

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

August 21, 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

TREASURER'S REPORT

RECESS

Recess for public input.

082119.1

APPROVAL OF MINUTES

On motion of Alderman Devine, seconded by Alderman Oates, the minutes of the Regular Meeting of August 7, 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 by Eastern Niagara Hospital at 521 East Avenue to erect a 5' x 12' temporary wall sign situated in a R-1 Zone.

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

8/19/19 Terry Harmon, Acting Chairman, Lockport Planning and Zoning Board – the board recommends the request be approved with stipulations.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing to consider and possibly a Local Law creating a six-month moratorium on zoning approvals or other permits in the RA Reserve District.

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

8/21/19 Charles D. Grieco, Bond, Schoeneck & King – on behalf of Cazenovia Recovery Services – opposed to proposed Local Law #1.

Recess for public input.

The Mayor closed the public hearing.

FROM THE MAYOR

Appointments:

8/8/19 Ethan S. Nasca, 195 Royal Avenue, Buffalo, NY – appointed as a Housing Inspector for the Building Inspection Department, effective August 12, 2019. Said appointment is provisional and subject to the City of Lockport Municipal Civil Service rules and regulations. Received and filed.

8/9/19 Raymond M. Aldrich, 18 Spruce Street, Lockport, NY – appointed as a Heavy Equipment Operator for the Wastewater Treatment Department, effective August 9, 2019. Said appointment is permanent and subject to the City of Lockport Municipal Civil Service rules and regulations. 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)

8/14/19 Mike Hanley, Post commander, B. Leo Dolan, American Legion Post – request consideration through the budget process with funding for the 2020 Memorial Day Parade. Referred to the Committee of the Whole.

Notice of Defect:

8/7/19 34 Lewis Street – tree
8/7/19 83 Saxton Street – trees
8/9/19 260 Chestnut Street – tree
8/12/19 9 Priscilla Lane – tree
8/13/19 111 East Avenue – tree
8/15/19 139 Juniper Street – tree
8/19/19 85 Chapel Street – tree's
Referred to the Director of Streets and Parks.

MOTIONS & RESOLUTIONS

082119.2

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 August 21, 2019 as follows:

General Fund	Fund A	\$166,741.83
Water Fund	Fund FX	\$ 23,567.02
Sewer Fund	Fund G	\$ 44,487.16
Capital Projects	Fund H	\$250,607.30
Refuse Fund	Fund CL	\$100,529.68
Self Insurance	Fund MS	\$144,320.32
Payroll	Pay Date 8/1	\$507,777.56
Payroll	Pay Date 8/15	\$496,583.47

Seconded by Alderman Eggert and adopted. Ayes 6.

By Alderman Farrell:

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

Seconded by Alderman Eggert and adopted. Ayes 6.

082119.3

The following ordinance was offered by Councilmember Oates, who moved its adoption, seconded by Councilmember Wohleben, to wit:

BOND ORDINANCE DATED AUGUST 21, 2019.

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$675,000 BONDS OF THE CITY OF LOCKPORT, NIAGARA COUNTY, NEW YORK, TO PAY THE COST OF THE REPLACEMENT OF THE CLARIFIER MECHANISM AT THE WASTEWATER TREATMENT PLANT, IN AND FOR SAID CITY.

WHEREAS, the capital project hereinafter described has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, such regulations provide, will not result in any significant adverse environmental impact; and

WHEREAS, it is now desired to authorize the financing thereof, NOW, THEREFORE,

BE IT ORDAINED, by the affirmative vote of not less than two-thirds of the total voting strength of the Common Council of the City of Lockport, Niagara County, New York, as follows:

Section 1. The replacement of the clarifier mechanism at the Wastewater Treatment Plant, in and for the City of Lockport, Niagara County, New York, including incidental improvements and expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$675,000.

Section 2. It is hereby determined that the plan for the financing of said specific object or purpose is by the issuance of \$675,000 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law.

