

COMMON COUNCIL PROCEEDINGS
October 5, 2010

The meeting was called to order at 7:00 PM by Councilman-at-large Dolce followed by the Pledge of Allegiance.

Councilman-at-large Dolce asked everyone to remain standing to offer a moment of silence for retired Dunkirk Police Officer Edward Zentz who passed away last week.

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

Also present: City Attorney Carrie, 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.

Absent: Mayor Frey, City Clerk Tuggle, Public Works Director Gugino

RESOLVED: That the reading of the minutes of Tuesday, September 21, 2010 be dispensed with.

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

Carried, all voting aye.

PUBLIC COMMENTS:

Jessie Carreras, 2085 King Road, Forestville, NY, addressed the Council, "I am here to speak about both local and region social services. Despite what's been in the papers, DSS is not recovering from the Dunkirk fire. Some clients are not receiving services and workers are being subjected to substandard work environments. This idea is not working, it is not successful, and in fact has cost the County money. DSS workers know what works and what doesn't. Saying that these sites have been successful is untrue. We need more DSS workers back in the Dunkirk office that is where the need is."

"Retribution has been a result of workers speaking up and there is a gag order not to contact the media. However, we can speak to our government officials to let them know truth." Our community of Dunkirk is failing due to a lack of action and inability to accept problems and start working to consolidate services."

Ms. Carreras further stated "that we should be applying for stimulus money to build a new office building on the old site which could pay for itself in the coming years. That would inspire job creation and require services from those businesses in the area now hurting. Our lawmakers should be shaping plans for the future, for the next 10, 20, and even 50 years, and not just looking at the current budget.

Ms. Carreras announced that anyone interested in making our government work for us to join in and help, to call her at 785-1471."

Annette Gill, 113 Lyn Crest Terrace, Amherst, NY stated that last year she and her husband purchased the building and opened a gift shop at 423-427 Central Avenue. She further stated that they also owned a store in Amherst, NY. Mrs. Gill stated that she is concerned that the economy down here is starting to go downhill, especially since the building burned over here and we had the street closed down. She further stated "my husband and I have seen a decline in business and we were wondering what Dunkirk's kind of doing to try and get more businesses to come down here. Mrs. Gill said that they were proud to own the property in Dunkirk, wanted to make an investment in the community, and felt that something needs to be done to generate more business in Dunkirk. She further stated that she wanted to help the people by keeping them in this community, to spend the money and keep it in the community.

Janice Slaton, 161 King Street, Dunkirk, NY thanked Councilwoman Floramo, Councilman-at-large Dolce, and Mayor Frey for keeping the issue of bringing services back to downtown Dunkirk before the public. She further stated that now is time to move beyond talk and to take action.

Ms. Slaton stated "that what has been troubling is that the initial effort to return services to downtown Dunkirk was made by recipients, DSS caseworkers, and concerned City residents, but they received no response. However, when individuals who do not receive services, or do not have business in downtown Dunkirk raised the same issue, and say the same thing that the others have said, suddenly it makes front page news." Ms. Slaton continued "I would remind the elected officials that they represent all the residents and no one voice should be given more weight or credit than another voice as we are all in this together."

Walter Rutland, 184 W. Second Street, Dunkirk, NY stated that now is the time for the rude awakening in Dunkirk. "It's sad when our County Executive Greg Edwards was the first to say that the social workers would only go as far as Fredonia. Look what happened, they are not in Fredonia, they went all the way to Jamestown."

Mr. Rutland further stated that "this is terrible; this is illegal what has happened. We do not want Dunkirk to become a ghost town. Greed is a terrible thing. I represent all the poor people as you know already and something has to be done."

Mr. Rutland asked "what does Mayville have to do with how we run Dunkirk? We have City elected officials right here. We are trusting you but what I'm telling the people of Dunkirk, if our officials can't help take care of business we want to remember this when it's time to vote next time." Mr. Rutland stated that he has not met with County Executive Greg Edwards but wanted to say this "the same way you came in the front door, there's an exit at the back you can leave immediately."

Mr. Rutland continued by quoting Robert F. Kennedy, and also stated that there were plenty of vacant buildings such as the Department of Labor, and vacant schools located on Lake Shore Drive.

