

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

August 23rd, 2023
6:30 P.M.

Mayor Michelle M. Roman called the meeting to order.

ROLL CALL

The following Common Council members answered the roll call:
Aldermen Beakman, Devine, Swanson-Gellerson, Kantor, and Lupo.
Alderman Fogle absent.

INVOCATION – Moment of Silence

MAYORS UPDATE

RECESS

Recess for public input.

082323.1

APPROVAL OF MINUTES

On motion of Alderman Beakman, seconded by Alderman Lupo, the minutes of the Regular Meeting of August 9th, 2023 are hereby approved as printed in the Journal of Proceedings. Ayes 5. Carried.

FROM THE MAYOR

Appointments:

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. Reviewed by the Finance Committee.

Communications (which have been referred to the appropriate City officials)

6/8/2023 Niagara Celtic Heritage Festival Society requesting permission to hang banner in promotion of this year's Niagara Celtic Festival to be held 9/16 and 9/17.

8/7/2023 Judith Kelley from Pot-O-Gold provided notice of their license renewal request being sent to the New York State Liquor Authority.

8/9/2023 Anthony Molinaro, Assistant Principal at Lockport City School District requesting permission to hold the Homecoming parade on Saturday October 7th 2023.

8/11/2023 Amanda Sandolfini, letter of notification of her request to the New York State Liquor Authority to open and serve beginning at 8:00am on Sunday October 8th due to the Buffalo Bills game being played in London, England.

8/15/2023 Sarah K. Lanzo – notification that the bid proposals for Professional Accounting and Auditing Services received on 8/11 is as follows:

Contractor Name: Lumsden McCormick

Year	Amount	Hourly
Annual 2023	\$32,250 w/audit	\$150/hour
Annual 2024	\$34,000 w/audit	\$157/hour
Annual 2025	\$36,300 w/audit	\$165/hour
Annual 2026 (optional year)	\$38,000 w/audit	\$173/hour
Annual 2027 (optional year)	\$40,200 w/audit	\$182/hour

Notice of Complaint:

8/16/2023 Kelly Chciuk, 211 West Avenue, Lockport. Sidewalk fall.

Referred to the Director of Highways, Parks and Water Distribution.

Notice of Claim:

8/16/2023 Barbara and Kaz Borkowski vs. the City of Lockport.

8/16/2023 Daniel Warmus, d/b/a Auditing Erie County vs. City of Lockport.

Referred to the Corporation Counsel.

Notice of Petition: (Small Claims Assessment Review)

Zachary Nolan, 50 Utica Street, Lockport NY.

MOTIONS & RESOLUTIONS

082323.2

By Alderman Beakman:

Resolved that pursuant to their request, the Niagara Celtic Heritage Society, Inc. is hereby granted permission to erect a banner at least 17' from the ground across East Avenue at Davison Road to promote the 2023 Niagara Celtic Heritage Festival & Highland Games. Banner is to be erected from September 1 thru September 18, 2023 based on a schedule approved by the City Clerk, and be it further

Resolved that said permission is subject to the Niagara Celtic Heritage Society, Inc. filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured and subject to payment of \$50, and be it further

Resolved that the City Clerk is hereby authorized and directed to make arrangements with city forces to erect the banner.

Seconded by Alderman Lupo and adopted. Ayes 5.

082323.3

By Alderman Beakman:

Whereas the City of Lockport (City) has received a Downtown Revitalization Initiative (DRI) Grant to fund improvements to the Spaulding Mill (Project); and

Whereas per 6 NYCRR Part 617, commonly known as State Environmental Quality Review Act, or "SEQRA," the City is required to determine the level of environmental review required for the proposed project; and

Whereas, the City has completed Parts 1, 2, and 3 of the New York State Environmental Assessment Form (EAF);

Now therefore, be it:

Resolved that the City does hereby determine that the Project is an Unlisted Action as defined under SEQRA, and that based upon review of the EAF it has been determined that the project will not result in any significant adverse environmental impacts.

Seconded by Alderman Swanson-Gellerson and adopted. Ayes 5.

