

January 19, 2022

A regularly scheduled work session of the Lockport Town Board was conducted at 1:00 p.m. on Monday, January 19, 2022 at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Mark C. Crocker
Town Council Members: Paul W. Siejak
Patricia Dufour
Tom Keough
Darlene DiCarlo

Also present: Thomas Seaman, Town Attorney; Rob Klavoon, Wendel Engineering; Thomas Sy, Director of Economic Development and Judith A. Newbold, Town Clerk.

Supervisor Crocker welcomed everyone and began the meeting as follows:

1. Attorney

2022 Recreation Agreements

MOTION (2022-20) to authorize the Supervisor to enter into an agreement with:

Lockport Lanes (Allie Brandt's) 6510 Lincoln Avenue, Lockport, NY to provide \$2.00 coupons off the price of mini golf for area residents from April through September 2022,

Lockport Locks & Erie Canal Cruises, Inc. to provide discount passes to Town of Lockport residents for the 2022 season for \$3.50 off an adult admission and \$2.00 off a child admission,

The Historic Palace Theatre, Inc. to offer discount coupons to residents for admission (\$2.00) and concessions (\$1.00) at events,

The Niagara County Historical Society to provide discount passes to the Erie Canal Discovery Center for \$2.00 off the price of admission

was made by Councilmember DiCarlo, seconded by Councilmember Dufour. The motion was APPROVED: AYES – 5, NAYS – 0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Niagara Community Action Program

The Supervisor asked for a resolution to approve an annual contract for the Niagara Community Action Program. He added that he has received a year end audit from NICAP listing all grants and relief that were received the prior year for Town of Lockport residents. NICAP finds matching grant funding for all monies given by the Town of Lockport. The Town Attorney added that this is a two-year contract at a cost of \$2,550.00 for 2022 with a 2% increase for 2023.

MOTION (2022-21) to approve and authorize the Supervisor to sign a two-year contract with Niagara Community Action Program (NICAP) for residential services at a cost of \$2550.00 for the year 2022 with a 2% increase for 2023 was made by Councilmember Siejak, seconded by Councilmember Keough. The motion was APPROVED. AYES – 5, NAYS – 0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Resolution for Rail to Trail Program Phase 2

Tom Sy, Director of Economic Development asked for Town Board support for a resolution that would allow the Town of Lockport to accept the grant award of \$168,591.00 and to authorize the Supervisor signing authority on all future documentation required for this grant. Supervisor Crocker thanked Tom Sy for his work on this grant and stated it will continue the trail from Murphy Road to the City of Lockport border.

MOTION (2022-22) on a motion by Councilmember Keough and seconded by Councilmember Dufour, the following resolution was duly ADOPTED: AYES-5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Continued next page

**TOWN OF LOCKPORT
RESOLUTION**

WHEREAS, the Town of Lockport (“Town”) applied for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) under the Recreational Trails Program for the purpose of funding the Rail Trail Phase 2 project (“the Project”), and

WHEREAS, the Town has been notified by OPRHP that it has been awarded the grant funding for Rail Trail Phase 2, now therefore be it

RESOLVED, that Town is authorized to accept and does accept the grant award, in the amount of \$168,591.00, for the project, and be it further

RESOLVED, that the Town Supervisor be and is the Town’s official who is granted signing authority relative to any and all documentation required to accept and effectuate said grant, including but not limited to any and all potential Master Contract(s) and/or deed and title documentation, if any, and be it further

RESOLVED, that any signing of any such documentation required to accept and effectuate said grant shall first be reviewed by the Town Attorney and found to be in acceptable form.

2. Engineer

(Contract 22-1) - Street Light Maintenance Repair Contract

Rob Klavoon presented details of the Street Light Maintenance Repair Contract Bid which took place on December 16, 2021. He stated that there was a math error made by Power and Construction Group on the bid form that set the bid at \$250,959.50 when in fact it should have been \$243,080.00. He has received confirmation in writing to honor the correct bid amount. He also discussed a request by the bidder to provide an alternate method for the builder’s risk insurance policy which provides an installation floater. He feels this would be a better fit for this type of project. He stated all warranties are included in the installation and repair or replacement of the light fixture. The Town Attorney reviewed the request and stated it would make sense in this situation and is contingent upon further review of the actual policy. He also added that the amount of \$243,080.00 is an aggregate total for parts, labor and other costs and will only be utilized if the Town calls upon the provider for service. The Board discussed the budget line for these maintenance costs for the next two or three years. The contract will be a one-year contract with the option for four (4) one-year renewals. They also discussed the timing for urgent and non-urgent repairs and replacements. The Town Board then discussed the details and scheduling of the upcoming closing of the streetlight acquisition from NYSEG to the Town of Lockport.