Reva Byczynski, 616 Brigham Road, Dunkirk, NY addressed the Council stating that she is a Chautauqua County social welfare examiner who works for the Medicaid Department, and wanted to speak on behalf of her co-workers, constituents, and clients. "The emergency office down here is only for emergency purposes. She further stated that in Jamestown there are long lines, the lobby's full, it's hot, smells, is dirty, babies crawling on the floor, and there is no place to accommodate them." Ms. Byczynski further stated that they received over 800 calls per week

from the Dunkirk office, that number is now doubled in the Jamestown office, and clients who go to the WIC office in Dunkirk are told their paperwork can not be accepted there.

Ms. Byczynski further stated that the economy in this area has been bad since the 1980's; several businesses and industries that left the area are M. Wile, Steel Plant, Great Lakes Color, and Kraft. Ms. Byczynski stated "I sat in Sheridan for a whole day absolutely doing nothing. You're paying me \$19.00 an hour, and its public record, to do nothing. Try to do work on a laptop that doesn't work most the time because you don't get reception."

Ms. Byczynski advised that a worker (receptionist) in Jamestown was upset because she was called four letter words that she has never heard in her 14 years of service. "These are some of the things that we have to deal with everyday. We have to be professional and we have to treat everyone equally." Ms. Byczynski further advised "that the welfare people are a very small part of our clientele; it's mostly disabled working adults, working poor."

Ms. Byczynski stated that we are in Pine Valley, Westfield, Sheridan, but were not getting our work done. She further stated "we have to put pressure on this County government, Jamestown is terrible, there was a bank robbery, a man was beating his girlfriend in the hallway, we have no guards, no protection over there."

Ms. Byczynski mentioned that there were 5-6 buildings available on Lake Shore Drive, and thanked the Council for their time.

Councilman-at-large Dolce advised that the Mayor announced during tonight's workshop that County Executive Greg Edwards will schedule a public meeting in the City of Dunkirk next week. Councilman-at-large Dolce urged residents to attend and to check the paper for a day and time.

Candy Smathers, 91 W. Second Street, Dunkirk, NY stated that social services needed to come back to Dunkirk. She further stated that she takes people into her home, and was fighting to get public assistance for a girl who has resided with her for the past four months. Ms. Smathers stated that when she took this girl in, this girl was staying on the beach by the cove near the Waste Water Treatment plant. Ms. Smathers stated that she has lived in the City for the past 2 ½ years, purchased a house last August, and is starting to question why.

Ms. Smathers further stated that there is violence in the City, no help for the poor; she then began to speak about County Executive Edwards, paving his own political future.

Councilman-at-large Dolce interrupted Ms. Smathers asking her to keep to the facts of the matter.

Ms. Smathers continued to speak in regards to the social service issues, and stated the people are homeless and befriending gang members to share sleeping spaces. Ms. Smathers urged the Council to do something.

Beverly Mosier, 93 Seventh Street spoke in regards to the legal blood alcohol content, stating that .08 is considered intoxicated, while any figure below that is considered to be impaired. She questioned what is the legal standing for driving under the influence/impaired. Ms. Mosier stated that she will take this issue up at another time, and another place.

Police Chief Ortolano stated that .08 is the legal limit to be intoxicated, but there is no legal standing for being impaired. Chief Ortolano stated that he was not a lawyer, and that this is a legal issue.

Councilman-at-large Dolce stated that this is not the place to discuss this.

Ms. Mosier further stated that she is someone who needs social services for her children and hoped that we could work together to bring social services to this community.

Ron Paradis, 241 Lake Shore Drive East, owns property located at 522 Park Avenue and spoke in regard to 523 Columbus Avenue. Mr. Paradis stated this house has not been razed, and has become a dumping ground for tires and furniture. He further stated that he does not feel that the City is moving to resolve this issue and until it does it will continue to be a dumping ground. Mr. Paradis further advised that the house is loaded with graffiti, and has become a breeding ground for mosquitoes. Mr. Paradis stated that Councilwoman Floramo has been proactive in trying to get this issue resolved, and would like the City to take action on this house.

