

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

July 20, 2011
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, Pasceri, Smith, McKenzie, Chapman, and Genewick.

RECESS

Recess for public input.

072011.1

APPROVAL OF MINUTES

On motion of Alderman Pasceri, seconded by Alderman Kibler, the minutes of the Regular Meeting of July 6, 2011 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

PUBLIC HEARING
Refuse and Recycling Ordinance

The Mayor announced a public hearing on a proposed local law #2011-4 to amend the City Charter relative to Refuse and Recycling.

The Mayor asked the City Clerk if any petitions or communications relative to the proposed local law have been received.

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)

7/11/11 Eddie Griffin, Project Manager, GXT, 1130 E. Arapaho Road, Suite 210, Richardson, TX – request permission to install a fiber optic cable in the City's right-of-way along Hinman Road to serve the Yahoo Data Center in the Town of Lockport. Referred to the Committee of the Whole.

Notice of Defect:

7/6/11 123 Erie Street, Lockport, NY – tree
7/19/11 162 Monroe Street, Lockport, NY – trees
7/20/11 193 East Avenue, Lockport, NY – abandoned traffic pole
Referred to the Highways & Parks Department.

Notice of Claim:

7/14/11 Ralph A. Smith, 112 Prospect Street, Lockport, NY
7/15/11 Daniel Lopez, 128 Pound Street, Lockport, NY
7/18/11 McIntosh & McIntosh, P.C. 429 Pine Street, Lockport, NY
Referred to the Corporation Counsel.

Petition: (Small Claims Assessment Review)

7/18/11 Gregory J. McGowan, 45 West Remick Pkwy, Lockport, NY
Referred to the City Assessor.

MOTIONS & RESOLUTIONS

072011.2

By Alderman Kibler:

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 July 22, 2011.

Seconded by Alderman Pasceri and adopted. Ayes 6.

072011.3

By Alderman Kibler:

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

Seconded by Alderman McKenzie and adopted. Ayes 6.

072011.4

By Alderman Pasceri:

Resolved, that pursuant to their request, permission is hereby granted the Lakeview Parkway Association to barricade Lakeview Parkway on Saturday, July 30, 2011 for a block party, and be it further

Resolved, that the Highways & Parks Department be and the same is hereby authorized and directed to deliver barricades, picnic tables and trash barrels to the area prior to said event.

Seconded by Alderman Genewick and adopted. Ayes 6.

072011.5 WITHDRAWN (Local Law #2011-4 Refuse and Recyclable Code)

072011.6

By Alderman McKenzie:

Whereas, the City of Lockport owns a strip of land at the intersection of Niagara Street and South Niagara Street consisting of area of 8 feet by 30 feet, and

Whereas, Michael J. D’Addeo of 38 South Niagara Street owns the adjoining parcel of land and operates a business there, and

Whereas, Mr. D'Addeo needs the small parcel of land to park vehicles on as part of his business, and

Whereas, the above parcel of land has no use or value to the City and would benefit the City if it were returned to the tax roll, and

Whereas, there is a second area of land directly south of the south line of South Niagara Street and adjacent to Mr. D'Addeo's property that he currently parks cars on as part of his business, and

Whereas, Mr. D'Addeo has blacktopped the area under the belief that the land belonged to him, and

Whereas, the City does not desire to transfer title of the same to Mr. D'Addeo but will grant a revocable permit to continue to park on said strip of land conditioned upon Mr. D'Addeo obtaining a certificate of insurance naming the City of Lockport as an additional named insured, now therefore be it

Resolved, that the Mayor be and is hereby authorized and directed to execute a Quit Claim deed from the City to Michael J. D'Addeo for a parcel of land at the intersection of Niagara Street and South Niagara Street consisting of approximately 8 feet by 30 feet in size for the sum of \$1.00, and be it further

Resolved, that Michael J. D'Addeo be and is hereby granted a revocable permit to park cars on the area of land directly south of the south line of South Niagara Street and adjacent to Mr. D'Addeo's property subject to the following provisions:

that upon motion of the Common Council, duly adopted by a majority vote only, and thirty days notice from the City Clerk, the cars must be removed,

filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, leaving the City free and clear of all liability in connection therewith,

payment of the revocable permit fee of \$100.00 renewable annually.