Section 4. The faith and credit of said City of Lockport, Niagara County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Treasurer, the chief fiscal officer of said City. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as the City Treasurer shall deem best for the interests of said City, including, but not limited to, the power to sell said bonds to the New York State Environmental

Facilities Corporation; provided, however, that in the exercise of these delegated powers, the City Treasurer shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Treasurer shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 7. All other matters, except as provided herein relating to such bonds herein authorized including date, denominations, maturities, interest payment dates, and whether said bonds shall be repaid in accordance with a schedule providing for substantially level or declining annual debt service, within the limitations prescribed herein and the manner of execution of the same and also including the consolidation with other issues, shall be determined by the City Treasurer, the chief fiscal officer of such City. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 8. The City Treasurer is hereby further authorized, at her sole discretion, to execute a project finance and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said City in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 9. The power to issue and sell notes for said specific object or purpose to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the City Treasurer. Such notes shall be of such terms, form and contents as may be prescribed by said City Treasurer consistent with the provisions of the Local Finance Law.

Section 10. This ordinance shall constitute a statement of official intent for purposes of

Treasury Regulations Section 1.150-2. Other than as specified in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 11. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this bond ordinance are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 12. This ordinance, which takes effect immediately upon the adoption thereof, shall be published in summary form in the official newspaper of said City, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing ordinance was duly put to a vote on roll call, which resulted as follows:

Alderman Abbott	VOTING Yes
Alderman Devine	VOTING Yes
Alderman Eggert	VOTING Yes
Alderman Farrell	VOTING Yes
Alderman Oates	VOTING Yes
Alderman Wohleben	VOTING Yes

The ordinance was thereupon declared duly adopted.

082119.4

By Alderman Wohleben:

WHEREAS, pursuant to Section 61 of the City of Lockport Charter when the Common Council has determined and so declared that real or personal property owned by the City of Lockport, New York, should be sold or conveyed for the interest of the City, the City of Lockport may sell and/or convey such personal or real property, for a valuable consideration, at public sale or by a negotiated private sale, and

WHEREAS, pursuant to Section 279-B of the City Charter no such sale shall be effective unless and until it has been reviewed by the City of Lockport Property Management Committee and has been approved and confirmed by a majority vote of the Common Council for sale or disposition by sealed bid; negotiated sale under provisions of the City's Best Use Policy; Homestead Policy; or negotiated sale; except that no such approval shall be required when the property is sold at public auction to the highest bidder, and

WHEREAS, the Real Property Management Committee met and determined that the following properties are not needed for municipal purposes, have little market value due to their irregular size and location and recommended that the properties be offered for sale to either the adjoining owners or other interested parties, and

WHEREAS, the following purchaser submitted a proposal offering to acquire each property for nominal consideration, and

WHEREAS, the City of Lockport desires to return said parcels to the tax rolls.

NOW THEREFORE BE IT

RESOLVED, that the Mayor be and is hereby authorized to enter into a Contract of Sale and execute a quit claim deed and related title documents necessary for the sale of the following property to the following purchaser for nominal consideration.

PARCEL ID	Address	Purchaser
109.10-2-33	112 Garden St	Carlos Borrero & Luz Soto

Seconded by Alderman Oates and adopted. Ayes 6.

082119.5

By Alderman Oates:

Resolved, that the request for a special use permit made by Eastern Niagara Hospital to erect a 5' x 12' temporary wall sign, located at 521 East Avenue, situated in a R-1 Zone, be and the same is hereby approved, subject to the following provisions:

- No change in character of neighborhood.
- No excessive noise or disturbance of neighborhood.
- No appreciable change in traffic.
- No outside storage of materials.
- Special permits can be indefinite or limited to a specific time.
- The sign be removed within sixty (60) days of its installation.

The special permit shall go to the applicant only and shall terminate on the sale or transfer of the property, and further it terminates if the use permitted is abandoned for more than one year, if any of the conditions enumerated herein have changed, and in the discretion of the Common Council make such use unsuitable.