Thomas M. Taylor, 223 Temple Street, Dunkirk, NY stated that he had sympathy and empathy for these people tonight and strongly suggested that they see Mr. Edwards next week.

Mr. Taylor stated that he attended last month's meeting and implored the Council to do the right thing in Memorial Park. Mr. Taylor thanked, and commended the Council for doing their job. He further stated that hopefully Mr. Edwards will do his.

COMMUNICATIONS FROM THE MAYOR INCLUDING DISAPPROVAL MESSAGES:

Councilman-at-large Dolce advised that the Mayor had to leave.

COMMUNICATIONS FROM THE PUBLIC AND PETITIONS:

Communication from Don Horton requesting the City to reconsider the current established Trick or Treat hours.

Communication was read in it's entirety by Deputy City Clerk McGraw as follows:

“Dear City Officials:

Sometime in October, you will be voting to set the Trick-or-Treat Hours for this Halloween. Last year you set the hours for 2-6 P.M. even though Halloween was on a Saturday and most children and their parents were home Saturday evening. Please take some time to set more reasonable hours this year.

Of the 14 Municipalities posting Trick or Treat hours in last year's Observer, 9 had hours until 8 P.M. and 5 had hours until 7 P.M. Nobody started as early as Dunkirk, with only 1 starting at 3 P.M. and only 1 at 4 P.M. All the rest started at 5 or 6 P.M., recognizing that Halloween is designed for Trick-or-Treating in the evening hours and not in the afternoon.

Many families go to great length to carve pumpkins and place them outside to be viewed by the children on Halloween night, only to have the City of Dunkirk's children be all done

Trick-or-Treating before it gets dark. In past years, Dunkirk has started Trick-or-Treat hours at 3 P.M. on weekdays, when many parents and homeowners were still at work and not home to take their children out as well as to be home to hand out candy to kids visiting their homes. In addition, this year October 31 is a Sunday with the Bills/Chiefs game televised at 1 P.M. that day. Many families would like to be able to watch the game before taking their children out and before answering their doors to Trick-or-Treaters.

Halloween is a holiday that kids, parents and homeowners look forward to each year. Please help to enhance this experience and set this year's hours to allow them to have the fun associated with later hours. You will not regret it.

Sincerely,

Don Horton"

Received and Filed

Notice of Claim from Kathy J. Putnam for personal injuries sustained allegedly due to a fall at a Pavilion while at Point Gratiot.

Councilman Michalski moved to refer this notice to the City Attorney. Seconded by Councilwoman Szukala.

Carried, all voting aye.

REPORTS OF STANDING COMMITTEES, BOARDS AND COMMISSIONS:

Councilman Michalski thanked everyone for coming to tonight's meeting, stating that your concerns are our concerns and we want to do what's best for Dunkirk. Councilman Michalski further stated that hopefully next week's press conference will resolve these issues.

Councilman Muldowney echoed Councilman Michalski's remarks, and stated that hopefully County Executive Edwards will be here next week to discuss, and answer questions. Councilman Muldowney thanked everyone for attending tonight's meeting.

Councilwoman Floramo thanked everyone for coming out, if he's not here we'll be there. She advised that there is a petition for the property located at 523 Columbus Street to come down. Councilwoman Floramo stated that \$19000.00 in taxes is owed on that property and the City can not afford that. She further advised that we gave COI \$17000.00 to pay library taxes, so that they could improve the property located at 539 Washington Avenue, rent it, and make money. Councilwoman Floramo stated that we are going to have to find the money from someplace, this has been referred and talked about, and that this is not a done issue.

Councilwoman Floramo advised that Housing Standard laws are not being enforced, that people are telling her not to make anymore laws, but to enforce the laws that we have. She mentioned that there is a house on Main Street that has been without electricity for three weeks, the landlord cannot get into the house and that candles are being burned at night for light "and if that is not a safety issue, I don't know what is." She further stated that it is written in our Code, that the Building Inspector can knock on the door and enter in case of an emergency, and if not he can get the Marshall. "These are the kind of things that are upsetting Dunkirk."