082323.4

By Alderman Beakman:

Whereas the City of Lockport (City) has received a New York State Canalway Grant to fund improvements to the comfort station on Market St. near the North Adam St. bridge and plans to add a pavilion and other miscellaneous improvements (Project); and

Whereas per 6 NYCRR Part 617, commonly known as State Environmental Quality Review Act, or "SEQRA," the City is required to determine the level of environmental review required for the proposed project; and

Whereas the City has completed Parts 1, 2, and 3 of the New York State Environmental Assessment Form (EAF);

Now therefore, be it:

Resolved that the City does hereby determine that the Project is an Unlisted Action as defined under SEQRA, and that based upon review of the EAF it has been determined that the project will not result in any significant adverse environmental impacts.

Seconded by Alderman Swanson-Gellerson and adopted. Ayes 5.

082323.5

By Alderman Beakman:

Resolved that pursuant to their request, Trinity Buildings and Construction Management Corporation, 1 Jewel Drive #322, Wilmington, MA 01887 is hereby granted permission to place three dumpsters (40-yard dumpsters) in the parking spaces directly in front of 77 Main Street, where they have a project taking place. Additionally permission is granted for protective scaffolding to be installed over the sidewalk Said permission is subject to Trinity Buildings and Construction Management Corporation filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured and follow all rules and regulations as set forth in the Lockport City Code Section 156 – Roll off Containers.

Seconded by Alderman Devine and adopted as amended. Ayes 5.

082323.6

By Alderman Kantor:

Whereas permission was granted to the Lockport Wildcats Minor Professional Adult Football Team to use the field for purposes of playing semi-professional football,

Whereas due to weather, a league game was unable to complete and the entire league post season scheduled must be pushed back, the Lockport Wildcats requested to add Saturday September 9th to the schedule that was approved in May 2023.

Now therefore be it resolved that said permission is subject to Lockport Wildcats Minor Professional Adult Football Team filing a certificate of insurance with the City Clerk naming the city of Lockport as additional insured and subject to Corporation Counsel approved and be it further

Resolved that the Lockport Wildcats maintain the conditions of the Exchange Field at Outwater Park and the Rotary Club Community Pool's Locker Rooms when in use.

Seconded by Alderman Devine and adopted. Ayes 5.

082323.7

By Alderman Swanson Gellerson:

Whereas the safety and security of the Lockport City School District (LCSD) students, staff, and facilities are of paramount importance to the community and its residents; and

Whereas the presence of a School Resource Officer (SRO) within the educational environment has been shown to enhance school safety, provide valuable resources to students and faculty, and foster positive relationships between law enforcement and the school community; and

Whereas the Lockport Police Department (LPD) is dedicated to ensuring the safety and well-being of all citizens within the City of Lockport, and recognizes the need for a specialized law enforcement role to serve within the school setting; and

Whereas the City and LCSD have a contract signed on March 2019 which outlined a cost sharing agreement between the entities which is in need of renewal; and

Whereas it has been mutually agreed upon by the Lockport City School District and the City of Lockport that a cost-sharing arrangement for the employment of an additional School Resource Officer aligns with their shared commitment to school safety; and

Whereas the Lockport City School District will provide funding to cover the base wages of the School Resource Officer annually beginning in FY 2024, and the City of Lockport will assume responsibility for the provision of benefits and non-base wages associated with the employment of said officer;

Now therefore be it resolved, by the City Council, that the Mayor is authorized to enter into a cost-sharing contract with the LCSD for the existing and new SRO, and that the City will budget an additional SRO in FY 2024, contingent upon execution of the mutually agreed upon contract and corporation counsel review.

Seconded by Alderman Lupo and adopted. Ayes 5.

By Alderman Devine:

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

Seconded by Alderman Kantor and adopted. Ayes 5,

082323.8

By Alderman Kantor:

**PAYMENT IN LIEU OF TAXES AGREEMENT
BY AND AMONG
HARRISON LOFTS HOUSING DEVELOPMENT FUND COMPANY, INC.,
HARRISON LOFTS LIMITED PARTNERSHIP, AND
THE CITY OF LOCKPORT**

Whereas the Harrison Lofts Housing Development Fund Company, Inc. is a New York Not-for-Profit corporation organized pursuant to Article XI of the Private Housing Finance Law ("PHFL"), having its principal place of business at c/o YWCA of the Niagara Frontier, Inc., 32 Cottage Street, Lockport, NY 140494 ("HLHDFC"); and

