

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

January 18, 2012
6:00 P.M.

Mayor Michael W. Tucker called the meeting to order.

ROLL CALL

The following Common Council members answered the roll call:

Aldermen Kibler, Lombardi, McCaffrey, Fogle, Schrader, and Genewick.

RECESS

Recess for public input.

011812.1

APPROVAL OF MINUTES

On motion of Alderman Kibler, seconded by Alderman Lombardi, the minutes of the Regular Meeting of January 4, 2012 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

FROM THE MAYOR

Resignations:

1/8/12 John Lombardi III, 329 Chestnut Street, Lockport, NY – resigned as a member of the Zoning Board of Appeals, and as a member of the Fire Board.
Received and filed.

Appointments:

1/5/12 Eileen C. Koszelak, 197 Lindsay Place, North Tonawanda, NY – appointed as a Commissioner of Deeds. Said term expires December 31, 2013.
Received and filed.

1/9/12 Sheila M. Tracy, 19 Grosvenor Street, Lockport, NY – appointed as a member of the Zoning Board of Appeals. Said term expires November 15, 2014.
Received and filed.

1/9/12 Nancy Babis, 138 Grant Street, Lockport, NY – appointed as a member of the Zoning Board of Appeals to fill the unexpired term of John Lombardi III. Said term expires November 15, 2013.
Received and filed.

1/9/12 Allan W. Jack, 71 Erie Street, Lockport, NY – appointed as a member of the Zoning Board of Appeals. Said term expires November 15, 2014.
Received and filed.

1/10/12 Flora McKenzie, 199 West Avenue, Lockport, NY – appointed as a member of the Police Board. Said term expires December 31, 2015.
Received and filed.

1/11/12 Michael Carney, 407 Bennett Street, North Tonawanda, NY – appointed as a Commissioner of Deeds. Said term expires December 31, 2013.
Received and filed.

FROM THE CITY CLERK

The Clerk submitted payrolls, bills for services and expenses, and reported that the Department Heads submitted reports of labor performed in their departments.
Referred to the Finance Committee.

Communications (which have been referred to the appropriate City officials)

1/5/12 Sam Pasceri, Race Director, Resurrection Racing, 531 Walnut Street, Lockport, NY – request permission to conduct the 3rd annual Winter Beast of Burden Ultra Marathon on Saturday, January 21, 2012. Referred to the Committee of the Whole

1/9/12 Richelle J. Pasceri, City Clerk – The following bid proposal for Automated Gasoline and Diesel Fuel Services was received and opened on January 6, 2012:

NOCO Energy Corp., 2440 Sheridan Drive, Tonawanda, NY

Gasoline differential (markup above OPIS)	.13 per gallon
Diesel differential (markup above OPIS)	.13 per gallon

Referred to the Committee of the Whole

Notice of Defect:

1/11/12 234 Church Street, Lockport, NY – tree
Referred to the Highways & Parks Department.

Notice of Claim:

1/9/12 Bonnett Golson, 166 Spalding Street, Lockport, NY
Referred to the Corporation Counsel.

1/12/12 Niagara County Planning Board, 6311 Inducon Corporate Drive, Sanborn, NY – notification of the Niagara County Planning 2012 meeting schedule.
Referred to the Building Inspection Department.

MOTIONS & RESOLUTIONS

011812.2

By Alderman Genewick:

Resolved, that the Mayor and City Clerk be authorized to issue orders in favor of the claimants for payrolls, bills, and services to be paid on January 20, 2012.

Seconded by Alderman Lombardi and adopted. Ayes 6.

011812.3

By Alderman Genewick:

Resolved, that claims authorized for payment by the Director of Planning and Development, and subsequently paid from the Community Development Escrow Account, be and the same are hereby approved.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

011812.4

By Alderman Lombardi:

Resolved, that pursuant to their request, Resurrection Racing is hereby granted permission to use the rest room facilities and pavilion at Nelson C. Goehle Wide Waters Marina on Saturday, January 21, 2012, for a resting shelter for the Beast of Burden Winter race. Said permission is subject to Resurrection Racing filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, and be it further

Resolved, that the Highways and Parks Department is hereby authorized and directed to prepare the restroom facilities for said event and to deliver barricades to close off the parking lot.

Seconded by Alderman Fogle and adopted. Ayes 6.