MOTION (2022-23) on a motion by Councilmember Siejak and seconded by Councilmember DiCarlo, the following resolution was duly ADOPTED: AYES-5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

**RESOLUTION
AWARD OF CONTRACT
TOWN OF LOCKPORT
STREET LIGHT MAINTENANCE REPAIR CONTRACT
CONTRACT NO. 22-1**

WHEREAS, the Town of Lockport (“Town”) had authorized Wendel, the Town’s Engineers to complete the contract documents for Town of Lockport Street Light Maintenance Repair contract, and

WHEREAS, bids on the above referenced project were opened on December 16, 2021, in accordance with the Notice to Bidders previously authorized, and

WHEREAS, the apparent low bidder, Power and Construction Group of Scottsville, New York (“Power”), submitted a bid of \$250,959.50, and

WHEREAS, Power was also the only bidder for the Street Light Maintenance Repair contract, and

WHEREAS, Power's bid included a mathematical error in the addition of the bid prices which resulted in a corrected bid price of \$243,080.00, and

WHEREAS, Wendel raised the mathematical error to Power and has received assurances that Power will honor the corrected amount, and

WHEREAS, being a maintenance and repair contract, such bid price is not a guaranteed amount to be paid to Power but is instead an estimated total of various parts, labor prices, and costs which would be charged to the Town in the event the Town requires any of Power to perform under said contract, and

WHEREAS, the Town recognizes such mathematical error is an irregularity in the bid which may be waived by the Town as it has no consequence on the underlying assurances of certain costs for maintenance and repair which are fully incorporated into the bid documents, and

WHEREAS, Power has provided the Town Engineer with a letter dated January 3, 2022 requesting that the "builders risk" insurance policy outlined in the contract documents be substituted for a "installation floater" insurance policy on the grounds that the "installation floater" provides insurance coverage that will cover property installed, fabricated, or erected by a contractor and is more typically used in the industry for maintenance and repair work; whereas, a "builders risk" policy is insurance coverage which is typically used in the industry to provide insurance coverage for a contractor constructing major infrastructure and/or buildings, and

WHEREAS, Power and Construction Group will provide all the other necessary bonds and insurances as required by the contract documents, and

WHEREAS, the Town of Lockport Attorney has reviewed Power and Construction Group's request to provide the installation floater in lieu of the "builders risk" policy and has deemed it reasonable pending further review, and

NOW THEREFORE BE IT RESOLVED, that the Town of Lockport Town Board waives the mathematical irregularity present in Power's bid, and

BE IT FURTHER RESOLVED, that the Lockport Town Board authorizes award of Contract No. 22-1 to Power and Construction Group, 96 West River Road, PO Box 30, Scottsville, New York 14546 in the amount of \$243,080.00 contingent upon the Town Attorney's review of the Contractor's Bonds and Insurances, and

BE IT FURTHER RESOLVED, that the Lockport Town Board authorizes Power to substitute the "insurance floater" for the "builders' risk" policy, in accordance with Power's request, and contingent on further review and approval of the Town Attorney.

(Contract 21-1) – Town Court Roof Replacement

Rob then requested a resolution for the final payment and close out of the J&B Installations, Inc. (Contract 21-1) Town Court Roof Replacement Project. The closeout figure is \$11,542.25, all work has been completed and the contract includes a two-year maintenance bond and 30-year material warranty on the roof system.

MOTION (2022-24) on a motion by Councilmember Keough and seconded by Councilmember Dufour, the following resolution was duly ADOPTED: AYES-5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

**RESOLUTION
FINAL CLOSEOUT AND ACCEPTANCE
TOWN OF LOCKPORT
TOWN COURT ROOF REPLACEMENT
CONTRACT NO. 20-1**

WHEREAS, the Town of Lockport awarded a bid to J&B Installations, Inc. in the amount of \$230,845.00, by Contract No. 21-1, to remove existing single ply roofing system down to metal deck and install a new roofing system at the Lockport Town Court Building, and

WHEREAS, Wendel, the Town's Engineers have reviewed the project and find that all matters required under the Contract have been satisfactorily completed,

NOW THEREFORE BE IT RESOLVED that this Board authorizes the payment of \$11,542.25 which represents the remaining balance owed under the Contract and be it further

RESOLVED, the Town Supervisor is hereby authorized to sign any close out documents as required by the Contract.

6200 Robinson Roof Replacement

Rob then informed the Board that there was no asbestos or polychlorinated biphenyls (PCBs) found during the sampling of the roof at 6200 Robinson Road and discovered there is only one layer of roof on the surface. He reported that the plywood is saturated and only two inches of insulation exist, which does not meet the current energy code. The plan is to add additional insulation to increase the slope of the roof. He will complete the bid documents and will report at a future meeting.