Seconded by Alderman Eggert and adopted. Ayes 6.

082119.6

By Alderman Oates:

WHEREAS, The Common Council of the City of Lockport authorizes the establishment and dollar amount for petty cash to be maintained by City Departments that require cash for business operations and

WHEREAS, The Common Council adopted a Petty Cash Policy and Procedure by resolution #071515.8C, and

WHEREAS, the City Treasurer in conjunction with Department Heads has completed a comprehensive review of petty cash levels and current business needs, and

WHEREAS, based on this review, amounts appropriate to conduct business and to comply with Petty Cash Policy and Procedure has been determined and will replace previously authorized levels, and

WHEREAS, Department Heads will be provided the Policy and Procedure as approved by the Common Council and will be responsible to assure the petty cash fund be maintained in accordance with this Policy, now, therefore, be it

RESOLVED, that the Common Council authorizes the following Departments to be custodians of petty cash at the dollar amount indicated and these amounts shall be recorded on the General Ledger as follows:

<u>GENERAL FUND</u>		
A.1210.01	Petty Cash, Treasurer	\$ 350.00
A.1210.02	Petty Cash, City Clerk	\$ 100.00
A.1210.03	Petty Cash, Police	\$ 200.00
A.1210.04	Petty Cash, Building Inspection	\$ 180.00
A.1210.05	Petty Cash, Marina	\$ 50.00
A.1210.06	Petty Cash, Community Pool	\$ 200.00
<u>TOTAL GENERAL FUND</u>		<u>\$1,080.00</u>

SEWER FUND

G.1210.01	Petty Cash, Compost	\$ 200.00
<u>TOTAL SEWER FUND</u>		<u>\$ 200.00</u>

Seconded by Alderman Abbott and adopted. Ayes 6.

082119.7

By Alderman Devine:

WHEREAS, the City of Lockport, NY (City) owns and operates a Wastewater Treatment Plant (WWTP) which has a New York State Department of Environmental Conservation (NYSDEC) State Pollution Discharge Elimination System (SPDES) Permit, No. NY0027057; and

WHEREAS, NYSDEC modified the City SPDES Permit, which took effect on August 7, 2017 and now requires disinfection of the WWTP effluent; and

WHEREAS, subsequent to the SPDES Permit modification, the City completed an Engineering Evaluation of the Wastewater Treatment Plant Effluent Disinfection and determined that the Ultra Violet Disinfection Process (UV) meets the standards of the modified SPDES Permit; and

WHEREAS, the Engineering Evaluation of the Wastewater Treatment Plant Effluent Disinfection was used to submit an application for a NYSDEC Water Quality Improvement Program (WQIP) Grant, which resulted in an award of \$1.0M to the City for construction of the required disinfection upgrades; and

WHEREAS, the modified SPDES Permit requires that engineering plans for the disinfection upgrades be submitted to NYSDEC by May 2020 and that the required disinfection system be operational by May 2022; and

WHEREAS, the City advertised a Request for Proposals (RFP) for Engineering Consulting Services related to the required WWTP disinfection upgrades on May 24, 2019, and received two proposals on June 28, 2019 for the requested Scope of Work, which were publically opened and read allowed as follows: Hunt Engineers \$237,403.00, and Nussbaumer & Clarke, Inc \$169,700.00; and

WHEREAS, a selection committee reviewed the submissions in accordance with the RFP and recommends that the City award a contract to Nussbaumer & Clarke, Inc. for \$169,700.00; now, therefore be it

RESOLVED, that the Mayor, subject to Corporation Counsel approval, is hereby authorized to execute an agreement with Nussbaumer & Clarke, Inc. for a Not-to-Exceed Fee of \$169,700.00 for the Engineering Consulting Services included in its proposal to the City, and to be charged to Capital Projects.

Seconded by Alderman Farrell and adopted. Ayes 6.