Whereas HLHDFC was formed for the purpose of providing residential rental accommodations for persons of middle income and low-income; and

Whereas HLHDFC is, or will be, the legal owner of record, as nominee for Harrison Lofts Limited Partnership, a New York limited partnership having its principal place of business at c/o The Kearney Realty & Development Group Inc., 57 Route 6, Suite 207, Baldwin Place, New York 10505 ("Partnership"), of real property located at 160 Washburn Street, Lockport, New York 14094 (SBL # 109.14-4-20.1), being Part of Lot 8, 10 & 12, Section 15, Township 14, Range 6 of the Holland Land Company's Survey in the City of Lockport, County of Niagara and State of New York more particularly described in the Nussbaumer & Clarke, Inc. Survey Project No. 1905-0035, dated December 23, 2019 annexed hereto as Exhibit A (the "Property"); and

Whereas HLHDFC and the Partnership will develop, own, construct, maintain and operate a mixed use of commercial use and residential housing project for persons of middle income and low income at the Property (the "Project"); and

Whereas HLHDFC's and the Partnership's plan for the use of the Property constitutes a "housing project" as that term is defined in the PHFL; and

Whereas HLHDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

Whereas pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

Whereas Section 577 of the PHFL permits housing development fund companies and local legislative bodies of a municipality to enter into a Payment in Lieu of Taxes ("PILOT" or "Tax Exemption") Agreement; and

Whereas the Common Council Members of the City of Lockport, New York, by Resolution adopted 091521.3 approved and authorized the execution of a PILOT Agreement; and

Whereas the City of Lockport Common Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption,

NOW, THEREFORE, THE UNDERSIGNED PARTIES AGREE AS FOLLOWS:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements,. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Niagara County, the City of Lockport ("City") and the Lockport City School District or other taxing jurisdiction (collectively, the "Taxing Jurisdictions"), but exclude any sales tax that may be due and owing from commercial tenants.

2. The tax exemption will commence on the date HLHDFC acquires the Property and expire on the thirty-first (31st) anniversary of the date the Project obtains a Certificate of Occupancy. This PILOT Agreement shall not limit or restrict the HLHDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this PILOT Agreement. As stated above, the exemption extended pursuant to Section 577 of the PHFL and this PILOT Agreement does not include exemption from special assessments and special ad valorem levies. During the term of this PILOT Agreement, the Partnership shall pay any service charges, special ad valorem levies, special assessments and improvement district charges or similar tax equivalents which are or would be levied upon or with respect to the Project by the Taxing Jurisdictions or any other taxing authority.

3. So long as the exemption hereunder continues, commencing one year after the Project obtains a Certificate of Occupancy, the Partnership shall make annual PILOT payments in the amount set forth below, which payments shall cover all Local and Municipal Taxes owed in connection with the Property and the Project, and which payments shall be shared by the Taxing Jurisdictions on the same basis as property taxes would be shared if the Property and the Project were fully taxed. The PILOT payments shall be in the initial amount of \$80,000 per year, increasing by two percent (2%) annually. So long as the tax exemption remains in effect, tenant rental charges shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL. PILOT payments shall be due on February 15 of the calendar year following each taxable year to which this PILOT Agreement applies. Payments shall be mailed via First Class mail through the United States Postal Service or personally delivered to the City of Lockport Treasurer One Locks Plaza, Lockport, New York 14094, or such other address as the City may specify in writing.

4. The tax exemption will continue for the term described above provided that (a) the Property continues to be used as housing facilities for persons of middle income and low income in accordance with the income and rent limitations, and (b) any of the following occur (i) the HLHDFC and the Partnership operate the Property in conformance with Article XI of the PHFL; (ii) the HLHDFC assumes sole legal and beneficial ownership of the Property and operates the Property in conformance with Article XI of the PHFL; or (iii) in the event an action is brought to foreclose a mortgage upon the HLHDFC, and the legal and beneficial interest in the Property is acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund company organized pursuant to Article XI of the PHFL, and such successor in interest shall operate the Property in conformance with Article XI of the PHFL.

