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Murder In Warren



Two Suspects In Custody For Role In Death Of 18-Year-Old

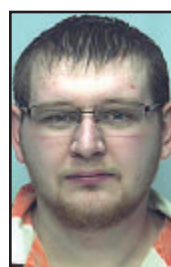
By BRIAN FERRY
AND JOSH COTTON
editorial@post-journal.com

WARREN, Pa. — Two men have been arrested in connection with the murder of an 18-year-old Russel, Pa., resident, missing since Feb. 5. Pennsylvania State Police said a body found Thursday morning at a

275 Abraham Hollow Road residence in Brokenstraw Township is presumed to be that of Marcus Mattson.

James Anthony McDaniel, 25, Russell, and Gary R. Williams, 22, North Cambria, were taken into custody following a series of events and interviews, with McDaniel as the prime suspect. He was interviewed Wednesday night, when police said

he confessed to killing Mattson. McDaniel was arraigned before District Justice Todd Woodin on Thursday and charged with criminal homicide; reckless burning or exploding; conspiracy — reckless burning or exploding; theft by unlawful taking; abuse of a corpse; and tampering with physical evidence. See MURDER, Page A6



Pennsylvania State Police Troopers Mark Cumberland, left, and Todd Koebley are pictured above, escorting James McDaniel following his arraignment Thursday morning in Warren, Pa. He has been charged with criminal homicide, among other charges, in the murder of 18-year-old Marcus Mattson of Russell, Pa. Gary Williams, pictured at left, faces lesser charges based on his role in the homicide. Photo by Kiley Fischer

Judge Dismisses Amp Lawsuit

By A.J. RAO
arao@post-journal.com

MAYVILLE — Legal efforts to stall the Chautauqua Institution Amphitheater renewal project were soundly dismissed Thursday in State Supreme Court.

The Hon. Frank A. Sedita III, who presided over the case, said he will lift the temporary restraining order that has halted the project for more than two weeks, and deny the motion for a preliminary injunction, which would have extended the restraining order for the duration of the lawsuit.

Sedita said the decision hinged on whether the Amp project constituted an "action" or "minor action" as defined by local ordinance, and whether the town of Chautauqua and its code enforcement officer complied fully with local zoning and environmental regulations.

According to the lawsuit's petitioners — the Committee to Preserve the Historic Chautauqua Amphitheater and five property owners on the institution grounds — the Amp project constituted an "action" because it greatly altered the size, footprint and function of the original Amp.

As a result, they argued, the town of Chautauqua and its code enforcement officer were mandated to — and failed to — comply with the local Waterfront Consistency Law and State Environmental Quality Review Act, both of which required a consistency and environmental review of the project, respectively, before permits were issued.

The respondents — the Chautauqua Institution Board of Trustees, the code enforcement officer for the town of Chautauqua and Chautauqua Town Board — argued that the Amp project constituted a "minor action" because it fell within the ordinance's definition of a "replacement, rehabilitation, or reconstruction" of a similar structure in the same location.

As a result, they argued, the project is exempted from any consistency and environmental reviews.

Sedita, before rendering his decision, described the cost of the project and the controversy surrounding it as "irrelevant under the law." He ruled in favor of the respondents, indicating that the project did indeed constitute a "minor action."

"This is not a mindless demolition of a treasured historical building for the purpose of replacing it with a 'Lego-like' replica," Sedita said. "In my opinion, the Amp project constitutes a 'minor action,' and as such, is exempt from the (Waterfront Consistency Law and State Environmental Quality Review Act)." See AMP, Page A3

"Dunkirk will now be an advanced pharmaceutical manufacturing and high-tech research town."

New Dawn In Dunkirk



Cuomo, Athenex Officials Announce Plan For Pharmaceutical Facility

By GREG FOX
editorial@post-journal.com

DUNKIRK — Dunkirk and northern Chautauqua County are on the precipice of playing a critical role in the fight against cancer.

In his second visit to the area as governor of New York, Andrew Cuomo announced the creation of 900 well-paying jobs associated with a state-of-the-art, 300,000-square-foot pharmacy oncology manufacturing facility to be built off Route 5 in the east town of Dunkirk.

