

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

Lockport Municipal Building

Regular Meeting  
Official Record

April 10th, 2024  
6:00 P.M.

Mayor John Lombardi III called the meeting to order.

**ROLL CALL**

The following Common Council members answered the roll call:

Aldermen Craig, Devine, Fogle, Kirchberger, Lupo, Mullane

**INVOCATION- Pastor Steve**

**RECESS**

Recess for public input.

**041024.1**

**APPROVAL OF MINUTES**

On motion of Alderman Fogle, seconded by Alderman \_\_\_\_\_, the minutes of the Regular Meeting of March 27<sup>th</sup>, 2024 are hereby approved as printed in the Journal of Proceedings. Ayes \_\_\_\_\_. Carried.

**FROM THE MAYOR**

**Appointments:**

4/3/2024 Mark Danna, Atty, 145 Autumnvale Drive, Lockport, NY 14094 appointed to Board of Assessment Review Committee effective April 3, 2024. Said term expires on September 30, 2029.

**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)

3/19/2024 From David Kinyon, member, Lockport Rotary Club. Letter to request permission to hold Hike and Bike event on May 11<sup>th</sup>, 2024.

4/1/2024 Tamre Varallo, 7373 Rochester Road, Winery owner. Letter to request permission to hang banner in promotion of Father's Day Car Show on June 16<sup>th</sup>, 2024.

**Notice of Complaint:**

4/1/2024 Glenn P. Ferry, 307 Washburn Street, Lockport NY 14094 vs City of Lockport

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

**Notice of Claim:**

3/26/2024 Joel Calabro, 475 East Union Street.

3/26/2024 Cynthia Cole, 31 Butler Street.

3/26/2024 Todd Tinkham, 33 Butler Street.

Referred to the Corporation Counsel.

**MOTIONS & RESOLUTIONS**

**041024.2**

By Alderman Craig:

**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 April 11, 2024.

Seconded by Alderman Devine and adopted. Ayes 6.

**041024.3**

By Alderman Craig:

**Resolved** that claims authorized for payment by the Director of Planning and Development, and subsequently paid from the Community Development Escrow Account, be and the same are hereby approved.

Seconded by Alderman Kirchberger and adopted. Ayes 6.

**041024.4**

By Alderman Fogle:

**Resolved** that the Mayor and Common Council do hereby extend congratulations and appreciation to the following City employees for their years of dedicated service to the City of Lockport:

<u>Employee</u>	<u>Years of Service</u>	<u>Title</u>
Raymond M. Aldrich	5	Heavy Equipment Operator

Seconded by Alderman Lupo and adopted. Ayes 6.

By Alderman Devine:

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

Seconded by Alderman Kirchberger. Ayes 6.

## 041024.5

By Alderman Mullane:

**Whereas** the City of Lockport recognizes the importance of infrastructure improvement projects for the safety and well-being of its residents; and

**Whereas** the New York State Department of Transportation (NYSDOT) has initiated preliminary phases of the Rehabilitation of NY Route 78 (Transit Road) Highway project, a federally funded transportation endeavor aimed at rehabilitating NY Route 78 between Millersport Highway and Summit Street; and

**Whereas** the proposed project seeks to address various deficiencies along the route, including enhancements to roadway conditions, pedestrian facilities, and drainage systems; and

**Whereas** a crucial aspect of the project involves the reconstruction of the existing sidewalk and the installation of a new ADA compliant curb ramp along the eastern side of NY Route 78 directly in front of Children's Memorial Park, which is situated between Lincoln Avenue and Lincoln Drive; and

**Whereas** the City of Lockport recognizes the significance of ensuring accessibility and safety for all residents, including those with disabilities, and supports efforts to enhance ADA compliance within the community; and

**Whereas** it has been determined that the reconstruction of the sidewalk and installation of the curb ramp will require the permanent acquisition of 1997 square feet of Right-of-Way (ROW) from Children's Memorial Park, with assurance that the acquisition will not interfere with park activities;

**Now, therefore, be it resolved:**

1. The City of Lockport hereby expresses its full support for the Rehabilitation of NY Route 78 (Transit Rd) Highway project proposed by the New York State Department of Transportation.
2. The City of Lockport recognizes the necessity of addressing the deficiencies along NY Route 78 and acknowledges the benefits that the proposed improvements will bring to the roadway, pedestrian facilities, and drainage systems within the city.
3. The City of Lockport specifically endorses the reconstruction of the existing sidewalk and the installation of a new ADA compliant curb ramp along the eastern side of NY Route 78 in front of Children's Memorial Park as vital components of the project.
4. The City of Lockport acknowledges and approves the permanent acquisition of 1997 square feet of Right-of-Way (ROW) from Children's Memorial Park, with the understanding that it will not interfere with park activities.
5. The Mayor of Lockport is hereby authorized to take all necessary actions to facilitate the implementation of the Rehabilitation of NY Route 78 (Transit Road) Highway project in accordance with applicable regulations and guidelines.
6. The City of Lockport has no objections to the de minimis determination of the proposed action (acquisition of approximately 1997 square feet of ROW) from Children's Memorial Park and that this action will not adversely impact the activities, features, and attributes that qualify this property (Children's Memorial Park) for protection under the Department of Transportation Act of 1966, Section 4(f).

Seconded by Alderman Fogle and adopted. Ayes 6.