5. The failure to make any required PILOT payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including, but not limited to, enforcement and collection of taxes to the extent permitted by law. In addition to failure to pay any amount when due, HLHDFC and the Partnership shall be in default of this PILOT Agreement in the event of material failure to observe and perform any other covenant, condition of this PILOT Agreement on its part to be observed and performed, and continuance of such failure for a period of thirty (30) days after written notice specifying the nature of such failure and requesting that it be remedied; or any warranty, representation or other statement by or on behalf of HLHDFC and/or the Partnership contained in this PILOT Agreement shall prove to have been false or untrue in any material respect on the date when made or on the effective date of this PILOT Agreement. Any payment not received by its due date shall accrue interest and penalties at the rates provided for late payment of taxes to the Taxing Jurisdictions.

6. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery.

7. This PILOT Agreement shall inure to the benefit of and shall be binding upon the City, HLHDFC and the Partnership and their respective successors and assigns, including the successors in interest of HLHDFC and the Partnership. There shall be no assignment of this PILOT Agreement except with consent of the other parties, which consent shall not be unreasonably withheld, provided that the assignee or its general partner or managing member shall be a housing development fund company subject to Article XI of the PHFL, the assignee shall have assumed the obligations of this Agreement in writing reasonably satisfactory to the City, and the assignee shall have provided such financial and other information as shall be reasonably requested by the City in order to assure the proper completion and operation of the housing project and the compliance with the terms of this PILOT Agreement and all applicable laws, regulations and covenants.

8. This PILOT Agreement shall be governed by and construed in accordance with the laws of the State of New York. If any provision of this PILOT Agreement or its application is held invalid or unenforceable to any extent, the remainder of this PILOT Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

9. This PILOT Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

10. This PILOT Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the Property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

11. Each of the parties individually represents and warrants that the execution, delivery and performance of this PILOT Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which it is a party. Each party represents that this PILOT Agreement shall constitute the legal, valid and binding agreement of such party, enforceable in accordance with its terms.

Seconded by Alderman _____ and adopted. Ayes _____.

082323.9

By Alderman Lupo:

Whereas the City of Lockport is the successor in interest to the Lockport Urban Renewal Agency, and its Urban Renewal Plan (the Plan) that was adopted by the Common Council on February 20, 1963 and revised in June 1964; and

Whereas the Plan placed covenants, conditions, restrictions and right of reverter upon all properties within its footprint; and

Whereas the Plan included within its scope certain real property located at 116 Main Street and 120 Main Street, Lockport, New York, currently owned by E.A. Granchelli Developer, LLC; and

Whereas the City transferred the property at 116 Main Street, Lockport to Elmer A. Granchelli, predecessor in title, subject to the Plan for a period of forty (40) years; and

Whereas E.A. Granchelli Developer, LLC now wishes to transfer said property without the encumbrances of covenants, conditions, restrictions and right of reverter of the Plan; and

Now be it resolved that the Mayor, subject to approval by the Corporation Counsel, is hereby authorized to enter into a Release and Termination with E.A. Granchelli Developer, LLC, for any remaining encumbrances that the Plan might otherwise impose on the property.

Seconded by Alderman Swanson-Gellerson and adopted. Ayes 5.

082323.10

By Alderman Lupo:

Whereas the responsibility for enforcement of the City sign ordinances is vested in the Building Inspections Department

Whereas the general election for various elective offices will occur within eleven weeks of today; and

Whereas a strict application of the relevant ordinance would require any sign placed between the sidewalk and roadway be removed or the property owner cited for violating said ordinance; now be it

Resolved that a moratorium shall be placed on enforcement of City Ordinance §190.125(B) (8) with respect to the placement in front of a resident's property between the sidewalk and the roadway for calendar year 2023.

Seconded by Alderman Kantor and adopted as amended. Ayes 5.

082323.11

By Alderman Swanson-Gellerson:

Whereas the City of Lockport has collective bargaining agreements with various unions that cover virtually all of its employees with the exception of a few managerial and confidential employees; and

Whereas the City of Lockport enacted an Unrepresented Employees Policy on October 24, 2018 to provide the general terms of employment and respective compensation; and

Whereas the City has determined that it is necessary to update this policy; and

Whereas the Common Council has reviewed that attached Unrepresented Employees Policy and approve the same; and

Now therefore be it resolved that the City of Lockport hereby adopts and approves the Unrepresented Employees Policy.