Athenex — a global specialty oncology pharmaceutical company — will invest a minimum of \$1.52 billion in the Dunkirk plant to manufacture high-potency oncology drugs for shipment, as well as oncology pharmaceutical products that often show up on the U.S. Food and Drug Administration's drug shortage list. The State University of New York Polytechnic Institute will kick in \$200 million to create the state-owned facility, according to a news release from the governor's office. See DUNKIRK, Page A3



Gov. Andrew Cuomo announced a \$200 million commitment by the state to help bring a state-of-the-art, 300,000-square-foot pharmacy oncology manufacturing facility to Dunkirk during a press conference in the Dunkirk High School on Thursday. Pictured above is a rendering of Athenex's facility. Photo above by Greg Fox

MAKING AN IMPACT

- State-of-the-art, 300,000-square-foot pharmacy oncology manufacturing facility in Dunkirk
- 900 well-paying jobs
- \$200 million investment by the state
- \$1.52 billion investment by Athenex
- Construction of the facility off Route 5 in the east town of Dunkirk could begin as early as April
- Full compliment of 900 employees expected three to five years after construction is complete

YMCA CEO, Eastside YMCA Board Chairman Discuss Former Branch Manager, Budget

By DENNIS PHILLIPS
dphillips@post-journal.com

Dozens of city residents concerned about the future of the Eastside YMCA heard more information about the firing of the branch's manager and future financing for the facility Thursday.

During the community meeting, Mark Eckendorf, Jamestown Area YMCA chief executive officer, and the Rev. Alfonso Pagan, Eastside YMCA advisory board chairman, discussed the firing of Max Martin, former branch manager.

They also discussed financing for the facility following the news that one of the three foundations that fund the Eastside YMCA will be pulling their financing in 2017. Much of the discussion took place in both English and Spanish so all those in attendance could be included in the community dialogue.

Eckendorf and Pagan both started by delivering statements before taking questions.

"We are your advocates," Eckendorf told those in attendance. "We all need to be on the same team."

Eckendorf said he would not go into specific details publicly about why Martin was fired as branch manager. He said he discussed the decision with both the heads of the Jamestown Area YMCA board of directors and the board of trustees. He added that he didn't discuss Martin being fired with Pagan as head of the advisory board for the Eastside YMCA. He said he didn't discuss the decision with Pagan because of his close relationship with Martin. See YMCA, Page A3

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QUESTION OF THE DAY

Does news of the Athenex plant in Dunkirk have you optimistic for the county's future?

To give your answer, go to
<http://www.post-journal.com>

Today's Thought

"Men make history and not the other way around. In periods where there is no leadership, society stands still."

— Harry S. Truman,
American president (1884-1972)

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AREA NEWS

Cuomo Offers Choice Words For NRG

BY GREG FOX
editorial@post-journal.com

DUNKIRK — During his visit to Dunkirk on Thursday, New York state Gov. Andrew Cuomo did not mince words with his thoughts on the mothballing of the NRG Energy Inc. plant.

Cuomo offered sharp criticism of the company when asked about the issue while speaking with the media. He suggested the New Jersey-based power company may not be fit to do business in New York if it decides to act in the way it currently is acting and accused NRG of pulling the wool over the public's eyes.

"We had conversations with NRG and we extended state support to NRG on the belief that NRG would be converting to a gas plant," he remarked. "That was the basis of the relationship. NRG then decided, for one reason or another, that they didn't want to go ahead with the plan. The state had shown accommodations to NRG. In the meantime, we're going to be losing jobs in Western New York, we're going to be losing tax payments, and again, we have an energy sector that these energy companies, when they can make big profits, they do it, and when the profit is not as big, they're quick to close up shop and move on. We made accommodations on the premise that they wouldn't be closing up shop. And NRG, these big companies have the attitude that they can do whatever they want to do and then they move on."

Cuomo submitted a letter to the state Public Service Commission calling for an investigation into the power company's decision to hold off on repowering.

"What I said to the PSC is I want a full investigation," he noted. "I want to know if we have any rights to go back at NRG. I'm a lawyer, I was the former attorney general, and I believe there's a case that they defrauded the people of the state of New York. And then I said to the PSC if this is how NRG wants to do business, frankly, I don't think they should be doing business in the state of New York — we don't have them here — and then let's see what NRG does if they can't be in New York, which is one of the biggest markets in the country."

NRG spokesperson David Gaier previously told the OBSERVER the company was "surprised" by Cuomo's "attack" in his letter to the PSC.

"NRG's Dunkirk facility kept the lights on in Western New York for the past two years, based on a 2012 contract approved by the Governor's own Public Service Commission," he added. "Over that time our Dunkirk employees delivered near flawless performance — at the price agreed to in advance by the state."

"NRG has invested in the Dunkirk facility and the local community, and we made more than \$16 million in property tax payments over the past two years. We stand by everything we've done to support the power grid and ratepayers in Western New York."

