

AGENDA - COMMON COUNCIL MEETING – January 19, 2016 - 5:30 PM
REGULAR MEETING

1. Call to order, Roll Call and Pledge of Allegiance to the flag.
2. Certification of prior meetings. Resolution dispensing with reading of minutes.
3. Reading of Privilege of the Floor Regulations.
4. Privilege of the Floor.
5. Communications from the Mayor including disapproval messages.
6. Communications from the public and petitions:
 1. Petition from Richard J. Clark on behalf of "Score This" requesting the use of roads and facilities to host a triathlon event on August 28, 2016 from 7:00 AM to 1:00 PM in the City of Dunkirk called "Tri Dunkirk". Also requesting to hold a 5K road race and community pig roast BBQ on August 27, 2016.
 2. Request from Brian Madurski on behalf of the Northern Chautauqua County Youth Hockey Association to use the boat launch at the Pier on Saturday, February 27th for a Polar Bear swim fundraiser.
 3. Notice of Claim from:
 - a). Jane Kaltenbach for damages to her vehicle allegedly caused by a pothole on Vineyard Drive.
 - b). Susan Marsh, Public Administrator for and on behalf of the Estate of Bryan A. Willis, deceased.
7. Reports of Standing Committees, Boards and Commissions.
8. Unfinished Business:
9. Pre-filed Resolutions:
 18. Resolution accepting hanging flower basket donation.
10. New Business:
11. Adjournment.

Lillian R. Divine
City Clerk



SCORE THIS!!!, INC.
15 RANCH TRAIL CT.
ORCHARD PARK, NEW YORK 14127

January 4th, 2016

Mr. Tim Gornikiewicz
Youth and Recreation Program Coordinator
342 Central Avenue
Dunkirk, New York 14048

To whom it may concern from the City of Dunkirk, Town of Dunkirk, Town of Sheridan and the Village of Silver Creek:

On behalf of Score This!!!, I am requesting the use of the roads and facilities in your city or town in order to host our annual multisport event on August 28, 2016 in the City of Dunkirk. The name of the event is "Tri Dunkirk" and it will be in a triathlon format that will include an open water swim, a bike race, and a running race. The race will take place on a Sunday and run from approximately 7:00 a.m. to 1:00pm. In addition to the triathlon we would like to host a 5K road race on the triathlon running course, in the City of Dunkirk, Saturday August 27, 2016 and conclude this event with a community pig roast BBQ. We are hoping the 5K will attract at least 200-250 athletes in its first year and the BBQ will bring more of the community to the event.

This event in its sixth year should attract as many as 325-425 participants and approximately 300 spectators and volunteers. The 2015 race attracted 315 participants in its fifth year. Score This!!! has been organizing multisport events since 1995 and has hosted the 2011-2014 Tri Dunkirk in the City of Dunkirk. This area makes an excellent venue to host these styles of events with athletes commenting on this being their one of their favorite venues.

We are writing this letter in advance to work out all of the details for the course and to help all parties take advantage of this athletic tourism influx. Many triathletes travel beyond their state borders. Many triathletes surveyed travel 150 plus miles to a triathlon which would include participants from as far away as the Syracuse, Albany and other regions of New York State as well as from surrounding cities like Cleveland of states like Ohio, Pennsylvania, Maryland, New Jersey, and Connecticut. In fact we had athletes from New York, Pennsylvania, Ohio and Massachusetts for the 2015 event.