Councilwoman Floramo stated that she received a call from a gentleman who received a \$200.00 fine for his brush because he was out of town in August & September. Councilwoman Floramo asked if the brush could have been picked up and the gentleman charged a fee of \$50.00. She further stated that he is a new property owner in the City, who cleaned up the brush, to make it livable and was renting to nice tenants. Councilwoman Floramo further stated that there are people four months behind on their rent and electric probably because of Social Services, she didn't know, and nothing is done. She further stated that there is a poor enforcement of our laws, and that it has to change.

Councilwoman Floramo referred back to 523 Columbus Avenue stating that there are cats on the roof, and 25 tires on the property. She further stated that there is a petition going around, this is not a done deal, and we are going to have to get it down, even if we have to beg the County to forgive those taxes.

Councilwoman Floramo advised that she would like the Streets Department to place four signs in Washington Park. Councilwoman Floramo stated that unlike other parks, Washington Park closes earlier at 9:00 PM. She further advised that she had asked for the signs in the past, and there should be money in the budget for this.

Councilwoman Floramo thanked everyone for coming to tonight's meeting and stated that the Social Service Offices are needed in Dunkirk. She further stated that once this issue is done she hoped that residents would continue to come back to the meetings, and take an interest in Dunkirk; it will be a better place.

Councilwoman Floramo advised Councilman-at-large Dolce that she made a mistake when the prior meeting was being certified. She stated that she should have had a change put into them and asked Councilman-at-Large Dolce if the minutes have to be amended now that they have been certified.

Councilman-at-large Dolce replied that we could do that, and stated that we will have to discuss this with the Clerk's office, and that it would have to be reintroduced at the next meeting. Councilman-at-large Dolce further stated that this has been done in the past, and that he was stalling, waiting for her to chime in to make her correction.

Councilwoman Szukala thanked everyone for coming and stated that this was the next step that needed to be taken and thanked the Observer, WDOE, and Christa Haynes (Access 12). Councilwoman Szukala stated that the people need to know what's going on and that this is something that we have been working on. Councilwoman Szukala further stated that if this was in the City's control, it would have already been done. All we can do is keep listening and making phone calls, and having Mr. Edwards here next week is a very important step. She further stated that she hopes that they will all attend next weeks meeting, bring co-workers, family, the more people there to let Mr. Edwards know how upset you are, the better. Councilwoman Szukala further stated that the day and time has yet to be announced, but that it will be announced on WDOE, and the Observer.

Councilwoman Szukala advised that she received a letter from Fourth Ward resident Valerie Pawlak asking that her letter be read into the meeting, and read the letter in it's entirety as follows:

Dear Mayor Frey & Dunkirk Council,

First of all, Thank You all for getting the Zero-Sort Recycling Project started! We are all sure, it will be a “Great Success” once the kinks are out of the way!

Riding around the Wards, we saw some increase in volume! But what was up-setting many, many families with school children, had nothing set out-side! A School Board member made a suggestion, asking you if the Flyers could be sent out once and in “Bulk”, like they do, once a year on the School Board to all Residents, this would be a great Help, then the land-lords could help also, getting their Renters to recycle! Also there are people, that don't take the Observer or now listen to the local Radio Station! They can not get to the City Hall to get the Flyer. There are the People who live alone un-able to drive, also the Handi-capped! Also ones that have no children in School. Thank you for your Help!

God Bless

Please enter letter in the Minutes of today's meeting!

Yours truly,

Valerie Pawlak

Councilwoman Szukala advised that the educational part of the Casella Zero-Sort has gone very well; “we have gone into the schools, High School and Middle School with CD's for the children to watch, as well as some give away items from Casella's. The younger schools received coloring books explaining the recycling.” Councilwoman Szukala stated that flyers were created in English and Spanish, and were sent home with the children. Councilwoman Szukala advised that a bulk mailing of flyers will not happen due to the cost involved, and that if anyone had any questions, to call a member of the Council.

Director of Development Kory Ahlstrom advised that 1000 flyers were distributed to houses, by walking the neighborhoods, also the flyer is available on-line at www.cityofdunkirk.com, or the Observers website. Kory Ahlstrom further stated that flyers were taken to several churches to be distributed.

