala reminded residents that there will be a Public Safety Meeting on May 25<sup>th</sup> at 9:15 AM in the Conference Room.

Councilman-at-large Dolce thanked DPW Director Gugino and Police Chief Ortolano for erecting the school zone sign on Fourth Street, and stated that the students and faculty appreciated their efforts.

Councilman-at-large Dolce then inquired about the status of the South Cell Tower, and any update as to whether or not it will come down. He also questioned if the tower that is owned by the County is stable. DPW Director Gugino stated that he was not sure of what the end result would be and that the County's Structural Engineers signed off on the tower. Chief Ortolano stated that the County owned the cell tower, that it would be up to them, and that at a prior meeting, the County's Structural Engineers informed him that there were no issues at the time with that tower.

Councilman-at-large Dolce advised that the Trap, Neuter, and Return Program has started. He stated that this past weekend 9 cats were trapped: 4 females, and 5 males. He mentioned that 3 of the cats captured were in rough shape, and it has not been determined whether those cats would be euthanized. Councilman-at-large Dolce advised the public that cats that are not fit to return are euthanized. He also mentioned that this is the fourth year of the Program, and was appreciative of Council's support through the years, and that we will reach over 100 cats this year.

**UNFINISHED BUSINESS:**

None.

**PRE-FILED RESOLUTIONS:**

**RESOLUTION #32-2010**

**May 4, 2010**

**By: ENTIRE COUNCIL**

**COMMON COUNCIL GIVES APPROVAL FOR  
TOWN OF PORTLAND WATER DISTRICT #4 TO ACQUIRE WATER FROM  
TOWN OF PORTLAND WATER DISTRICT #2**

**WHEREAS**, the City of Dunkirk and the Town of Portland have a Water Purchase Agreement dated August 12, 1975; and

**WHEREAS**, the Town of Portland formed Water District #4 on July 18, 1998, which consists of three property owners located on North Road in the Town of Portland; and

**WHEREAS**, the Town of Portland Water District #4 is desirous of acquiring water from Town of Portland Water District #2; and

**WHEREAS**, the Town of Portland Water District #2 needs the approval of the City of Dunkirk Common Council to furnish water to the above mentioned Water District #4; now, therefore, be it

**RESOLVED**, that the City of Dunkirk Common Council hereby gives approval, by the terms and conditions of the Town of Portland Water District #2 Agreement, for Water District #4 to acquire water from Water District #2.

Carried, all voting aye.

**RESOLUTION #33-2010**  
**May 4, 2010**

**BY: ENTIRE COUNCIL**

**TRANSFERS FROM THE BILL CEASE FUND**

**WHEREAS**, the Bill Cease Fund was created to support youth activities within the City of Dunkirk, and

**WHEREAS**, the City of Dunkirk currently has the funds available and designated for youth use, in a reserve account; now, therefore, be it

**RESOLVED**, that a transfer not exceeding One Thousand Five Hundred Dollars (\$1,500.00) be withdrawn from the Bill Cease fund, in accordance with the terms of the reserve fund to contribute toward the Concord Babe Ruth League; and, be it finally

**RESOLVED**, that the Fiscal Affairs Officer and the Treasurer's office make the following entries on the ledger of this City, to accommodate the City's share of this project:

<u>ACCOUNT NO.</u>	<u>LINE</u>	<u>INCREASE</u>	
<u>DECREASE</u>			
01-7110-4036	Contracted Services	\$ 1,500.00	
001-0001-5031	Interfund Transfer	1,500.00	
070-0070-2403	Reserve/Youth Programs	1,500.00	
070-0070-9901-9000	Transfer To General Fund	1,500.00	
070-0070-0201-2010	Recreation Cert of Deposit		\$ 1,500.00
070-0070-9999	Suspense – Recreation	1,500.00	

070-0070-0200-2000 Cash		1,500.00
070-0070-9901-9000 Transfer To General Fund	1,500.00	
001-0001-0200-2016 Cash	1,500.00	
001-0001-5031 Interfund Transfer		
1,500.00		

Carried, all voting aye.