Seconded by Alderman Lupo and NOT adopted. Ayes 3. Nays 2.
Alderman Devine and Alderman Kantor voted no.

082323.12

By Alderman Swanson-Gellerson:

Whereas on July 14, 2023, the City published a request for proposal on the City website and newspaper to procure bids for the City's annual auditing services; and

Whereas one bidder provided a proposal by the deadline of August 11, 2023, Lumsden McCormick LLP for three year contract beginning with services for the FY 2023 audit; and

Whereas the members of the City audit committee have provided a recommendation to pursue said contract, now therefore be it

Resolved that the Mayor is hereby authorized to enter into said contract with Lumsden McCormick LLP.

Seconded by Alderman Kantor and adopted. Ayes 5.

By Alderman Devine:

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

Seconded by Alderman Beakman and adopted. Ayes 5,

082323.13

By Alderman Lupo:

Whereas in review of the FY 2023 General Fund budget, a number of line items have tilted towards deficiency; and

Whereas fund and cash flow projections for said fund remain positive for the fiscal year, and other line items within the fund can be modified to eliminate line item deficiencies; and

Whereas the City of Lockport is dedicated to maintaining a fiscally responsible and balanced budget to effectively serve its residents; now therefore be it

Resolved that the FY 2023 General Fund is amended as follows:

Revenue

Increase

A.0000.32401	Interest and Earnings	\$600,000
A.1355.33089	Other State Revenue	\$26,000
A.3620.32555	Building Permits	\$15,000

Decrease

A.3410.31640	Ambulance Charges	\$200,000
--------------	-------------------	-----------

Expenditures

Increase

A.1420.51040	Part Time Wages	\$15,000
A.1640.54300	Vehicle Maintenance and Repair	\$20,000
A.3410.51100	Overtime	\$400,000
A.7140.51060	Temporary Seasonal	\$10,000
A.7180.51060	Temporary Seasonal	\$6,000
A.1620.51010	Full Time Wages	\$23,440
A.1620.58010	FICA	\$1,793
A.1620.58020	Workers Compensation	\$1,792
A.1620.58050	Retirement	\$2,578
A.1620.58040	Medical Insurance	\$11,641

Decrease

A.8510.54515	Special Supplies	\$10,000
--------------	------------------	----------

A.7110.51010	Full Time Wages	\$23,440
A.7110.58010	FICA	\$1,793
A.7110.58020	Workers Compensation	\$1,792
A.7110.58050	Retirement	\$2,578
A.7110.58040	Medical Insurance	\$11,641

Seconded by Alderman Devine and adopted. Ayes 4. Nay 1.
Alderman Kantor voted no.

082323.14

By Alderman Devine:

Whereas the American Rescue Plan Act of 2021 (ARPA) provided the City with \$2,082,558 in Federal funding to be used within established parameters; and

Whereas the City of Lockport has \$800,000 allocated for the Lockport Raw Water Pump Station in remaining unencumbered funds available; and;

Whereas the City's Engineering Consultant, Nussbaumer & Clarke, Inc., issued a Notice to Bid for interested contractors for the Lockport Raw Water Pump Station Generator Purchase Specification project and subsequently received and publicly opened and read bids at the Municipal Building on July 21, 2023 at 2:00 pm as follows;

CONTRACTOR	Frey Electric Construction Co.
TOTAL BID AMOUNT	\$188,000.00

And

Whereas Nussbaumer & Clarke, Inc. has determined that Frey Electric Construction Co. has submitted the lowest complete and responsible bid and recommends that the City award the contract to Frey Electric Construction Co., for a total amount of \$188,000.00; now, therefore, be it

Now therefore be it resolved that the Mayor is authorized to execute an Agreement with Frey Electric Construction Co., 100 Pearce Avenue, Tonawanda, New York 14150, in the amount of \$188,000.00, contingent upon corporation counsel approval.

Seconded by Alderman Kantor and adopted. Ayes 5.

082323.15

ADJOURNMENT

At 7:31 P.M. Alderman Beakman moved the Common Council be adjourned until 6:30 P.M., Wednesday September 13th, 2023.

Seconded by Alderman Kantor and adopted. Ayes 5.

SARAH K. LANZO
City Clerk