Councilwoman Szukala further stated that there was some confusion in regards to some of tonight's resolutions regarding the bike path; where the funding was coming from and amounts that were requested that she did not have prior to this meeting. Councilwoman Szukala asked Kory Ahlstrom to get together with Gib Snyder to give him the information he needs for publication in the paper.

Councilman-at-large Dolce advised that it was great to see tonight's turnout; that we rarely get turn outs like this, and it's great when the public voices their opinion. Councilman-at-large Dolce stated that he will speak with his fellow Council colleagues to see what course of action we will take as far as urging the County Executive to get services back in Dunkirk. He further stated “that there is nothing more powerful then all of you showing up next week having your opinions heard first hand, we urge you to do that.”

Councilman-at-large Dolce advised that October 18th is the next recycling pickup.

Councilman-at-large Dolce advised that Council will appear on WDOE next Monday, October 11th. Questions need to be e-mailed to the station, now that the program is taped.

Councilman-at-large Dolce advised that the Finance Committee will meet Thursday October 14th at 5:00 PM.

Director of Development Kory Ahlstrom responded to Mr. Paradis in regard to the property located at 523 Columbus Avenue. Mr. Ahlstrom replied that the DLDC put in a request with the County under the provision of a resolution that was passed about a year ago for economic development organization to get title for tax foreclosed property. The Resolution was passed; giving us the property and that he has been working with the County, and is expecting the deed for that property within the next month. Once the deed is received, he will send an appropriate letter to Building Inspector Al Zurawski, giving him permission to have the building torn down.

Councilman-at-large Dolce asked Mr. Ahlstrom if that was 1 of 3 properties.

Mr. Ahlstrom replied that there were two for economical development purposes, the Marsh Valve site on Brigham Road, to make sure that gets marketed appropriately, and the Niagara Motor site by Fieldbrook Foods, which currently has an active environmental clean up. Mr. Ahlstrom further stated that all three properties were approved at the last meeting, and that we currently have another request for the next meeting which he is hoping they will approve for a house on Roosevelt Avenue.

PRE-FILED RESOLUTIONS:

RESOLUTION #65-2010
October 5, 2010

By: COUNCILWOMAN SZUKALA

ESTABLISHING HALLOWEEN TRICK-OR-TREAT HOURS

Now, therefore, be it

RESOLVED, that house-to-house trick-or-treat hours shall be on Sunday, October 31, 2010, which is Halloween, from 4:00 P.M. to 7:00 P.M., in the City of Dunkirk.

Carried, all voting aye.

RESOLUTION #66-2010
October 5, 2010

By Councilwoman Szukala:

**AUTHORIZING AGREEMENT AMENDMENT WITH TVGA CONSULTANTS FOR
WORK ASSOCIATED WITH THE WATERFRONT RECREATIONAL TRAIL, PHASE 1**

WHEREAS, the City currently has an agreement with TVGA Consultants dated March 15, 2004, for work associated with the development and design of various bikeway/pedestrian paths along the lakefront; and

WHEREAS, the City has requested that TVGA provide consultant services for bidding and services during construction on the WATERFRONT RECREATIONAL TRAIL, PHASE 1, which services are not contained in the original agreement; now, therefore, be it

RESOLVED, that this Common Council hereby authorizes the Mayor to execute an agreement amendment (denoted as EWA No. 1) with TVGA Consultants, 1000 Maple Road, Elma, NY 14059, for additional design revisions, bidding services, and services during construction, in the amount of \$5,800 plus expenses estimated not to exceed \$200 associated with the Dunkirk Waterfront Recreational Trail, Phase 1 project; and, be it finally

RESOLVED, the funding for these services be allocated from Budget Account # 001-8020-4036, Department of Development, Contracted Services.

Carried, all voting aye.

