

August 3, 2011

A regular monthly meeting of the Lockport Town Board was conducted at 7:30 p.m. on Wednesday, August 3, 2011, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith

Town Council members: Cheryl A. Antkowiak  
Paul H. Pettit  
Mark C. Crocker  
Paul W. Siejak

Also present: Nancy A. Brooks, Town Clerk, David Miller, Highway Superintendent, Judith Newbold and Carol Stuart, Deputy Town Clerks.

Following the Pledge of Allegiance, Supervisor Smith opened the meeting as follows:

**PUBLIC HEARING:** Local Law to Amend the Dog Control Ordinance.

The Town Clerk read the Notice of Public Hearing as was published in the Union Sun & Journal and the floor was opened for public comment. No one spoke to the issue and the hearing was closed.

**PUBLIC HEARING:** Local Law to Amend the Town Hawker & Peddlers Ordinance.

The Town Clerk read the Notice of Public Hearing as was published in the Union Sun & Journal and the floor was opened for public comment. No one spoke to the issue and the hearing was closed.

**PUBLIC COMMENTS:**

Mr. Paul Black had questions regarding the Transit North project. He stated that he had gone on the Transit North web site as had been suggested but he could not locate information on the Town's financial return on investment for the project. He also questioned how the Town would pay for the medians that are planned for Transit Road should the Town not obtain grant funding.

There being no others to speak before the Town Board, the Public Comment section was closed and the regular business meeting was opened as follows:

**BUSINESS MEETING:**

1. Approval of Minutes

**MOTION (2011-166):** to approve the minutes of Town Board meetings held on 07/05/2011, 07/06/2011 and 07/20/2011, was made by Council member Pettit, seconded by Council member Antkowiak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

2. Approval to Pay Bills

**MOTION (2011-167):** to approve the payment of bills for the month of August was made by Council member Antkowiak, seconded by Council member Crocker. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

The bills for the month of August consist of Vouchers#24688 – 24899 in the amount of \$745,792.13.

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3. Clerk/Communications

The Town Clerk reported that the Town was in receipt of a notice of Renewal of Alcoholic Beverage License for the Elk's Club and a list of candidates for the volunteer fire service. The candidates for the volunteer fire service is as follows:

Tyler Fending.....Terry's Corners  
Jeffrey Batchen.....Terry's Corners  
Brian T. Hallows.....Wright's Corners

**MOTION (2011-168):** to approve the above listed candidates for volunteer fire service in the Town of Lockport was made by Council member Pettit, seconded by Council member Siejak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

4. Building Inspector's Report

The Town Supervisor read the Building Inspector's Report for the month of July 2011 which states that 65 building permits were issued; \$8,350.00 was collected in fees; and the estimated cost of construction as \$383,842.00.

5. Supervisor's Monthly Financial Report

**MOTION (2011-169):** to approve the Supervisor's Monthly Financial Report for the period ending July 31, 2011, was made by Council member Siejak, seconded by Council member Antkowiak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

6. ACTION AFTER PUBLIC HEARING: Adoption of Local Law to Amend the Dog Control Ordinance

**MOTION (2011-170):** on a motion by Council member Pettit, seconded by Council member Antkowiak, the following resolution was put to a ROLL CALL VOTE and was duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

The Local Law in its entirety is as follows:

**LOCAL LAW No. 4**

Chapter 80 of the Code of the Town of Lockport is hereby amended as follows:

Section 80-6.1 is repealed in its entirety and the following is enacted in its place:

"Any person convicted of a violation of any provision of this Chapter shall be guilty of an offense and shall be punished by a fine of not more than \$250,00, or by imprisonment for a period not in excess of 15 days, or by both such fine and imprisonment."

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7. ACTION AFTER PUBLIC HEARING: Adoption of Local Law to Amend the Hawker & Peddlers Ordinance

**MOTION (2011-171):** on a motion by Council member Crocker, seconded by Council member Siejak, the following resolution was put to a ROLL CALL VOTE and was duly ADOPTED: 5 AYES, 0 NAYS. Voting AYE: Antkowiak, Pettit, Crocker, Siejak, and Smith.