011812.5

By Alderman Genewick:

RESOLVED, that in accordance with the New York State Environmental Quality Review (SEQR) regulations, the Common Council of the City of Lockport considered the "Harbor and Marine Center Final Feasibility Report" prepared with funding from the NYS Department of State under Title 11 of the Environmental Protection Fund. The Feasibility Report evaluates the potential development of a Harbor and Marine Center on the Erie Canal between West Genesee Street and Stevens Street, which would include dockage, electrical and potable water service, sanitary pump-out, a boater services building, picnic facilities, pedestrian trail and bicycle accommodations, signage and interpretive elements, access, parking, and boater fueling (possible).

FURTHER RESOLVED, the Common Council has determined that the proposed action is a Type II action, as defined under SEQR. The project qualifies as a Type II action as it consists of information collection and a study which does not commit the City to engage in or approve an action, as described in Section 617.5(c)(18) and (21) of the SEQR regulations. As Type II actions are not subject to review under SEQR, the Common Council will take no further action with regard to SEQR at this time.

Seconded by Alderman Schrader and adopted. Ayes 6.

011812.6

By Alderman Schrader:

Resolved, that permission be and the same is hereby granted the Optimist Club of Lockport to conduct their Annual Lockport Optimists Arts and Craft Show on June 23rd and 24th, 2012 from 10:00 A.M. until 5:00 P.M. (street closing from 8:00 A.M. until 7:00 P.M.) with the following provisions:

- (1) The Lockport Optimist Club shall issue exhibitor's permits to arts and crafts exhibitors, vendors and peddlers, and to insure public safety and order and to avoid overcrowding of the exhibit areas, no other exhibits, displays, vendors or peddlers shall be permitted within the show area, whether located on public or private property, and the Lockport Optimist Club shall enforce this ban with the cooperation of the Lockport Police Department.
- (2) The Police Department is hereby directed to enforce the removal of all concessionaires, vendors, or peddlers from the show area not possessing an exhibitor's permit.
- (3) The show area shall include the blocks on Main Street from Washburn Street west to Saxton Street.
- (4) The Lockport Optimist Club shall file a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, subject to the approval of the Corporation Counsel, and be it further

Resolved, that the Highways & Parks Department is hereby authorized and directed to deliver and pick-up City barricades and trash receptacles as needed, and be it further

Resolved, that permission is granted the Optimist Club to use the Police Garage for storage of a golf cart overnight on Friday and Saturday night, June 22nd and 23rd, 2012 subject to the approval of the Chief of Police.

Seconded by Alderman Kibler and adopted. Ayes 6.

011812.7

By Alderman Genewick:

Resolved, that the bid proposal of NOCO Energy Corp., 2440 Sheridan Drive, Tonawanda, NY received on January 6, 2012 for Automated Gasoline and diesel Fuel Services be accepted at the following costs:

Gasoline differential (markup above OPIS)	.13 per gallon
Diesel differential (markup above OPIS)	.13 per gallon

Seconded by Alderman Lombardi and adopted. Ayes 6.

011812.8

By Alderman Kibler:

Pursuant to and in connection with Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, the City of Lockport has fully considered the various options available to it for the adoption of eligible deferred compensation plans, including adoption of the State Plan, the Model Plan, and individually designed plans, and desires to

adopt the Model Plan which shall be known as the Deferred Compensation Plan for Employees of the City of Lockport; and

Whereas, the City of Lockport has appointed a Deferred Compensation Committee (the "Committee") to act on behalf of the City of Lockport; and

Whereas, the Committee has solicited and evaluated competitive proposals of Administrative Service Agencies and Financial Organizations, including Financial Organizations providing trust and trustee services, in accordance with the Regulations; now, therefore, be it

Resolved, that the City of Lockport hereby selects AXA Advisors to serve as trustee, and, be it further

Resolved, that AXA Advisors is appointed the Administrative Service Agency and AXA Advisors as the Financial Organization, and, be it further

Resolved, that pending notification of the Deferred Compensation Board in accordance with Section 9003.3 (c) of the Regulations, the Committee is hereby authorized and directed to enter into appropriate contracts with AXA Advisors, and to enter into other contracts as may be necessary or appropriate to effect the foregoing. In no event shall these contracts be of greater duration than five (5) years, and every contract or agreement entered into shall contain a provision that the agreement or contract is subject to the Regulations and the Model Plan.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

By Alderman Fogle:

Resolved, that the reading of the foregoing resolution be and the same is hereby waived.

Seconded by Alderman Schrader and adopted. Ayes 6.