**RESOLUTION #34-2010**

**May 4, 2010**

**BY COUNCILMAN MULDOWNEY:**

**AWARDING CONSTRUCTION CONTRACT FOR THE  
CITY OF DUNKIRK SAFE ROUTES TO SCHOOL PROJECT**

**WHEREAS**, a project to provide a safer environment for City of Dunkirk children who regularly walk to school, known as the *City of Dunkirk Safe Routes to School Project, PIN 5759.07* (the "Project"), is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 100% Federal funds and 0% Non-Federal funds; and

**WHEREAS**, this project is considered a locally administered project which requires that the City is responsible for bidding, awarding and administering the project in accordance with the New York State Department of Transportation's (NYSDOT) Procedures for Locally Administered Federal Aid Projects Manual; and

**WHEREAS**, sealed bids for this project were received and opened by the City Clerk on April 7, 2010, with six (6) bids being read and have subsequently been reviewed by Director of Public Works Gugino and award package approval has been received from the NYSDOT; now, therefore, be it

**RESOLVED**, that, upon recommendation of Public Works Director Gugino, the Common Council of the City of Dunkirk hereby approves and accepts the low bid of Campobello Construction Company, Inc., 23 Stratford Road, Buffalo, NY 14126, in the amount of \$257,851.20 in accordance with bids as opened on April 7, 2010; and, be it further

**RESOLVED**, that the Mayor of the City of Dunkirk be and is hereby authorized to execute all necessary Agreements, on behalf of the City, with Campobello Construction Company, Inc., in connection with the project; and, be it further

**RESOLVED**, that the City Clerk is authorized to return the bid deposits of the unsuccessful Bidders upon successful execution of the necessary contract documents; and, be it finally

**RESOLVED**, that the City Treasurer and Fiscal Affairs Officer are hereby authorized to make the necessary budget revisions to proceed with the project expenditures and reimbursements.

Carried, all voting aye.

**RESOLUTION #35-2010**  
**May 4, 2010**

**By: ENTIRE COUNCIL**

**CLOSING AND ABANDONING A PORTION OF UNOPENED OUNCE STREET  
BETWEEN EAST CHESTNUT STREET AND THE EAST CITY LINE**

**WHEREAS**, the City of Dunkirk Common Council, at their meeting of April 6, 2010, had been requested by architect Richard L. Peebles, Jr., on behalf of the Dunkirk Humane Society, Inc. (d/b/a Lakeshore Humane Society), to close and abandon a portion of unopened Ounce Street in order to receive clear title for the construction of their new shelter building on East Chestnut Street within their lot; and

**WHEREAS**, the Common Council referred this request to various Departments for review and no objections have been raised; and

**WHEREAS**, a public hearing was held in the Council Chambers on the 4<sup>th</sup> day of May 2010 at 6:50 P.M. in regard to this request, now, therefore, be it

**RESOLVED**, that this Common Council, upon considering any comments as may have been made at the earlier public hearing, hereby closes and abandons the following:

**ALL THAT TRACT OR PARCEL OF LAND** situate in the City of Dunkirk, County of Chautauqua, and State of New York, and more particularly described as that portion of unopened Ounce Street, 66 feet wide, as shown on the Doughty Map, located between the southerly line of East Chestnut Street and the easterly City line,

and, be it further

**RESOLVED**, that the Mayor is hereby authorized to execute any and all quit claim deeds associated with this closure.

Carried, all voting aye.

**RESOLUTION #36-2010**  
**May 4, 2010**

**BY: ENTIRE COUNCIL**

**AUTHORIZING THE ACCEPTANCE AND TRANSFER  
OF TAX FORECLOSED PROPERTY AT 424 PARK AVENUE**

**WHEREAS**, the Chautauqua County Legislature approved the transfer of 424 Park Avenue, Dunkirk, New York to the City of Dunkirk, to promote the rehabilitation of this vacant and abandoned City property; and

**WHEREAS**, a rehabilitation project was begun on this property by Core Area Preservation Company and halted prior to completion, due to unforeseen circumstances of said company; and

**WHEREAS**, Chautauqua Opportunities, Inc., has secured funding to complete this project, and return this home to a productive taxable status; now, therefore, be it

**RESOLVED**, that the Mayor is authorized to execute any and all documents necessary to facilitate the transfer of 424 Park Avenue to the City of Dunkirk, and its ultimate conveyance to Chautauqua Opportunities, Inc.

Councilwoman Szukala stated that she has received several phone calls, and wants to assure residents that questions are being asked. She advised that this was an agreement from 2007 from the CDBG fund and COI: that this was before she and Councilman Michalski were Councilmembers, and that they both had questions regarding this. She further stated the house had been fixed up before COI was involved, and that it will continue to be improved, and will going back on the tax roll soon. If the public has any questions, they can call them.

Vote on resolution: Ayes: Councilman Muldowney, Councilwoman Szukala, Councilman-at-large Dolce. No: Councilman Michalski, Councilwoman Floramo.

Carried 3-2.

**ADJOURNMENT:**

Councilman Muldowney moved to adjourn. Seconded by Councilwoman Szukala.

Carried, all voting aye.

**Adjourned at 7:42 PM**

**William Tuggle, City Clerk**

\*\*\*\*\*