Seconded by Alderman Pasceri and adopted. Ayes 6.

072011.7

By Alderman Chapman:

Resolved, that pursuant to the recommendation of the project engineer from Wendel Duchscherer, the bid proposals received on May 20, 2011, for the Enhanced Blower System Demonstration Project at the City of Lockport's Wastewater Treatment Plant be accepted as follows:

Part A – Electrical – O'Connell Electrical Co., Lancaster, NY \$199,990.00

Part B – Plumbing – John W. Danforth Co., Tonawanda, NY \$442,900.00

Cost of same to be charged to account # 004-0520-0076.

Seconded by Alderman Kibler and adopted. Ayes 6.

072011.8

By Alderman Genewick:

Resolved, that pursuant to their request, permission is hereby granted the residents of Elmira Street to barricade Elmira Street from Harrison Avenue to Massachusetts Avenue on Sunday, August 28, 2011 for a block party, and be it further

Resolved, that the Highways & Parks Department be and the same is hereby authorized and directed to deliver barricades to said area prior to said event.

Seconded by Alderman McKenzie and adopted. Ayes 6.

072011.9

By Alderman Kibler:

Resolved, that resolution #111710.11B, regarding the sale of 154 Gooding Street, adopted by the Common Council at their November 17, 2010 meeting, be amended to add the following:

Resolved, that the purchaser shall be responsible for the preparation and submission to the City for recording and filing by the purchaser all title documents such as the Quit Claim Deed, Equalization Form, and Transfer Gains Tax Form and the closing must be within 60 days of the date of this resolution.

Seconded by Alderman Pasceri and adopted. Ayes 6.

072011.10

By Alderman Kibler:

Whereas, a Municipal Building elevator suffered a major failure, and

Whereas, repair to said elevator has caused a deficit in the General Fund's Building Maintenance Budget, and

Whereas, there exists certain building maintenance Capital Cash Accounts with funds available for use, and

Whereas, the City Treasurer has recommended a transfer of \$12,379.34, for use in the General Fund Budget, and

Whereas, the Board of Estimate and Apportionment agrees and concurs with an increase in General Fund Revenue line item, 01 2770 (Miscellaneous), now therefore be it

Resolved, that the City Treasurer be and the same is hereby authorized to transfer \$10,265.86 from Capital Cash Account # 004-0004-0200-0086 and \$2,113.48 from Capital Cash Account # 004-0004-0200-0058 and transfer same to General Fund Budget Account # 01 1620.450 (Repairs to Building and Grounds- Muni), and be it further

Resolved, that the 2011 General Fund Budget be amended to reflect the above.

Seconded by Alderman Genewick and adopted. Ayes 6.

072011.10A

By Alderman Kibler:

Whereas, section C-15 of the Charter states that the salary of an elective officer may be changed by the Common Council in the month of July, preceding the general election at which candidates for such office are to be voted for, but at no other time, and such change in salary shall not become effective until the first day of January following such election, and Now therefore be it

RESOLVED, that the salary of the office of Treasurer shall be fixed as follows commencing January 1st of each year:

2012	\$71,538
2013	\$74,757
2014	\$78,121
2015	\$81,636

Seconded by Alderman McKenzie and adopted. Ayes 6.

072011.10B

By Alderman Pasceri:

Resolved, that pursuant to the request of GXT on behalf of Intellifiber Networks, to design a fiber optic route to serve the Yahoo Data Center at 5163 Enterprise Dr. in the Town of Lockport, permission is hereby granted GXT, to install a fiber optic cable within the City of Lockport's right-of-way at the ***nationGrid sub-station located on Hinman Rd. approximately 3,200 feet southwest of Hwy 93/Upper Mountain Road***, and be it further

Resolved, that the Mayor, subject to Corporation Counsel approval, be and he is hereby authorized to execute an easement agreement with Yahoo Data Center for the purposes of Yahoo maintaining a fiber optic line in the City's right-of-way on Hinman Rd.

Seconded by Alderman McKenzie and adopted. Ayes 6.