Both events can help increase visitation to Chautauqua County. Multisport athletes and runners like to explore the area they visit in many different ways. If they are provided the information about the surrounding areas activities they will return to explore this in the future. Advertising for this event would involve, but not be limited to the following:

- Tri Dunkirk oval car stickers were handed out to each participant as well as the throughout the community
- Email updates to a 2800+ athlete Score This!!! dedicated email group
- Email updates to a 32,000 plus athlete online registration email system
- Dedicated webpage(s) at <http://tridunkirk.com> and <http://score-this.com/rundunkirk> (15,000 plus views in 2015)
- Dedicated ad placement on score-this.com
- Facebook and Twitter advertising to a dedicated Score This!!! fan pages
- Race listing on TriFind.com and Score-This.com

Sincerely,

Richard J Clark
Race Director/Vice President
Score This!!!, Inc.
716.940.6294
rich@score-this.com
<http://score-this.com>

2016 JAN - 5 AM 10: 52
RECEIVED
CLERK'S OFFICE
DUNKIRK, N.Y.

2016 NCCYHA POLAR PLUNGE SWIM

Mayor Rosas & City Council Members,

I am writing this letter on behalf of the Northern Chautauqua County Youth Hockey Association (NCCYHA) to request the use of the boat launch at the Dunkirk Pier on Saturday February 27th 2016 for a Polar Plunge swim event. The proceeds from the 2016 swim fundraiser will be donated to the Camp Gross Foundation.

Camp Gross provides the Youth of Chautauqua County with an excellent, safe, handicap accessible up-to-date Camping Facility open year round. The facilities provide opportunity for study of nature and the environment, swimming, hiking, camping, games, sports and fun outdoors. All of this is offered on a small yearly budget.

Safety is always a concern and once again Allstar EMS Services will schedule to have a crew onsite for the swim along with Lt. Gary Katta and the Dunkirk Fire Dept. dive team will be in the water. We are also in the process of obtaining a certificate on insurance for the event which I will pass along to the city once I receive it.

We also request the use of the Boardwalk lobby/bathroom facilities for registration and changing area. Any additional help with possible snow and ice removal from the boat launch and surrounding area will also be greatly appreciated.

Due to the success of the two previous Polar Plunge events the NCCYHA would like to continue to support the community again this year. The NCCYHA thanks the City of Dunkirk for its consideration of this request and anxiously awaits the council's reply.

Sincerely,

Brian Madurski

NCCYHA Board of Directors

brianmadurski@yahoo.com

(716) 785-0852

2016 JAN -5 AM 11:57
RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.

Notice of Claim
City of Dunkirk, N.Y.

RECEIVED
CITY CLERK'S OFFICE
DUNKIRK, N.Y.

2016 JAN -8 AM 9:13

PLEASE TAKE NOTICE, that the undersigned, pursuant to the applicable NY State statutes, hereby makes claim against the CITY OF DUNKIRK, NEW YORK for injuries and/or damages sustained by me as hereinbelow detailed:

Claimant Name: Jane Kaltenbach
Claimant Address: 10096 Patterson Lane
Fredonia NY 14063
Claimant Telephone Number: (716) 679-4257

This claim is for (injuries/damages alleged): A NEW TIRE AND ALIGNMENT
FOR 2015 BUICK ENCORE:

This claim is alleged to have arisen on the 2 day of January, 2016 at approximately 4:45 a.m./p.m. on that date at Corner of central & vineyard Dr.

The injuries and/or damages sustained by the Claimant arose in the following manner:
Hit pothole on vineyard Dr. Blow out sidewall
of front tire. Had to replace at Basil Chevy.
This pothole has been there for long while... Day after
this it was filled in.

The amount and type of injuries and/or damages sustained by the Claimant consist of the following:
- Wrecked tire - HAD to purchase new tire \$197.25
Alignment Front & Rear 89.95 sales tax 23.94
total \$325.64

WHEREFORE, the undersigned respectfully requests that the within claim be allowed and paid to me.

Respectfully yours,

Jane Kaltenbach 1-7-16
Claimant (date)

State of New York)
County of Chautauqua) ss.:

Jane Kaltenbach, being duly sworn, deposes and say that he/she is the claimant herein; that he/she has read the foregoing claim and knows the contents thereof; that the same is true to the knowledge of the deponent, except as to matters therein stated to be alleged upon information and belief, and, as to those matters, he/she believes it to be true.

Sworn to before me this
7 day of January, 2016.