The repowering project has been in limbo for over a year, at least partially due to a lawsuit filed by competitor Entergy Corp., a Louisiana-based company that owns a nuclear power plant in Oswego, claiming the state interfered with the energy market to keep the Dunkirk plant up and running.



Pictured from left are the Rev. Alfonso Pagan, Eastside YMCA advisory board chairman, and Mark Eckendorf, Jamestown Area YMCA chief executive officer, during a community meeting Thursday at the Eastside YMCA following the firing of Max Martin, former Eastside YMCA branch manager. P-J photo by Dennis Phillips

YMCA

From Page A1

Pagan said the decision not to address the firing of Martin with the advisory board is what is most upsetting. He said, under local YMCA protocol, Eckendorf didn't have to discuss the decision with the advisory board.

"When he didn't consult us, he shut down our voices," Pagan said. "This is not how you do business with people."

As a way of informing the Jamestown Area board of directors about how displeased the Hispanic community is about the firing of Martin, Pagan said they are circulating a petition for people to sign to give to the board. Pagan said if the Spanish-speaking community doesn't voice their displeasure about Martin's firing, who is closely connected to the Hispanic community, a similar situation could happen again. Eckendorf said he feels it is a mistake to sign the petition, but respects the community's right to do so.

When discussing why Martin was fired, Dan Soderberg, Eastside YMCA advisory board member, said he too was upset about the decision. However, after hearing the news, he called some of the local foundations to find out why they would be pulling their funding. Soderberg said he was told they were not happy with some of the decisions Martin was making running the Eastside YMCA. He didn't say which foundations he spoke to or what Martin did that made them unhappy.

Pagan said it is unfair for local foundations to judge how the Eastside

"I'm not going to be quiet anymore."

• **Rev. Alfonso Pagan**
Eastside YMCA advisory board chairman

YMCA operates because they don't know the specific details about how the facility is managed. He said a "cookie-cutter" formula doesn't work the same for all organizations. He added that, of the 110 members on boards for local foundations, only two are either African-American or Hispanic, with Martin being the one Hispanic board member. Pagan didn't give details on the specific local foundations he was referring to when discussing the diversity of foundation boards.

"I'm not going to be quit anymore," Pagan said about the low number of minorities included on foundation boards.

Eckendorf said he doesn't believe foundations should be attacked. He said they provide needed funding to many worthy causes in the community.

"If you attack them, I don't think that is a good thing," he said.

When discussing the financial outlook for the Eastside Y, Eckendorf said the facility has a budget of \$150,000. He said with a budget that size, the facility cannot afford to have a branch director. He said John Barber, who runs the Eastside YMCA's middle

school academy and also does work for the Jamestown Area YMCA, will become the facility's new operations manager. Eckendorf said they will also hire a bilingual youth program coordinator in the near future.

The YMCA's staff will be working to find new funding for 2017, Eckendorf said. He said the one foundation that is cutting their funding won't be granting the facility \$75,000 next year. That is half the annual budget for the facility.

Eckendorf said 13 years ago the Jamestown Area YMCA took over the Eastside YMCA after 2XL, a family-centered youth development program utilizing arts and boxing, could no longer continue operating the facility on their own. He said when other YMCA administrators from other locations visit Jamestown, they state that the Eastside YMCA is the model example for how a YMCA facility is supposed to incorporate the community. The Eastside Y provides programming for youth through after-school programs and families as an outreach center for Jamestown's Hispanic community.

Amp

From Page A1

Sedita said he will compose a more detailed, written decision this weekend. It will be issued at a later date.

George Murphy, vice president of the Chautauqua Institution, said he was pleased with the court's decision.

"It was a very thorough discussion ... (and) we're excited to be able to move forward," he said. "We're on a very tight schedule between now and June, and this allows us to not lose (anymore) time so we can make sure we can complete the project next year."

The respondents were represented by Buffalo attorney Richard Moore, Jamestown attorney Sam Price and Westfield attorney Joel Seachrist.

Buffalo attorney Arthur Giacalone, who represented the petitioners, said he wasn't expecting a decision that essentially ended the lawsuit, but rather one that dealt solely with the preliminary injunction.

"I was assuming that the worst-case scenario would be a lifting of the temporary restraining order and we would be back in court as early as next week to address the merits," he said. "I guess I wasn't quite correct on that prediction."



Pictured is the Hon. Frank A. Sedita III, justice of the State Supreme Court, who lifted the temporary restraining order on the Amp renewal project and denied a preliminary injunction. P-J photo by A.J. Rao

Giacalone said he will consult with his clients as to whether to appeal the decision or to make a motion for reargument. The latter involves a motion to request to a lower court judge to reconsider their decision on the issue.