The Local Law in its entirety is as follows:

**LOCAL LAW No. 5**

**A local law establishing licensing for "Peddling, Hawking and Soliciting."**

Chapter 128 of the Town of Lockport Town Code entitled, "Peddling and Soliciting" is hereby repealed in its entirety and the following Chapter 128 is adopted as follows:

**§ 128-1. Purpose and Intent.**

The Town Board finds that high pressured, and misleading, fraudulent, and threatening activities have been associated with hawking, peddling and soliciting activities in the Town of Lockport, and that it is the purpose and intent of this law to protect the health, safety and general welfare of the residents of the Town by establishing regulations and licensing of hawkers, peddlers and solicitors within the Town.

**§ 128-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ESTABLISHED PLACE OF BUSINESS** – A building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

**HAWKER and PEDDLER** – Except as hereafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business on foot or on or from any animal or vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares, or merchandise, including magazines and other publications, except as hereinafter exempted.

**PERSON** – One or more persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities.

**SOLICITOR** – Any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise, except as hereinafter exempted, or for service to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

**§ 128-3. Exemptions.**

Nothing in this chapter shall apply to sales conducted pursuant to statutory requirement or by order of court, to any person selling personal property at wholesale to dealers in

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such articles, to merchandise having an established permanent place of business within the Town or their employees selling or soliciting from that place of business, or to the peddling of meats, fish, fruit and similar produce by farmers and person who produce such commodities, or to dealers in milk, baked goods, heating oil and daily newspapers, to any honorably discharged member of the armed forces of the United States who has produced a license as provided by the General Business Law of the State of New York, or to persons soliciting or collecting for service, school or youth groups. This chapter shall not apply so as unlawfully to interfere with interstate commerce.

**§ 128.4. License required.**

It shall be unlawful for any person, within the territorial limits of the Town of Lockport, to act as a hawker, peddler or solicitor as herein defined without first having obtained, and having in force and effect, a license to conduct the activity.

**§ 128-5. Application for license.**

Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information, to wit: that he or she has never been convicted of a felony or misdemeanor (or if so, giving the details); a detailed statement of the particular business, trade or occupation or purpose for which the license is requested; the number and kind and license numbers of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested; the kinds of goods, wares and merchandise he desires to sell or the kind of service he desires to render; the name, address and age of the applicant; the name and address of the person, firm or corporation he represents; the name and addresses of all partners, of a partnership; and the names and addresses of a person upon whom a legal notice may be served; and such other information as may be required by the Town Clerk.

**§ 128-6. License.**

Upon the filing of the application, as provided in the preceding section, the Town Clerk shall, upon her approval of such application, issue to the applicant a license as provided in §128-4, signed by the Town Clerk. Except as hereinafter provided, no licenses shall be refused except for a specific reason and for the protection of public safety, health, morals, or general welfare. Conviction by the applicant of a crime involving fraud, theft, assault, or any crime of violence or of moral turpitude shall be grounds for refusal. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this chapter. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may provide for an earlier expiration date corresponding to the termination of the activity. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

**§ 128-7. License fees.**

The license fee to hawkers, peddlers or solicitors shall be as follows: \$150.00 or such other fee as shall be established by the Town Board by resolution from time to time.

**§ 128-8. Employees/Agents of Principals.**

A separate license shall be required for each.

- a. Each person or entity owning or sponsoring the Hawking, Peddling or Soliciting activity.
- b. Each person engaging in the activity in the Town and each person operating a vehicle in support of such activity.

**§ 128-9. Name and address on vehicle.**

Every vehicle used in support of hawking, peddling or soliciting shall have the name of the licensee and his address plainly, distinctly and legibly displayed in letters and figures at least two inches in height in a conspicuous place on the outside of the vehicle.

**§ 128-10. Refusal or revocation of license.**

Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in §137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason wherefore in writing shall be served by the Town Clerk upon the person named in the application, and a copy of such notice shall be filed with the Town Clerk. Violation of any provision of this law shall constitute grounds for revocation of a license.

**§ 128-11. Restrictions.**

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.
- D. Not sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- E. Not permit any vehicle used by him to stop or remain on any crosswalk.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not blow a horn or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.
- H. Not enter upon the property of any person or entity which displays a sign which states "No Trespassing", "No Soliciting", or "No Peddling" or any other message clearly indicating that solicitors, hawkers or peddlers are not welcome upon the premises.

**§ 128-12. Orders.**

All orders taken by a licensed solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

**§ 128-13. Records.**

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all license revoked.