072011.10C

By Alderman Pasceri

Whereas, National Night Out has proven to be an effective, inexpensive and enjoyable program to promote neighborhood spirit and police-community partnerships for a safer nation, and

Whereas, National Night Out is August 2, 2011 and it is projected to reach 37 million people in 15,000 communities in all 50 states, U.S. territories, Canada, and military bases throughout the U.S. and around the world, now therefore be it

Resolved, that August 2, 2011 be designated as National Night Out in the City of Lockport, and be it further

Resolved, that the Lockport Police Department be given permission to utilize the Municipal Building Parking Lot for this event, and be it further

Resolved, that the Highways & Parks Department be and the same is hereby authorized and directed to deliver barricades to said area prior to said event.

Seconded by Alderman McKenzie and adopted. Ayes 6.

By Alderman Kibler:

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

Seconded by Alderman Pasceri and adopted. Ayes 4, Nays 2 – Ald Chapman & Smith.

072011.10D

By Alderman Pasceri:

WHEREAS, a former employee, Michael Hoffman, commenced litigation against the City of Lockport pursuant to Article 78 of the Civil Practice Law and Rules seeking, among other things, payment of three months wages, vacation pay, sick leave reimbursement, Personal day pay, Longevity, and accreditation of service time for making him eligible for lifetime medical benefits, and

WHEREAS, the City of Lockport pursuant to the employees collective bargaining agreement paid the employee after leaving his employment for three personal days in the amount of \$797.97 and 10 of the 15 vacations days sought (\$2,659.90), and

WHEREAS, on July 13, 2011, the Niagara County Supreme Court rendered a decision in favor of the employee on his first cause of action granting him: (a) three months pay (\$16,225.45), (b) accreditation of service time for ninety (90) days with no break in service thereby giving the employee more than five years of service with the City and making him

eligible for retirement under the New York State Retirement System and eligible for lifetime medical benefits; and (c) 5 additional days of vacation days (\$1,330), and

WHEREAS, the City has the right to appeal the courts finding under the first cause of action in said litigation, and

WHEREAS, the matter is presently scheduled for a fact finding hearing in the month of August on the employee's second cause of action for wrongful discharge, and

WHEREAS, on Friday, July 15, 2011 the Corporation Counsel's office and Insurance Defense Counsel evaluated the case based upon the discovery of additional evidence, and

WHEREAS, the Corporation Counsel met with the employee's attorney that day and reached a settlement of the case, and

WHEREAS, the Corporation Counsel's office hereby advises the Common Council to authorize the following settlement:

A. Under the First Cause of Action:

Payment of (a) three months pay (\$16,225.45), (b) accreditation of service time for ninety (90) days with no break in service thereby giving the employee more than five years of service with the City and making him eligible for retirement under the New York State Retirement System and eligible for lifetime medical benefits; (c) 5 additional days of vacation pay (\$1,330); (d) longevity pay in the amount of \$450; (e) sick leave credit reimbursement in the amount of \$10,041.16; and

B. Under the Second Cause of Action

The sum of \$45,000 payable as follows: (a) \$25,000 from the City of Lockport and (b) \$20,000 from the City's insurance company.

NOW THEREFORE BE IT

RESOLVED, that the Corporation Counsel's office is hereby authorized to settle the entire litigation with Michael Hoffman and his attorney as follows:

- (a) payment of three months pay (\$16,225.45),
- (b) accreditation of service time for ninety (90) days with no break in service thereby giving the employee more than five years of service with the City and making him eligible for retirement under the New York State Retirement System and eligible for lifetime medical benefits; and
- (c) 5 additional days of vacation days (\$1,330);
- (d) longevity pay in the amount of \$450;
- (e) sick leave credit reimbursement in the amount of \$10,041.16; and
- (f) payment of the sum of \$45,000 payable as follows: (i) \$25,000 from the City of Lockport and (ii) \$20,000 from the City's insurance company.

Seconded by Alderman Kibler and adopted. Ayes 6.

072011.10E

By Alderman Kibler:

Resolved, that resolution #072011.7 be amended to add a 5% contingency.

Seconded by Alderman McKenzie and adopted. Ayes 4, Nays 2—Ald Chapman & Smith.

072011.11

ADJOURNMENT

At 7:00 P.M. Alderman Pasceri moved the Common Council be adjourned until 6:00 P.M., Wednesday, August 3, 2011.

Seconded by Alderman McKenzie and adopted. Ayes 6.

RICHARD P. MULLANEY
City Clerk