011812.9

By Alderman Kibler:

Resolved, that the following Rules and Order of the Common Council are hereby adopted:

RULES AND ORDERS OF THE COMMON COUNCIL

1. Roll Call. At the hour appointed for the meeting of the Council, the Mayor shall take the chair and direct a call of the members of the Council, and the Clerk shall note the absentees. Upon the appearance of a quorum, the Mayor shall call the members to order. If a quorum be not present, he shall send for absent members. Following shall be the

ORDER OF BUSINESS

- a. Reading of minutes. Reading and approval of the minutes preceding meeting; but a majority of the members present may approve of, or dispense with, the reading of the minutes of any previous meeting.
- b. Communications from the Mayor.
- c. Communications and reports of officers of the corporation.
- d. Petitions and remonstrances.

- e. Reports of Standing Committees, in the order named in rule.
- f. Reports of Special Committees.
- g. Committee of the Whole.
- h. Executive business.
- i. Motions, resolutions and notices.
- j. Unfinished business.

DUTIES OF THE MAYOR AS PRESIDING OFFICER

2. The Mayor, as presiding officer, shall possess the powers and perform the duties as herein prescribed, viz:
 - a. He shall preserve order and decorum.
 - b. Question of Order. He shall decide all questions of order, subject to appeal of the Council. On every appeal he shall have the right in his place to assign his reason for his decision; but any member may state the grounds for his appeal.
 - c. Appointment of Committees. He shall appoint all committees except where the Council shall otherwise order.
 - d. Temporary Chairman. He may substitute any member to perform the duties of the chair, but such substitution shall not extend beyond the adjournment of the Council, except by special consent of the Council.
 - e. Committee of the Whole. When the Council shall be ready to go into Committee of the Whole, he shall name a chairman to preside therein.
 - f. Privileges of the floor. He shall have the right to invite to the floor of the Council such persons as he shall deem deserving of the privilege; but the right of admission under such invitation shall not extend beyond the day on which it shall be given.
3. While a question is being put. While the presiding officer is putting a question, no member shall walk across or out of the room; nor in such case, or when a member is speaking, shall entertain any private discourse, nor, while a member is speaking, shall pass between him and the chair.
4. Speaking. Every member, when he speaks, shall, from his chair, address the presiding officer as Mr. Mayor, and shall not proceed until recognized by the Mayor; and no member shall speak more than twice to the same question, nor more than five minutes each time at the same meeting, without requesting and receiving the consent of a majority of the members present, by a roll call vote.

5. Speaker recognized. When two or more members request recognition simultaneously, the presiding officer shall name the member he wishes to speak first.
6. Call to order. Any member may be called to order; in which case the member so called to order shall immediately sit down. The point of order shall be stated at the request of the presiding officer, by the member raising the question of order, and shall be decided without debate, before proceeding to other business.
7. Vote. Every member shall vote when a question is stated from the chair, unless excused by the Council; and every member voting shall be in his place.
8. Petitions, etc. Petitions and other papers may be presented by the presiding officer or any member, but when presented by a member, he shall first endorse on the petition or paper the substance thereof.
9. Motions or Resolutions. No motion or resolution shall be debated or put until seconded, and no member shall make or second a motion or resolution except he request recognition from his chair for that purpose; and when seconded the motion or resolution shall be stated distinctly by the presiding officer, before being put or debated. No motion or resolution shall be presented for action, unless it has been submitted in writing to the Clerk by noon of the day of the Committee of the Whole work session prior to the Common Council meeting, excluding the work session the day of the Common Council Meeting, or unless by prior authorizations of the Mayor, City Clerk, and City Attorney and then by consent of two-thirds of the whole number of the Council, except that a motion or resolution referred to any committee may be recalled from that committee at any subsequent Council meeting by vote of a majority of the whole number of the Council . If any motion or resolution referred to a committee shall not have been reported out within forty-five days of the time when it was referred, then the sponsor of the motion or resolution may have it brought out for Council consideration without any committee report. Any motion or resolution may be withdrawn at any time before decision, commitment or amendment by unanimous consent.
10. Ayes and noes. If any member require it, the ayes and noes upon any question shall be taken and entered upon the minutes of the Council. In taking the same, the names of members shall be taken alphabetically.
11. Appointment of committees. All committees shall be appointed by the presiding officer, unless otherwise specially directed by the Council, in which case they shall be appointed by ballot.

PRIVILEGED QUESTIONS

12. Order of motions. When a question is pending, no motion shall be received, except as hereinafter specified; which motion shall have preference in the order stated, viz:
 - a. For an adjournment of the Council.
 - b. A call of the Council.
 - c. To lay on the table.
 - d. For the previous question.
 - e. To postpone indefinitely.