Brian Berg, chairman of the Committee to Preserve the Historic Chautauqua Amphitheater, said the court's decision was a "travesty," and would proceed to destroy Chautauqua's "most sacred structure and one of the nation's most historic places."

"Had leadership of the Institution been truly interested in a solution that united the community, it would have explored preservation options openly and sincerely with experts and stakeholders," Berg said. "Instead a deeply divided community will get a \$41.5 million structure devoid of the original Amp's authenticity and history. We fundamentally believe Chautauqua deserves better."

Preliminary staging and preparations for the Amp project were supposed to begin on Feb. 1. Murphy said that the institution has absorbed costs of approximately \$75,000 because of the delay.

The preliminary phase is scheduled to be completed in June and not expected to affect the summer season at the institution. Major construction will continue after the summer season.



Gov. Andrew Cuomo is pictured in a media scrum following Thursday's announcement in Dunkirk. Photo by Greg Fox

Dunkirk

From Page A1

"This is really an historic moment; it's a game changer for Dunkirk and something like this doesn't happen too often in one's lifetime," Cuomo told an invigorated crowd in the Dunkirk High School auditorium Thursday.

"Cancer has touched so many millions of Americans; we're dealing with it now in my family. This couldn't come at a better time and in a better place."

"This is an economy that has been struggling for a long time and there's been very little hope and very little growth, but they never gave up, they kept working, we kept our eyes on the prize and today we have really fantastic news."

Cuomo added this project was birthed several years ago, beginning with the Buffalo Billion initiative to revitalize the Buffalo area economy. He also dispelled cynicism by arguing Athenex began in Western New York and has committed to keeping its roots here for years to come.

"We started in Buffalo, per se, because that's where the economic engines were," he explained. "We started building and building and building and we said we're going to generate such ener-

gy that you're going to see it is going to have a positive impact on the entire region. And you know what you see today? A positive impact on the entire region."

The state's \$200 million investment in Dunkirk is included in Cuomo's budget proposal. He pledged not to sign the state Legislature's version of the budget if it does not include that funding.

Wearing a pink-ribbon lapel pin, Athenex CEO and Chairman Dr. Johnson Lau expressed optimism for Dunkirk's future.

"Some of the most advanced cancer medicines in the world will be produced here and shipped all over the world, and I think we should all be proud of it," he said. "Of course, all of this exciting news is truly the result of collaboration and support between the public and private sectors. We would like to thank the political leaders, as well as the residents of Western New York ... who have believed in the potential of this region and invested in this infrastructure ... and the tremendous workforce; we've been here many times, we've stayed in coffee shops and talked to people. We like the people here."

Lau noted construction on the facility may begin as soon as April, with all 900 jobs in place within three to five years after the construction phase.

In addition to the Dunkirk facility, Athenex will occupy 51,000 square feet of space on the Buffalo Niagara Medical Campus in the city of Buffalo under a long-term lease for its North American headquarters, a formulation product development center and a pilot plant, where oncology products are perfected and refined before the technology is transferred to Dunkirk for large-scale production.

SUNY Poly will chip in \$25 million to expand and improve the lease space, while Athenex will invest a minimum of \$100 million, thus creating an estimated 500 additional jobs in Buffalo.

"Because of Gov. Andrew Cuomo, Dunkirk — once a steel, railroad and smoke-stack town — will now be an advanced pharmaceutical manufacturing and high-tech research town, and the state's job-creation machine — a 21st-century, high-tech and innovation corridor across upstate — now spans from Albany to right here in Dunkirk," stated Dr. Alain

Kaloyeros, founding president and CEO of SUNY Poly. "A facility of this caliber, one that can meet the stringent standards of the FDA, has not been constructed in the United States in more than 15 years."

State Sen. Catharine Young, R-Olean; Assemblyman Andrew Goodell, R-Jamestown; U.S. Rep. Tom Reed, R-Corning; and Dunkirk Mayor Willie Rosas applauded Cuomo for his commitment to Dunkirk and Chautauqua County.

"Today is a new dawn in Dunkirk and for all of Chautauqua County," Young said. "I've had so many conversations with Gov. Cuomo about bringing that opportunity and optimism (the Buffalo Billion has created) to the Southern Tier. And you know what, governor? You listened and you cared and you acted and that's what today is all about. It's about action and progress. Thank you so much for all that you're doing for us. We are thrilled."

Athenex was founded at the University of Buffalo and expanded in 2003 with a 10-year funding stream committed by more than 100 businesses and medical leaders in upstate New York, the governor's news release stated.

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