**§ 128-14. Background Check.**

By signing the application the hawker, peddler or solicitor shall consent to a background check by the Town Clerk, her designee or a law enforcement agency or a person on behalf of the Town. In addition to the application fee the applicant shall pay with the application the actual cost of such background check as determined from time to time by the Town Clerk.

Any person who shall violate any provision of this law shall be guilty of a violation and shall be punished by a fine not to exceed \$250.00 or by imprisonment of up to 15 days or by both such fine and imprisonment.

8. Approval to Hire Part-time Confidential Secretary to Town Supervisor

**MOTION (2011-172):** to authorize the Town Supervisor to hire Sharon Jablonski as a part-time confidential secretary, at a pay rate of \$10.35/hour, was made by Council member Antkowiak, seconded by Council member Crocker. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

9. Town Board Comments

*Councilman Crocker* thanked all those in attendance as well as those residents who had tuned in to the meeting via LCTV Cable.

*Councilman Pettit* noted that some weekly trash is being placed to the curb too early. He reminded residents that trash should not be placed out 24 hours in advance. It should only be put out as early as the night before. Additionally, he stated that there are some homes which are not recycling and he highly suggested that they take advantage of the Town's recycling program as it helps to keep the Town's costs down and residents can participate in the new "Think Green" Recycling Rewards program to obtain discounts on merchandise at local establishments.

*Councilman Siejak* announced that newly-elected Congresswoman, Kathy Hochul, will have a representative present at the Town Hall, twice monthly, the first and third Wednesday of each month, from 2:30 p.m. – 4:30 p.m. The next scheduled satellite visit is scheduled for August 17<sup>th</sup> in the Snyder Room at Town Hall.

*Councilwoman Antkowiak* thanked the Town Clerk and her staff for their assistance in registering residents for the various summer recreation programs. She also thanked Kevin Clark and the YWCA for the very successful swim program offered to Town children this summer. She stated that 118 Town children participated at the program which was held at Lockport High School.

She proceeded with information regarding the many programs and activities planned which are as follows:

Town Movie Night - the next scheduled Movie Night will be held on Saturday, August 6<sup>th</sup> at the Town Hall, come rain or shine. The movie to be shown is "Toy Story 3" The Lockport Federation Band will play starting at 7:00 p.m. and the movie will follow at dusk.

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Day Road Park Craft Program ( for children ages 5 -13) will be offered at Day Road Park from 9-11:30 p.m. Tuesdays and Thursdays through the month of August. Registration for these programs can still be done at the Town Clerk's office.

Children's Story Hour at Day Road Park - will be offered by the Lockport Library from 10:30 – 11:00 a.m. on Thursdays, running through August 18<sup>th</sup> . No registration is required.

Library Computer Classes – a variety of computer classes will continue to be offered at the Town Hall, running September through December, from noon – 4:00 p.m. The exact dates of the classes will be determined and placed on the Town's website for residents to review for registration.

Lastly, she announced that the Dale Association's Annual Health Fair will be held on September 28, 2011 at the Town Hall. The fair will provide a huge variety of health tests available including, flu shots, eye tests, hearing tests, blood pressure and cholesterol testing and many more. She urged everyone to come.

10. Supervisor's Comments

Supervisor Smith commented on Mr. Black's questions stating that the Town of Lockport is seeking grant money to fund the median project along Transit Road. If no grant funding is obtained, there are other ways to fund the project including utilizing surplus funds as well as the possibility of borrowing the funds. However, he stated that the Town Board would not be in favor of borrowing for such projects.

He also stated that the financial information regarding the Transit North project could be found in the 2010 economic study performed by Economic Stewardship which can be found on the Transit North website (listed as one of the options located on the left hand side). They identify three different economic scenarios which talk specifically about increased sales tax revenues and property values as well as increased jobs.

Supervisor Smith thanked all for attending as requested a motion for adjournment.

11. Adjournment

**MOTION (2011-173):** to adjourn was made by Council member Pettit, seconded by Council member Siejak. The motion was CARRIED: AYES - 5, NAYS - 0. Voting AYE: Antkowiak, Pettit, Crocker, Siejak and Smith.

The meeting was ended at 7:50 p.m. The Lockport Town Board will next meet at 1:00 p.m. on Wednesday, August 17, 2011,

Respectfully submitted,

Nancy A. Brooks, RMC, CMC  
Lockport Town Clerk