- f. To postpone to a day certain.
- g. To refer to the Committee of the Whole.
- h. To refer to a standing committee.
- i. To refer to a special or select committee.
- j. To amend.

13. Non-debatable motions. A motion to adjourn, lay on the table, or for the previous question, shall be decided without amendment or debate; and all questions of order, and all questions relating to the order of business, shall be decided without debate. The several motions to postpone or to refer, shall preclude all debate of the main question.
14. Reconsideration. A motion for reconsideration if lost, shall not again be repeated at the same meeting of the Council, nor shall any question be reconsidered more than once.
15. Executive business. Executive business shall be governed by Chapter 511 of the Laws of 1976.
16. Concerning applicant for office. All information, or any remarks by any member concerning the character or qualifications of any person whose name shall be before the council for an appointment to any office, shall be kept secret, and all proceedings and things of the Council, or any member thereof, in secret session, shall be kept secret until the Council shall remove all injunctions to secrecy.
17. Divisions of questions. If any question contains several distinct propositions, it may be divided by the chair.
18. Reading of paper. Any member may have any paper in possession of the council read, upon request, unless the same shall be objected to by some other member; and then the question shall be determined by a vote of a majority of the whole council, without debate.
19. Speaking to question. After the roll-call upon any question has commenced, no member shall speak to the question except to explain his vote, and then not to exceed five minutes; nor shall any motion be made until after the result is declared.
20. Committee's Report. No report shall be received from any committee unless the committee, or a quorum thereof, shall have met and considered the matter in a regular or special meeting of the committee.
21. Robert's Rule of Order. Whenever any question not covered by these rules shall arise, this council shall be governed by the parliamentary rules as laid down in Robert's Rule of Order.
22. Standing Committees The following standing committees shall be appointed by the Mayor at the commencement of the session, or as soon thereafter as may be practicable:

FINANCE COMMITTEE – to consist of Common Council members as appointed by the Mayor, and ex-officio members: City Treasurer, City Auditor, and City Budget Director.

PUBLIC HEALTH & SAFETY – to consist of Common Council members as appointed by the Mayor and ex-officio members: Police Chief, Fire Chief, and Chief Building Inspector.

HIGHWAYS & PARKS - to consist of Common Council members as appointed by the Mayor.

WATER & SEWER - to consist of Common Council members as appointed by the Mayor.

YOUTH – to consist of Common Council members as appointed by the Mayor and ex-officio members: Youth & Recreation Director and Youth Board member.

PERSONNEL – to consist of Common Council members as appointed by the Mayor and ex-officio member: City Clerk.

WASHINGTON HUNT - to consist of three members: Mayor and two aldermen as appointed by the Mayor.

The Common Council President shall be qualified to sit as a member of any standing committee whenever his or her presence will enable such committee to reach a quorum for the transaction of business.

23. Changing of Rules. No standing rule or order of the council shall be amended, repealed, rescinded, changed or superseded, except by a vote of two-thirds of the whole council, nor shall any new rule be added thereto, except by a like vote; but they may be suspended at any time by a two-thirds consent of the whole council.
24. Regular Meetings.
 - a. The regular meeting of the Council shall be held on the first and third Wednesday of each month, except when otherwise directed by resolution of the Common Council. The hour of meeting shall be 6:00 P.M., and if a quorum shall not be present at 6:30 P.M. the Common Council shall stand adjourned. The Committee of the Whole shall meet one hour prior to the start of the regularly scheduled Common Council meetings.
 - b. The Committee of the Whole work sessions if scheduled shall be held at 5:00 P.M. on the second, fourth and fifth Wednesdays of each month or any other day and time if so directed by the President of the Common Council.
25. Business of Special Meeting. It shall not be in order at any special meeting to proceed to any other business than that for which the meeting was convened, unless by unanimous consent of all members present.
26. Regular Committee Meetings. The standing committees shall have regular meetings for the transaction of committee business.

27. Report of Committees. It shall be the duty of the committees to report on every subject referred to them, within two weeks from the time of such reference, unless the time shall have been extended by the council.
28. General rules and regulations for the letting of contracts for materials, supplies, equipment or public works projects (including local public improvements).
1. After any materials, supplies, equipment or public works project shall have been ordered, the Common Council shall, at the time of adopting the ordinance therefor, or at anytime thereafter, give notice, or order and direct the same to be given, that proposals for the doing and completion of said work will be received.
 2. All notices shall be given by the City Clerk by publishing same in the official paper of this city.
 3. Notices for the receiving of proposals shall be of the following form - the blanks therein to be filled at the time of publication as necessities require:

NOTICE TO BIDDERS

City Clerk's Office, Lockport, New York

Sealed proposals shall be received by the undersigned at his office, Lockport Municipal Building, One Locks Plaza, Lockport, NY until (day), (date), at (time) for in accordance with the specifications made therefor and obtainable at the (appropriate City office).

