

**CITY OF LOCKPORT**  
**CORPORATION PROCEEDINGS**

Lockport Municipal Building

Regular Meeting  
Official Record

July 17, 2019  
5:30 P.M.

Mayor Michelle M. Roman called the meeting to order.

**ROLL CALL**

The following Common Council members answered the roll call:

Aldermen Abbott, Devine, Eggert, Farrell, Oates and Wohleben.

**INVOCATION**

**MAYOR'S UPDATE**

**RECESS**

Recess for public input.

**071719.1**

**APPROVAL OF MINUTES**

On motion of Alderman Devine, seconded by Alderman Oates, the minutes of the Regular Meeting of July 3, 2019 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

**PUBLIC HEARING**

The Mayor announced a public hearing on a request for a Special Use Permit to house an Artic Fox in the home at 17 Sunnyside St.

The Mayor asked the City Clerk if any petitions or communications relative to said Special Use Permit have been received.

7/9/19 Terry Harmon, Acting Chairman, Lockport Planning and Zoning Board – the board does not recommend the request.

Recess for public input.

The Mayor closed the public hearing.

## PUBLIC HEARING

The Mayor announced a public hearing on a request to house between 6 and 8 chickens at 1 Sunnyside St.

The Mayor asked the City Clerk if any petitions or communications relative to said Special Use Permit have been received.

7/9/19 Terry Harmon, Acting Chairman, Lockport Planning and Zoning Board – the board does not recommend the request.

Recess for public input.

The Mayor closed the public hearing.

## **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)

### **Notice of Defect:**

6/3/19 390 Willow Street – trees  
6/5/19 493 Hawley Street – tree  
6/17/19 133 Waterman Street – tree  
6/17/19 144 West Avenue – tree  
6/21/19 132 LeVan Avenue – tree  
6/21/19 2 Hoover Pkwy – tree  
6/17/19 Patricia Chutko – various properties – trees  
6/24/19 6 Main Street – sidewalk  
7/2/19 162 Glenwood Avenue – tree  
7/10/19 67 Ontario Street – tree  
7/10/19 321 Pine Street - tree

Referred to the Director of Streets and Parks.

### **Notice of Claim:**

7/8/19 Stacy Page, 28 Waterman Street, Lockport, NY  
7/15/19 Dylan Simons, 471 Hawley Street, Lockport, NY  
Referred to the Corporation Counsel.

## **MOTIONS & RESOLUTIONS**

### **071719.2**

By Alderman Oates:

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 17, 2019 as follows:

General Fund	Fund A	\$89,445.73
Water Fund	Fund FX	\$ 8,902.04
Sewer Fund	Fund G	\$16,939.85

Capital Projects	Fund H	\$ 2,549.21
Refuse Fund	Fund CL	\$92,209.87
Self Insurance	Fund MS	\$ 8,601.80
Worker's Comp	Fund S	\$ 55.53
Comm. Dev.	Fund CD	\$66,706.86

Seconded by Alderman Farrell and adopted. Ayes 6.

**071719.3 Revocable Permit 41 East Ave. - WITHDRAWN**

**071719.4**

By Alderman Wohleben:

Resolved, that pursuant to their request, permission is hereby granted to the Community Health Center of Buffalo to barricade Heritage Court on August 13, 2019 from 9:30 am to 3:30 pm for a healthcare event, and be it further

Resolved, that the Director of Streets and Parks be and the same is hereby authorized and directed to arrange for delivery of barricades to said area prior to said event.

Seconded by Alderman Eggert and adopted. Ayes 6.

**071719.5**

By Alderman Devine:

Resolved, that pursuant to Corporation Counsel approval, the Chief Operator- Water Filtration Plant is authorized to enter into a cooperative purchasing group with the Niagara Falls Water Board for the purchase of chemicals.

Seconded by Alderman Wohleben and adopted. Ayes 6.

**071719.6**

By Alderman Farrell:

Whereas, that pursuant to their request, the Greater Lockport Development Corporation is hereby authorized to submit a New York Main Street grant (authorized through the New York State Office of Homes and Community Renewal) through the 2019 NYS Consolidated Funding Application on behalf of business and property owners in the City of Lockport, as identified by the GLDC, for the purpose of rehabilitation and renovation; now, therefore, be it

Resolved, that the City of Lockport and the Common Council supports this grant application, and should funding be awarded, will offer advisory consultation as necessary.

Seconded by Alderman Wohleben and adopted. Ayes 6.