Ann M. Ressler
Notary

Ann M. Ressler
Notary Public-State of New York
No. 01RE6095941
Qualified in Chautauque County
Commission Expires July 21, 2011
2019

STATE OF NEW YORK

SUSAN MARSH, As Public Administrator
for and on behalf of the Estate of
BRYAN A. WILLIS, Deceased

Claimant

NOTICE OF CLAIM

vs.

CITY OF DUNKIRK
First Floor, City Hall
342 Central Ave.
Dunkirk, NY 14048

CITY OF DUNKIRK POLICE DEPARTMENT
342 Central Avenue
Dunkirk, NY 14048

COUNTY OF CHAUTAUQUA
3 North Erie Street
Mayville, NY 14757

COUNTY OF CHAUTAUQUA
SHERIFF'S DEPARTMENT
15 East Chautauqua Street
Mayville, NY 14757

2016 JAN 12 AM 9:18
CITY OF DUNKIRK
CLERK OF COURT

Respondents

TO: CITY OF DUNKIRK
First Floor, City Hall
342 Central Ave.
Dunkirk, NY 14048

CITY OF DUNKIRK POLICE DEPARTMENT
342 Central Avenue
Dunkirk, NY 14048

COUNTY OF CHAUTAUQUA
3 North Erie Street
Mayville, NY 14757

COUNTY OF CHAUTAUQUA
SHERIFF'S DEPARTMENT
15 East Chautauqua Street
Mayville, NY 14757

PLEASE TAKE NOTE that claimant hereby claims damages against respondents in accordance with the requirements of the General Municipal Law Section 50-e and states as follows:

1. **CLAIMANT'S NAME AND ADDRESS**

SUSAN MARSH, Public Administrator
For and on behalf of the Estate of BRYAN A. WILLIS, Deceased
Gerace Office Building
Courthouse - PO Box C
Mayville, NY 14757

2. **NAME AND ADDRESS OF CLAIMANT'S ATTORNEYS**

SHAW & SHAW, P.C.
Jacob A. Piorkowski, Esq., of counsel
4819 South Park Avenue
Hamburg, New York 14075
(716) 648-3020 Telephone
(716) 648-3730 Fax
jpiorkowski@shawlawpc.com

3. **NATURE OF CLAIM**

The claim is one founded in negligence, and is for personal injuries and death of the claimant's decedent, Bryan A. Willis.

4. This is a claim for money damages for personal injuries and wrongful death sustained by the claimant's decedent, Bryan A. Willis against the respondents when the vehicle claimant's decedent was operating was caused to crash after leaving Lakeshore Avenue in Dunkirk, Chautauqua County, New York as a result of the reckless and willful conduct by officers, agents, servants and employees of respondents.

This claim is for personal injuries and other damages sustained by Claimant as a result of the intentional, reckless and willful conduct; negligent hiring, negligent training, general negligence, vicarious liability and violations of the Federal Civil Rights Law, The United States Constitution, The New York State Constitution and the Amendments thereof.

5. The time when the claim arose and the time when injuries and damages herein alleged were sustained was October 15, 2015 at approximately 9:30 p.m. on Lakeshore Road East near North Ermine Street in Dunkirk, Chautauqua County, New York.
6. The incident occurred in the area commonly known as Lakeshore Road East near North Ermine Street in Dunkirk, Chautauqua County, New York.
7. That the cause of action which forms the substance of this claim arose in the following manner:

On or about October 15, 2015 at approximately 9:30 p.m., the vehicle claimant's decedent was operating was caused to leave Lakeshore Road East in Dunkirk, Chautauqua County, New York as a result of a high-speed chase by agents, servants and employees of the respondents, including, but not limited to, behavior that was reckless and willful by officers, agents, servants and employees of respondents, which conduct caused claimant's decedent's vehicle to crash into a vacant residence on Lakeshore Road East in Dunkirk, Chautauqua County, New York, resulting in injury and death.