082119.8

By Alderman Devine:

WHEREAS, the City of Lockport (City), is seeking financial assistance for the Wastewater Treatment Plant Effluent Disinfection Project and intends to submit a loan application via the New York State Environmental Facilities Corporation (NYSEFC) for funding to the Clean Water State Revolving Funds (CWSRF); and

WHEREAS, the City also intends to submit a grant application via the Environmental Facilities Corporation for funding to the New York Water Infrastructure Improvement Act (WIIA); and

WHEREAS, the City project cost estimate for the Wastewater Treatment Plant Effluent Disinfection Project is \$3,125,000; and

WHEREAS, funding has been secured from the NYS DEC Water Quality Improvement Program (WQIP) in the amount of \$1,000,000 to apply towards construction of the project; and

WHEREAS, the WIIA through NYS Environmental Facilities Corporation (NYSEFC) is authorized to fund up to 25% of the balance of \$2,125,000 of the project cost in the amount of \$531,250; and

WHEREAS, the City is applying to Environmental Facilities Corporation to Clean Water State Revolving Funds financing (CWSRF) in the amount of \$2,125,000; and

WHEREAS, Nussbaumer & Clarke, Inc. is authorized to prepare grant and loan applications on behalf of the City of Lockport (City) via the Environmental Facilities Corporation (EFC) to the NYS CWSRF and WIIA; and

WHEREAS, the Mayor is required to sign the CWSRF and WIIA applications on behalf of the City of Lockport and any and all other contracts, documents and instruments necessary to bring about the Project if a funding is awarded; now, therefore be it

RESOLVED, that the City of Lockport Common Council authorizes the application for Clean Water State Revolving Funds (CWSRF) in the amount of \$2,125,000; and be it further

RESOLVED, that the City authorizes and appropriates a minimum of 75% local match as required by the Water Infrastructure Improvement Act (WIIA). Under the WIIA, this local match must be at least 75% of total project of \$3,125,000 less the WQIP funding of \$1,000,000 for a total share of \$1,593,750. The maximum local share appropriated subject to any changes agreed to by the Mayor shall not exceed \$1,593,750 subject to receipt of a WIIA grant and available funding. The total estimated maximum grant is \$531,250. The Mayor may increase this local match through the use of in-kind services without further approval from the City; and be it further

RESOLVED, that the Mayor is authorized to sign a grant application on behalf of the City via the NYSEFC to the Water Infrastructure Improvement Act (WIIA) and loan application for the CWSRF; and be it further

RESOLVED, that should a WIIA 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 WIIA Program through NYSEFC; and be it further

RESOLVED, that should a CWSRF loan be awarded to the City, the Mayor is authorized to execute an 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 CWSRF Program through NYSEFC.

Seconded by Alderman Oates and adopted. Ayes 6.

082119.9 WITHDRAWN (Inter-Municipal Agreement with Town of Niagara)

By Alderman Farrell:

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

Seconded by Alderman Wohleben and adopted. Ayes 6.

082119.10

By Alderman Farrell:

WHEREAS, the City of Lockport, NY (City) desires to better understand the composition, structure, and maintenance needs of trees within the City Right-of-Ways; and

WHEREAS, the City applied to the New York Department of Environmental Conservation (NYSDEC) for a grant to conduct a tree inventory and to prepare a community

forestry management plan and was awarded a grant of \$45,280.00 from NYSDEC under State Contract No. DEC01-T00620GG-3350000; and

WHEREAS, the City published a Request for Proposals (RFP) to conduct a tree inventory and to prepare a community forestry management plan and subsequently received one proposal on July 26, 2019 for the requested Scope of Work which was publically opened and read aloud as follows: Davey Resources Group, Inc. \$68,100 (contract maximum for 20,000 trees); and

WHEREAS, a selection committee reviewed the submission in accordance with the RFP and recommends that the City award a contract to Davey Resource Group, Inc., for up to \$68,100.00 for 20,000 trees; and

WHEREAS, the entire project scope was not budgeted requiring the use of Contingency funds and amending the 2019 General Fund Budget now, therefore, be it