**071719.7**

By Alderman Devine:

Whereas, the City of Lockport Wastewater Treatment Plant (WWTP) is operated under the State Pollutant Discharge Elimination System (SPEDES) Discharge Permit # NY-0027057; and

Whereas, the operation of the WWTP is critical to ensure proper treatment of the wastewater flows in order to protect public and environmental health; and

Whereas, the Chief operator of the WWTP reported to the Mayor that the clarifier mechanism in the Primary Settling Tank has failed and has created an emergency situation; and

Whereas, in coordination with City staff, equipment suppliers, and contractors, the City's engineering consultant firm, Nussbaumer and Clarke, has evaluated options to address the problem, including clarifier mechanism repair or replacement; and

Whereas, the existing clarifier mechanism has exceeded its useful service life, more than 40 years of service; consequently, it is not cost effective to repair it; and

Whereas, Koester Associates, Inc. submitted a proposal to furnish and install a new Walker Process Clarifier Mechanism for a cost of \$541,700.00; and

Whereas, the Engineering Department recommends replacing the 40+ year old clarifier mechanism with a new Walker Process Clarifier Mechanism for a cost of \$541,700.00 plus a 20% contingency to address any unforeseen conditions that may be revealed once the existing equipment is removed; now, therefore, be it

Resolved, that replacement of the Primary Settling Tank Clarifier Mechanism is to be done on an emergency basis in order to ensure public and environmental health, and maintain compliance with the City's NYSDEC Discharge Permit, and be it further

Resolved, that the Mayor, subject to Corporation Counsel approval, is hereby authorized and directed enter into contract with Koester Associates, Inc., 3101 Seneca Turnpike, Canastota, New York 13032, for an amount of \$541,700.00 plus 20% of contingency to address any unforeseen conditions that may be revealed once the existing equipment is removed; and be it further

RESOLVED, that the bonding of the project is authorized and approved; and be it further

RESOLVED, that the City Attorney and Director of Finance are directed to prepare a Bond Ordinance for the acquisition and installation of the clarifier mechanism in an amount not to exceed \$650,000.00 plus issuance costs.

Seconded by Alderman Oates and adopted. Ayes 6.

#### **071719.8**

By Alderman Oates:

WHEREAS, the City entered into an agreement on September 7, 2018 under resolution No. 090518.8, with National Water Main Cleaning Company to perform sewer rehabilitation work in the City of Lockport; and

WHEREAS, based on recent video inspections and sewer sediment removal, the Engineering Department and the Department of Highways and Parks have determined that the 10" sanitary sewer on Garden Street between Adam Street and Chapel Street is in need of rehabilitation; and

WHEREAS, National Water Main Cleaning Company has submitted a proposal dated June 29, 2019 in the amount \$33,430.00 to perform cured-in-place pipe (CIPP) lining on the 10" sanitary sewer on Garden Street; and

WHEREAS, prior to CIPP lining, the 10" sewer on Garden Street needs to be repaired in three spots due to severe sewer structural damage; spot repairs include excavation, pipe replacement, trench backfill using 2" crusher run up to road sub-base, concrete base, and pavement of open spots; and

WHEREAS, the Engineering Department requested proposals from qualified contractors to perform the required spot repairs and have received three quotes as follows: O'Regans Environmental Concepts LLC \$21,195.00; RG MacFarlane Plumbing \$39,825.00; and Pinto Construction Services \$76,500.00; now, therefore, be it

RESOLVED, that the Mayor, subject to Corporate Counsel Approval, is hereby authorized to approve the proposal submitted by National Water Main Cleaning Co., 25 Marshall Street, Canton, MA 02021 and amend the original contract in the amount of \$33,430

plus 15% of contingency for the scope of work included in its June 27, 2019 proposal to the City and to be charged to Account Number # G.8120.52200; and be it further

RESOLVED, that the Mayor, subject to Corporation Counsel Approval, is hereby authorized to ENTER into contract with O'Regans Environmental Concepts LLC, 3170 Hess Road, Appleton, NY 14008 in the amount of \$21,195.00 plus 15% of contingency for the scope of work included in its July 10, 2019 proposal to the City and to be charged to Account Number # G.8120.52200.

Seconded by Alderman Devine and adopted. Ayes 6.

#### **071719.9**

By Alderman Wohleben:

Whereas, the City of Lockport (City), is seeking a grant for the City Streetscape Green Infrastructure Enhancement Project and intends to submit via the New York Consolidated Funding Application (CFA) to the Green Innovation Grant Program (GIGP); and

Whereas, the City project cost estimate for the Streetscape Green Infrastructure Enhancement Project is \$2,000,000; and

Whereas, the GIGP through NYS Environmental Facilities Corporation (NYSEFC) is authorized to fund up to \$1,800,000 of the project cost; now, therefore, be it

RESOLVED that the City authorizes and appropriates a minimum of 10% local match as required by the Green Innovation Grants Program. Under the GIGP, this local match must be at least 10% of total project of \$2,000,000. The maximum local share appropriated subject to any changes agreed to by the Mayor shall not exceed \$200,000 subject to receipt of a GIGP grant and available funding. The total estimated maximum grant is \$1,800,000. The Mayor may increase this local match through the use of in-kind services without further approval from the City; and, therefore, be it further:

RESOLVED that the Mayor is authorized to sign a grant application on behalf of the City via the CFA to the NYSEFC Green Innovation Grants Program for the Streetscape Green Infrastructure Enhancement Project; and be it further

RESOLVED that should a GIGP grant be awarded to the City, the Mayor is authorized to execute a Grant Agreement with the NYSEFC and any and all other contracts, documents and instruments necessary to bring about the Project and to fulfill the City's obligations under the Green Innovation Grants Program through NYSEFC.