8. The negligence and carelessness of the respondents, their agents, servants and employees consists, inter alia, in failing to follow proper protocol in place by the Uniform Vehicle Code and proper protocols and procedures; in pursuing a vehicle at a high rate of speed throughout a residential neighborhood; in failing to exercise due regard for the safety of all persons; in operating said vehicles in a reckless manner with total disregard for the safety of others; in

discharging a weapon without just cause; in causing claimant's decedent to leave the roadway and crash into a vacant residence; in negligently and recklessly failing to adopt and follow a restrictive pursuit policy; in negligently and recklessly initiating a high-speed pursuit; in failing to terminate such high-speed pursuit; that the agents, servants and employees of respondents used conduct, made decisions and initiated tactics which caused the claimant's decedent's wrongful death; in failing to initiate departmental training and controls for pursuits of persons, such as the claimant's decedent; in failing to provide emergency vehicle operation training and driving courses; in failing to adequately supervise their agents, servants and employees; in failing to adequately supervise the pursuit; in failing to properly investigate the initiating event; in causing and allowing a dangerous condition to exist and failed to take the necessary steps and make the necessary observations which, if taken or made, would have avoided the said incident; and that the respondents, their agents, servants and/or employees were otherwise negligent.

9. That as a result of the acts complained of, the claimant's decedent, without limitation, was caused to suffer physical injuries and death; to receive medical aid and attention, to have conscious pain and suffering and emotional anguish and fear of impending death. The full extent of the injuries are not known at this time and the exact amount of such expenses for medical retention and other damages cannot be determined at the present time.

WHEREFORE, the claimant claims damages against respondents in an amount to be determined.

DATED: January 11, 2016
Hamburg, New York

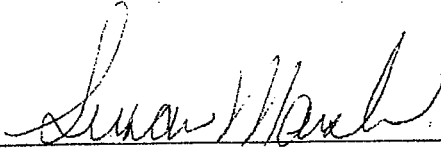


Susan Marsh, Public Administrator

VERIFICATION

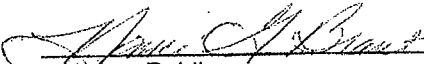
STATE OF NEW YORK)
)ss.:
COUNTY OF CHAUTAUQUA)

Susan Marsh, being duly sworn, deposes and says that she is the claimant in the within action; that she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.



Susan Marsh

Sworn to before me this
17 day of January 2016



Notary Public

NANCE G. BRANT
Notary Public, State of New York
No. 01BR6010047
Qualified in Chautauqua County
Commission Expires July 6, 20 18

On the Date Written Below **LETTERS** are Granted by the Surrogate's Court, State of New York as follows:

FILE COPY

File #: 2016-8

Date of Death: October 16, 2015

Name of Decedent: **Bryan Anthony Willis**
AKA **Bryan A Willis**

Domicile of Decedent: **City Of Dunkirk**

Fiduciary Appointed: **Susan Marsh**
Mailing Address **Gerace Office Building**
Mayville NY 14757

Letters Issued: **LETTERS OF LIMITED ADMINISTRATION**

Limitations: **These Letters are issued without Bond for the sole purpose of permitting the named Fiduciary to commence and prosecute and claim for the Wrongful Death of Decedent herein (and related actions) in accordance with the provisions of Estates Powers and Trust Laws of the State of New York Article 5 Part 4. These Letters do not give the fiduciary the authority to collect, marshal, hold or distribute assets or otherwise administer this Estate.**

If any of the distributees are minors or incapacitated persons, the Fiduciary is directed to file a Proceeding for the Judicial Settlement of his/her Accounting as such fiduciary within two years of the date of appointment herein, or Show Cause before the Court why such accounts should not be so filed.

Pursuant to SCPA 702, EPTL 5-4.1, EPTL 5-4.5, EPTL 5-4.6 and Rule 207.38 of the SCPA, No Final Compromise of any Wrongful Death or related actions or proceedings shall be made without prior application to the Surrogate for leave to Compromise/Settle said action or proceeding and/or to make allocation and distribution thereof without obtaining an Order from the Surrogate approving the compromise and distribution of proceeds, if any.