RESOLUTION #67-2010
October 5, 2010

By: COUNCILMAN MICHALSKI

PROCLAIMING NOVEMBER VETERANS' REMEMBRANCE MONTH

WHEREAS, many men and women who have served in the Armed Forces of the United States of America have made the supreme sacrifice by giving their lives in services to our Country, and

WHEREAS, many have become permanently disabled while preserving and defending our nation's freedom, and

WHEREAS, recent world events have once again vividly demonstrated these sacrifices our military personnel are prepared to make, now, therefore, be it

RESOLVED, that this Dunkirk City Common Council expresses appreciation, on behalf of the City, to the men and women who have served in the Armed Forces and to those who continue to serve, and that this Dunkirk City Common Council hereby

PROCLAIMS the month of November, 2010, as "**VETERAN'S REMEMBRANCE MONTH**" in the City of Dunkirk, and respectfully urges all citizens to acknowledge and be mindful of the sacrifices our members of the Armed Forces have made, and continue to make, to protect and preserve our liberty.

Carried, all voting aye.

RESOLUTION #68-2010

OCTOBER 5, 2010

BY: ENTIRE COUNCIL

**AUTHORIZING LEASE WITH THE COUNTY OF CHAUTAUQUA
FOR AN EXTENDED TERM FOR THE
DUNKIRK FIREMAN'S TRAINING GROUNDS**

WHEREAS, the County of Chautauqua and the City of Dunkirk wish to assure the continuation of high quality training activities available to all of the volunteer and professional firefighter entities throughout the County; and

WHEREAS, the County and the City desire to continue an existing lease of the land known as Dunkirk Fireman's Training Grounds located at 665 Brigham Road, Dunkirk, New York for a forty (40) year period in order to provide for the continuation of training activities; and

WHEREAS, this lease agreement shall commence as of July 1, 2010 and shall terminate on June 30, 2050; now, therefore, be it

RESOLVED, that the Mayor is hereby authorized and directed to execute a Lease Agreement with the County of Chautauqua for the Dunkirk Fireman's Training Grounds located at 665 Brigham Road, Dunkirk, New York, for a forty (40) year period, commencing July 1, 2010 and terminating on June 30, 2050.

Councilwoman Szukala motioned to table this Resolution until Council can look at the actual lease. The lease was not given to Council prior to this meeting.

Motion to table Resolution:

Carried, all voting aye. Tabled.

NEW BUSINESS:

**RESOLUTION #69-2010
NEW BUSINESS
OCTOBER 5, 2010**

BY COUNCILMAN MULDOWNEY AND COUNCILWOMAN SZUKALA:

**AUTHORIZING AWARD FOR DUNKIRK WATERFRONT
RECREATIONAL TRAIL, PHASE 1**

WHEREAS, sealed bids for the *Dunkirk Waterfront Recreational Trail, Phase 1* construction project were received and opened in the City Clerk’s office at 10:00 AM on Monday, October 4, 2010, with three (3) bids being received; and

WHEREAS, it has been discovered prior to the granting of the bid, that the lowest bidder’s sealed bid was technically non-compliant, and the lowest bidder has rectified said non-compliance; and

WHEREAS, the aforementioned defect is deemed to be a mere irregularity and it is in the best interest of the City of Dunkirk to waive the technical defects; now, therefore, be it

RESOLVED, upon the review and recommendation of the City’s engaged consultant, TVGA Consultants and City Attorney Cerrie, that the low bid of S. Tabone Construction Company, 17 Central Avenue, Fredonia, NY 14063, be accepted at a total cost of \$185,505.00 which shall include Bid Option A-1; and, be it further

RESOLVED, that the Mayor is hereby authorized and directed to execute a contract on behalf of the City of Dunkirk with S. Tabone Construction Company, for the above described project in accordance with the contract documents; and, be it further

RESOLVED, that the funding shall be allocated from the New York State Parks and Recreation grant EPF-540404-A4 the remaining funds will be paid via CDBG Sidewalk 2009 and 2010 Funds 067-8000-4000-0494 & 068-8000-4000-0518; and, be it finally

RESOLVED, that the City Clerk is hereby authorized to return the bid deposit upon contract execution and in accordance with the contract documents.

Councilman-at-large Dolce stated \$185,000.00 was from a grant from 2005, which would take care of \$172,000.00 of the cost, and assured that \$15,000.00 will come from the sidewalk fund from CDBG.

Carried, all voting aye.

ADJOURNMENT:

Councilwoman Szukala moved to adjourned. Seconded by Councilman Michalski.

Carried, all voting aye.

Adjourned at 7:50 PM

William D. Tuggle, City Clerk