3. Economic Development

Thomas Sy reported the website development team will be meeting to review the home and core pages that have been completed to date.

Tom Sy also announced that the former EZ Entry Door building in the Industrial Development Park has been leased to JR Products, a recreational vehicle replacement part manufacturing business that is currently located in Clarence.

4. Town Board

Councilmember Siejak commended the Highway Department and Highway Superintendent Dave Miller for the outstanding job they did managing and removing the snowfall from Monday's snowstorm.

Councilmember Dufour reported the Supervisor's and Council offices are moving forward and the furniture from the finance office will be moved and reused in the Council office.

She reported receipt of an email from Niagara County Legislature Chairwoman Becky Wydysh stating that the Towns and Cities can expect to receive at home COVID test kits for distribution. The Town Board then discussed the plan for distribution. Councilmember DiCarlo also shared the federal government's link for residents to place one order for four test kits at www.covidtests.gov.

She reported Cusimano's located at 6277 Robinson Road has installed their pizza oven and plans to be serving pizza very soon.

5. Supervisor

Resolution to appoint Member NYS 497 Safety Group

MOTION (2022-25) to approve the appointment of Marc R. Smith to represent the Town of Lockport as a member of the NYS 497 Safety Group was made by Councilmember DiCarlo and seconded by Councilmember Keough. The motion was CARRIED: AYES-5, NAYS-0. Voting AYE: Siejak, Dufour, Keough, DiCarlo and Crocker.

Introduction of a Local Law Establishing a Moratorium on Utility Scale Solar Energy System Installations and Utility Scale Electrical Energy Storage Device Systems within the Town for a Period of Six Additional Months

Supervisor Crocker then introduced the following Local Law:

**LOCAL LAW NO. 1 OF THE YEAR 2022
TOWN OF LOCKPORT
COUNTY OF NIAGARA, STATE OF NEW YORK**

**A Local Law Establishing a Moratorium on Utility-Scale Solar Energy
System Installations and Utility-Scale Electrical Energy Storage Device
Systems within the Town for a Period of Six Additional Months**

Be it enacted by the Town Board of the Town of Lockport as follows:

SECTION 1. PURPOSE AND INTENT

The purpose of this Local Law is to amend the Code of the Town of Lockport to extend the time period on the moratorium on the processing, permitting and/or construction of utility-scale solar energy systems and utility-scale electrical energy storage device systems within the Town, which was established by Local Law No. 1 of the Year 2021, for an additional six (6) months. This Local Law is intended to incorporate Local Law No. 1 of the Year 2021 in all respects except for the extension of the Term. A moratorium will allow the Town Board additional time to consider recent New York State legislation and expected regulations related to tax revenues which may be derived from such projects, as well as to examine, draft, review and adopt effective policy regarding the evolving technology and industry of utility-scale solar energy systems and utility-scale electrical energy storage device systems, and to ensure adequate restrictions and regulations are placed as may be necessary to promote and preserve the health, safety and welfare of the Town of Lockport and its citizens.

SECTION 2. FINDINGS.

The Town of Lockport Town Board does hereby find that without an additional temporary halt on the processing, permitting, and approvals for utility-scale solar energy systems and utility-scale electrical energy storage device systems there is the potential that such uses could be located in unsuitable areas within the Town, and/or developed on particular lots with inappropriate dimensional requirements, and/or developed in such a density as to alter the fabric of the community. Such uses could have materially adverse and irreversible impacts on the Town, and may threaten the health, safety or welfare of the Town's citizens.

The Town Board also finds that the additional temporary halt on such projects is necessary to allow the State of New York to determine and implement the new methodology that will be used to set the assessed value on such projects, for taxation purposes. The extension of the original moratorium is necessary because the process and methodology relative to potential revenue streams for the Town, including tax revenues, Community Host Agreements and Payment in Lieu of Tax (PILOT) agreements, related to such development, continue to develop rapidly for the Town and other similarly situated local municipalities throughout New York State. As such, additional time is needed to fully analyze the Town's best path forward relative to such potential revenue streams.

The Town Board also finds that it is in need of additional time to perform the necessary analysis of the potential types of utility-scale solar energy systems and utility-scale electrical energy storage device systems that are appropriate to meet the needs of the community to provide for the planned orderly growth and development of the Town.

SECTION 3. MORATORIUM IMPOSED; APPLICABILITY.