These Letters further require that the Fiduciary file with the Surrogate's Court, within 30 days of issuance, a certified copy of an Order of the Court in which the actions or proceedings were commenced which approves the settlement and refers all other matters to the Surrogate for allocation and distribution pursuant to EPTL 5-4.6.

THESE LETTERS, granted pursuant to a decree entered by the court, authorize and empower the above-named fiduciary or fiduciaries to perform all acts requisite to the proper administration and disposition of the estate/trust of the Decedent in accordance with the decree and the laws of New York State, subject to the limitations and restrictions, if any, as set forth above.

Dated: January 7, 2016

IN TESTIMONY WHEREOF, the seal of the Chautauqua County Surrogate's Court has been affixed.

WITNESS, Hon Stephen W Cass, Judge of the Chautauqua County Surrogate's Court.



Curt Meeder, Chief Clerk

At a Surrogate's Court of the State of New York held in and for the County of Chautauqua at Mayville, New York.

PRESENT: Hon. Stephen W Cass, Surrogate

Administration Proceeding, Estate of
Bryan Anthony Willis

aka Bryan A Willis

Deceased.

DECREE GRANTING LIMITED
ADMINISTRATION

File No. 2016-8

A verified petition having been filed by Susan Marsh praying that administration of the goods, chattels and credits of the above-named decedent be granted to Susan Marsh and all persons named in such petition, required to be cited, having been cited to show cause why such relief should not be granted, have either failed to appear in response to a served citation or having waived the issuance of such citation and consented thereto; and it appearing that Susan Marsh is in all respects competent to act as administrator of the estate of said deceased; now it is

ORDERED AND DECREED, that Limited Letters of Administration issue to Susan Marsh upon proper qualification and the filing of a bond be and hereby is dispensed with; and it is further

ORDERED AND DECREED, that the authority of such administrator be restricted in accordance with, and that the letters herein issued contain, the limitation(s) as follows:


Limitations/Restrictions: These Letters are issued without Bond for the sole purpose of permitting the named Fiduciary to commence and prosecute and claim for the Wrongful Death of Decedent herein (and related actions) in accordance with the provisions of Estates Powers and Trust Laws of the State of New York Article 5 Part 4. These Letters do not give the fiduciary the authority to collect, marshal, hold or distribute assets or otherwise administer this Estate.

If any of the distributees are minors or incapacitated persons, the Fiduciary is directed to file a Proceeding for the Judicial Settlement of his/her Accounting as such fiduciary within two years of the date of appointment herein, or Show Cause before the Court why such accounts should not be so filed.

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These Letters further require that the Fiduciary file with the Surrogate's Court, within 30 days of issuance, a certified copy of an Order of the Court in which the actions or proceedings were commenced which approves the settlement and refers all other matters to the Surrogate for allocation and distribution pursuant to EPTL 5-4.6.

DATED: January 7, 2016



Stephen W. Cass
Surrogate

RESOLUTION #18-2016
JANUARY 19, 2016

BY: THE ENTIRE COUNCIL

ACCEPTING HANGING FLOWER BASKET DONATION

WHEREAS, the *Beautification Committee of Revitalize Dunkirk* has generously initiated a Central Avenue Hanging Basket Project, has solicited donations and has purchased thirty-one (31) hanging flower baskets; and

WHEREAS, *Revitalize Dunkirk* wishes to donate such hanging baskets in order to help beautify Central Avenue; and

WHEREAS, the City is desirous of accepting such a donation in order to facilitate the beautification of Central Avenue; now, therefore, be it

RESOLVED, that the City hereby gratefully appreciates and accepts the donation from the *Beautification Committee of Revitalize Dunkirk* and ownership of thirty-one (31) hanging flower baskets (22" diameter, black welded steel) for use by the City.