RESOLVED, that the Mayor, subject to Corporate Counsel approval, is hereby authorized to execute an agreement with Davey Resource Group, Inc. 1500 N. Mantua Street, Kent, Ohio, 44240 for a not-to-exceed amount of \$68,100.00 for the Scope of Work included in their July 26, 2019 proposal to the City to conduct a tree inventory and to prepare a community forestry management plan; and be it further

RESOLVED, that a capital project in the amount of \$68,100 shall be created recognizing a State of New York grant in the amount of \$45,280.00 and \$22,820.00 to be contributed from the General Fund; and be it further

RESOLVED, that the 2019 General Fund Budget is hereby amended as follows:

Expenses:

Decrease		
A.1900.54775	Contingency	\$22,820

Increase:		
A.9901.59000.H	Transfer to Capital	\$22,820

Seconded by Alderman Wohleben and adopted. Ayes 6.

082119.11 Revocable Permit re: fence - WITHDRAWN

082119.12

By Alderman Abbott:

Whereas, the owner of 17 Sunnyside Street in the City of Lockport filed an application with the Planning Board for a special use permit to house the existing Arctic Fox in the home located at 17 Sunnyside Street, and

Whereas, on July 8, 2019, the Planning Board convened, deliberated and recommend disapproval of the application for said special use permit, and

Whereas, on July 17, 2019, the Common Council in accordance with the City Code, conducted a public hearing in the Common Council chambers. Now, therefore be it

Resolved, that upon receiving the recommendation for disapproval from the planning board for a special use permit to house the existing Arctic Fox in the home located at 17 Sunnyside Street and upon having held a public hearing with respect to the same the Common Council hereby approves the request for said special use permit subject to the following conditions:

1. This permit is subject to annual renewal beginning January 1, 2021;
2. Receipt of all required governmental required licenses/permits to house the existing Arctic Fox;
3. Receipt of all required immunizations for the existing Arctic Fox;
4. Any changes to the environment or living arrangements shall not be made without prior approval of the Common Council;
5. The premises shall be kept neat and orderly;
6. The permit shall conform to all Federal, State, and Local laws in all other respects;
7. This permit shall automatically expire upon the death of the existing arctic fox located at the premises; and
8. Any violation of conditions herein shall be grounds for revocation.

Seconded by Alderman Devine and adopted. Ayes 5. Alderman Oates voted no.

082119.13

By Alderman Abbott:

Whereas, the owner of 1 Sunnyside Street in the City of Lockport filed an application with the Planning Board for a special use permit to house 6-8 chickens at the home located at 1 Sunnyside Street, and

Whereas, on July 8, 2019, the Planning Board convened, deliberated and did not recommend approval of the application for said special use permit, and

Whereas, on July 17, 2019, the Common Council in accordance with the City Code, conducted a public hearing in the Common Council chambers. Now, therefore be it

Resolved, that upon receiving the recommendation for disapproval from the planning board for a special use permit to house 6-8 chickens at the home located at 1 Sunnyside Street and upon having held a public hearing with respect to the same the Common Council hereby approves the request for said special use permit subject to the following conditions:

1. This permit is subject to annual renewal beginning January 1, 2021;
2. No more than eight (8) chickens shall be housed on the premises at any one time;
3. No roosters are permitted to be housed on the premises;
4. Any changes to the environment and/or living arrangements shall not be made without prior approval of the Common Council;
5. Receipt of all required immunizations for the chickens;
6. The premises shall be kept neat and orderly;
7. The permit shall conform to all Federal, State, and Local laws in all other respects;
8. Any violation of conditions herein shall be grounds for revocation.

Seconded by Alderman Devine and adopted. Ayes 5. Alderman Oates voted no.

082119.14

ADJOURNMENT

At 7:13 P.M. Alderman Devine moved the Common Council be adjourned until 5:30 P.M., Wednesday, September 4, 2019.

Seconded by Alderman Eggert and adopted. Ayes 6.

RICHELLE J. PASCERI
City Clerk