For the period of six (6) months, commencing on the adoption date of this Local Law, or until such time as the Town of Lockport passes a Local Law

concerning utility-scale solar energy systems and utility-scale electrical energy storage device systems, whichever is sooner, there shall be a moratorium on the processing, permitting, and/or construction of utility-scale solar energy systems and utility-scale electrical energy storage device systems within the Town of Lockport for all utility-scale solar energy systems and utility-scale electrical energy storage device systems which have not yet obtained approval for the Special Use Permit and Site Plan Review from the Town of Lockport Planning Board prior to the effective date of this Local Law. Additionally, this moratorium shall not affect any existing or proposed building-mounted, ground-mounted, rooftop-mounted or any other solar energy system or electrical energy storage device systems that are designed and intended to generate or store electricity solely for use on an individual lot.

SECTION 4. TERM.

This law shall take effect immediately upon adoption by the Town Board, as provided by the law, and upon filing with the Secretary of State, such that this extension will be continuous and connected to the previous moratorium, with no gap in time, and shall remain in full force and effect for a period of six (6) months from its effective date.

SECTION 5. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence or part or provision of this Local Law shall not affect the validity or any other part of this Local Law which shall be in effect.

Supervisor Crocker stated that the Town Board has addressed many of the issues regarding the Town's current Solar Energy law but is not prepared to present a finalized version at this time. The Town Attorney added that this moratorium will allow essential time to address newly released information provided by New York State regarding the assessment formulas for this type of project, pilots and community host agreements relative to the projects and procedures subject to Real Property Tax laws and NYS laws.

Resolution calling for a Special Meeting for the purpose of conducting a Public Hearing to be held at 7:30 p.m. on Wednesday, January 31, 2022 on a proposed Local Law Establishing a Moratorium on Utility Scale Solar Energy System Installations and Utility Scale Electrical Energy Storage Device Systems within the Town for a Period of Six Additional Months

MOTION (2022-26) to call for a Special Meeting for the purpose of conducting a Public Hearing on the adoption of a proposed local law entitled "A Local Law Establishing a Moratorium on Utility Scale Solar Energy System Installations and Utility Scale Electrical Energy Storage Device Systems within the Town for a Period of Six Additional Months" will be held at 7:30 p.m. on Wednesday, January 31, 2022, was made by Councilmember Keough and seconded by Councilmember Dufour. The motion was APPROVED: AYES- 5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Supervisor Crocker also reported that this Local Law was forwarded to the Niagara County Planning Board for review.

Resolution to appoint Recreation Member to fill vacant position

Supervisor Crocker reviewed some of the changes on the Recreation Commission and announced that a ceremony will be held at an upcoming meeting to honor Jeanine Shaw and Jennifer Upson Steiner who have served on the Recreation Commission for many years.

MOTION (2022-27) to accept the resignation received from Jennifer Upson Steiner as Recreation Member effective December 31, 2021 was made by Councilmember DiCarlo and seconded by Councilmember Siejak. The motion was CARRIED: AYES-5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

MOTION (2022-28) to approve the appointment of Kimberly O' Dell for the position of Recreation Member effective January 19, 2022, with a term expiration date of December 31, 2022, was made by Councilmember DiCarlo and seconded by Councilmember Keough. The motion was CARRIED: AYES-5, NAYS-0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Niagara County Hazard Mitigation Plan

He also reported participation in the zoom conference with Jonathan Schultz, Niagara County Director of Emergency Services and representatives from the University of Buffalo regarding the Niagara County Hazard Mitigation Plan. Supervisor Crocker, Clerk Newbold, Building Inspector Brian Belson and Director of Operations Jason Neden all participated in the meeting, reviewed the Town of Lockport information and suggested changes to the information contained in the document.

6. Executive Session

MOTION (2022-29) to enter executive session at 1:44 p.m. for consultation with Town Attorney regarding a personnel issue and current litigation was made by Councilmember Dufour, seconded by Councilmember DiCarlo. The motion was APPROVED. AYES – 5, NAYS – 0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

Executive Session ended; Work Session reconvened

MOTION (2022-30) to resume the work session and regular business meeting at 2:33 p.m. was made by Councilmember Keough, seconded by Councilmember Dufour. The motion was APPROVED. AYES – 5, NAYS – 0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo. No action was taken during Executive Session.

7. Adjournment

MOTION (2022-31) to adjourn at 2:33 p.m. was made by Councilmember Siejak, seconded by Councilmember Dufour. The motion was APPROVED. AYES – 5, NAYS – 0. Voting AYE: Crocker, Siejak, Dufour, Keough and DiCarlo.

The Town Board will next meet at 7:30 p.m. on Monday, January 31, 2022 at the Town Hall, 6560 Dysinger Road, Lockport.

Respectfully Submitted,

Judith A. Newbold
Town Clerk