Proposals must be for the amount in gross and include everything connected with the proposed materials, supplies, equipment or public works project being bid.

Each proposal must be accompanied by a certified check or bid bond in an amount equal to ten percent of the bid.

The Common Council hereby reserves the right to reject any or all proposals.

By order of the Common Council of the City of Lockport, N.Y.

City Clerk

4. No proposal after time expires. After the time in said notice specified for the reception of proposals shall have expired no further proposals for the work specified therein shall be received; and each and every plan and specification therein published shall be particularly and strictly observed by all concerned.
5. Proposals to be guarded. The City Clerk shall receive all proposals at his office in this City, and shall carefully guard and preserve the same unopened; he shall not permit either or any of them to be taken from his custody until such time and in such manner as the Common Council may order and direct.

6. Clerk to open. The Clerk shall publicly open and read the bids on the date and at the time specified in the Notice to Bidders.
7. Clerk to report to Council. The City Clerk shall submit a summary of those bids received and opened to the Common Council at its first regular meeting thereafter, under the order of "unfinished business."
8. Recess to examine. The Mayor may thereupon declare a recess, stating the duration thereof, in order that the members of the Council may critically examine each proposal.
9. Action on proposals. Upon re-assembling, the Common Council shall consider said proposal, and shall without adjournment take some action in relation thereto, either by accepting the proposal of the lowest responsible bidder, or by rejecting all bids, or by referring the same to some proper committee.
10. To again advertise. In case all bids are rejected, the Common Council shall again direct the publication of a notice to bidders, similar in all respects to that first advertised, and shall so continue to advertise for, receive and consider proposals for said items until by a vote of a majority of the council, a contract is finally awarded, except, however, in cases where the Common Council shall reconsider its action requiring such work to be performed by contract.
11. Certified Check or Bid Bond. Each proposal shall be accompanied by a certified check or bid bond in a sum not less than ten percent of the amount of the proposal. In the event the successful bidder fails to enter into contract within five days after being notified by the City Clerk, the check will be forfeited.
12. The Common Council reserves the right to reject any or all proposals.
29. Two-thirds vote to repeal. No legislative ordinance, act or resolution passed during any previous meeting of the current term of this council, shall be amended, repealed, rescinded, changed or superseded, in whole or in part, except by two-thirds vote of the whole Council.
30. Recess for public input. Following roll call at the Common Council meetings, any speaker desiring to speak at the Common Council meetings that signs up prior to the commencement of the meeting may be heard regarding city business on the Agenda for a period not to exceed 3 minutes with a 1 minute warning to conclude his or her speaking. At the close of the Common Council meeting any speaker that has signed up who desires to speak will be allowed to speak on matters concerning the General Welfare of the City for a period not to exceed 5 minutes with a 1 minute warning to conclude his or her speaking.

Seconded by Alderman Schrader and adopted. Ayes 6.

011812.10

By Alderman Kibler:

Resolved, that resolution 122111.10D be amended to include additional costs for 2” Run of Crusher Stone to LaFarge in the amount of \$398.56.

Seconded by Alderman Genewick and adopted. Ayes 6.

011812.11

By Alderman Kibler:

Resolved, that the Mayor and Common Council do hereby extend condolences to the family of James Beaver, a retired City of Lockport Highways and Parks Department employee who recently passed away.

Seconded by Alderman Genewick and adopted. Ayes 6.

011812.12

By Alderman Kibler:

Resolved, that the Corporation Counsel is hereby authorized and directed to prepare a Local Law relative to Chapter A192 Plumbing Rules and Regulations, and be it further

Resolved, that a public hearing be held at the Common Council meeting of February 1, 2012 starting at 6:00 P.M. in the Common Council Chambers, Lockport Municipal Building, One Locks Plaza, Lockport, NY relative to said local law, and be it further

Resolved, that the City Clerk is hereby authorized and directed to advertise notice of said public hearing.

Seconded by Alderman Lombardi and adopted. Ayes 6.

011812.13

ADJOURNMENT

At 6:34 P.M. Alderman Kibler moved the Common Council be adjourned until 6:00 P.M., Wednesday, February 1, 2012

Seconded by Alderman Schrader and adopted. Ayes 6.

RICHELLE J. PASCERI
City Clerk