Seconded by Alderman Farrell and adopted. Ayes 6.

#### **071719.10**

By Alderman Wohleben:

Whereas, the City of Lockport (City) has reviewed the proposed project for the Streetscape Green Infrastructure Enhancement Project in conjunction with 6 NYCRR Part 617, commonly known as State Environmental Quality Review (SEQR), for a determination as to the level of required environmental review for the proposed project, now, therefore, be it

RESOLVED that the City does hereby determine that the proposed action is a Type II action for SEQR under 617.5(c)(3) "retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure" as defined under SEQR, and that the Regulations specify that Type II actions are not subject to review.

Seconded by Alderman Farrell and adopted. Ayes 6.

**071719.11**

By Alderman Oates:

Resolved, that pursuant to his request, permission is hereby granted to Timothy Chase owner of Groff's Tavern, LLC to barricade Union Street from Washburn Street to Ann Street on Sept. 1, 2019 for a Block Party / Fundraising event from 10:00 a.m. – 10:00 p.m. and be it further

Resolved, that the Director of Streets and Parks be and the same is hereby authorized and directed to arrange for delivery barricades and refuse containers to said area prior to said event.

Seconded by Alderman Abbott and adopted. Ayes 6.

**071719.12**

By Alderman Devine:

Resolved that the 2019 Water Budget is hereby amended to eliminate a Water & Sewer Maintenance Worker and create a Sr. Water & Sewer Worker.

Seconded by Alderman Eggert and adopted. Ayes 6.

**071719.13**

By Alderman Abbott:

WHEREAS, County of Niagara sold the former Switzer Building and six other buildings on Davison Road to LHC Holdings, LLC for the sum of \$100,000, and

WHEREAS, representatives of LHC Holdings, LLC informed city officials and the general public that it planned on turning the former Switzer Building into a temporary residential facility for women recovering from substance abuse disorders, and

WHEREAS, LHC Holdings, LLC filed a petition with the City of Lockport and Town of Lockport to annex the eastern half of the Switzer Building from the Town to the City, and

WHEREAS, the portion of the property that is located in the City of Lockport is zoned Reserved Area (RA) which means it is a delineated area where substantial development of the land in the form of buildings or structures is prohibited due to: (A) a special or unusual conditions of topography, drainage, floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the process of nature or (B) the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time and where such facilities or improvements must be taken on an area-wide rather than individual parcel basis to serve adequately the area at a reasonable cost to the City, and

WHEREAS, according to the City of Lockport Code, the following special uses are allowed in an RA zone: (A) Parks, golf courses, athletic fields and other similar uses; (B) Essential Services; (C) Land reclamation operations other than refuse and garbage landfills; and (D) Cemeteries, and

WHEREAS, on June 13, 2019 and June 18, 2019, Cazenovia Recovery Systems held two public forums to address resident concerns and at the public forum Suzanne Bissonette, CEO of Cazenovia, stated that the project would need to be re-zoned R-3, and

WHEREAS, a rezoning involves a review of the City's master plan (comprehensive plan) which presently calls for the area to be zoned park land, and

WHEREAS, the type of housing proposed by LHC Holdings, LLC and Cazenovia Recovery System is subject to the Federal Fair Housing Act and other Federal Laws, and

WHEREAS, many group homes, which include residential drug treatment facilities, cannot be excluded in single-family residential neighborhoods simply because of the nature of the people being served and while municipalities can exercise its authority to regulate land use it cannot be stricter than it would with people who are not disabled, and

WHEREAS, it is important that the City adhere to the laws that prohibit discrimination of disabled individuals and group homes, and

WHEREAS, the City has in past retained outside counsel to assist the Office of the Corporation Counsel for complex matters such as the above proposed annexation, zoning and land development, and

WHEREAS, Daniel A. Spitzer, Esq. is a partner of Hodgson Russ LLP with many years of experience in planning and zoning, land use issues, real estate development and related municipal issues, and

WHEREAS, the City retained Mr. Spitzer several years ago to assist with the legal issues involving the environmental remediation and historic registry compliance for the Canal Street development, and

WHEREAS, the Common Council desires to retain the professional services of Mr. Spitzer to assist the Office of the Corporation Counsel with the complex issues involved with the above site.

NOW, THEREFORE, BE IT

RESOLVED, that Corporation Counsel be and is hereby authorized and directed to enter into an engagement agreement with Mr. Spitzer for professional service for the Davison Road site.

Seconded by Alderman Oates and adopted. Ayes 6.

**071719.14**

## **ADJOURNMENT**

At 6:38 P.M. Alderman Devine moved the Common Council be adjourned until 5:30 P.M., Wednesday, August 7, 2019.

Seconded by Alderman Eggert and adopted. Ayes 6.

RICHELLE J. PASCERI  
City Clerk