**041024.6**

By Alderman Lupo:

**Whereas** the New York State Community Development Block Grant Program provides funding to communities under the Microenterprise Program to undertake activities that focus on community development needs such as creating or expanding job opportunities, and

**Whereas** the City of Lockport (the "City") desires to partner with The Greater Lockport Development Corporation ("GLDC") as a subrecipient to apply to the New York State Office of Community Renewal ("OCR") for \$300,000 for eligible Microenterprise activities which will provide grants to eligible businesses (including startup and existing) for working capital, equipment, etc., and

**Whereas** the City has held a public hearing to obtain citizens' views regarding the CDBG program as administered by OCR and regarding the proposed microenterprise program.

**Now therefore be it resolved** that the Mayor is hereby authorized to submit a grant application in the amount of \$300,000, such amount to be used to provide business grants and fund the costs of grant administration and program activities, and be it further

**Resolved** that the Mayor is hereby designated as the Environmental Certifying Officer for the purposes of complying with the applicable federal environmental review requirements for the OCR grant, and be it further

**Resolved** that the Mayor is hereby authorized to execute the OCR grant agreement and all related documents associated with the OCR grant, including agreements with GLDC relating to the use and administration of the grant funds, subject to review and approval by the City Attorney.

Seconded by Alderman Craig and adopted. Ayes 6.

**041024.7**

By Alderman Kirchberger:

**Resolved** that pursuant to their request, permission is hereby granted to the Lockport Rotary Club to conduct a Hike and Bike Event on Saturday, May 11, 2024, from 10 am to 12 pm to celebrate their progress on the Market Rotary Pavilion and the other improvements that have been made on the Market Street Trail, and be it further

**Resolved** that traffic be blocked off at Market Street, from Chestnut to Exchange Street, and that cones be placed along the south side of Cold Springs Road Bridge

**Resolved** that permission is subject to Lockport Rotary Club filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured.

**Resolved**, that the Director of Highways, Parks and Water Distribution be and the same is hereby authorized and directed to arrange for delivery of barricades and trash cans to said area prior to said event.

Seconded by Alderman Devine and adopted. Ayes 6.

**041024.8**                    **WITHDRAWN** (Juneteenth)

**041024.9**

By Alderman Lupo:

**Resolved** that a public hearing be held at the Common Council meeting on April 24th, starting at 6:00PM in council chambers, Lockport Municipal Building, One Locks Plaza, Lockport, NY, relative to a request for a Special Use Permit by James E. Spry III, 54 Beattie Avenue, Lockport, NY 14094 to harbor hens on the property.

**And be it further**

**Resolved** that the City Clerk is hereby authorized and directed to advertise notice of said public hearing.

Seconded by Alderman Devine and adopted. Ayes 6.

**041024.10**

By Alderman Devine:

**Resolve** that pursuant to their request, Thunderwolves Baseball, LLC is hereby granted permission to use the baseball field at Outwater Park for their 2024 Youth Baseball Tournaments, subject to approval of the schedule by the Highways & Parks Department, for games to be played between May 24<sup>th</sup> and July 28<sup>th</sup>, 2024,

**And be it further**

**Resolved** that Thunderwolves Baseball, LLC file a certificate of insurance with the City Clerk naming the City of Lockport as additional insured.

Seconded by Alderman Kirchberger and adopted. Ayes 6.

**041024.11**

By Alderman Mullane:

**Resolved** that pursuant to their request, Spring Lake Winery is hereby granted permission to erect a banner at least 17' from the ground across East Avenue at Davison Road to promote Father Day Car Show on June 16<sup>th</sup>. Banner is to be erected from May 27, 2024 thru June 16, 2024 based on a schedule approved by the City Clerk, and be it further

**Resolved** that said permission is subject to Spring Lake Winery 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 6.

**041024.12**

By Alderman Devine:

**Resolved** that pursuant to their request, Men's Senior Baseball League (MUNY MSBL) is hereby granted permission to use the baseball field at Outwater Park for their 2024 Travel Baseball Team, subject to approval of the schedule by the Highways & Parks Department, for the games played between May 29, 2024 and July 29, 2024, and be it further

**Resolved** that Men's Travel Baseball League (MUNY MSBL) file a certificate of insurance with the City Clerk naming the City of Lockport as additional insured.

Seconded by Alderman Kirchberger and adopted. Ayes 6.

**041024.13**

**WITHDRAWN** (Transport Transformer)

**041024.14**

By Alderman Devine:

**Whereas** City of Lockport (hereinafter the "City") desires to accept the New York State Environmental Facilities Corporation (NYS EFC) Engineering Planning Grant (EPG) #130135; and

**Whereas** the City proposes to conduct a Sanitary Sewer System Evaluation under NYS EFC EPG #130135; and

**Whereas** the City intends to work with Hunt Engineering, Architects, Land Surveyors & Landscape Architect D.P.C., Contact Tim Steed, 100 Hunt Center, Horseheads, NY 14845; and

**Whereas** the primary purpose of this grant will be to evaluate the City's Collection System Inflow and Infiltration (I&I) issues and excess flow experienced at the Wastewater Treatment Plant (WWTP) during intense storm events and seasonal thaw.

**Now therefore based on such review and consideration be it resolved** by the City of Lockport Common Council that the Mayor is hereby authorized to execute an EPG Agreement with the NYS EFC and any and all other contracts, documents, and/or instruments necessary to facilitate the EPG project referenced herein and to fulfill the City of Lockport's obligations thereunder.

Seconded by Alderman Craig and adopted. Ayes 6.

**041024.15**

By Alderman Devine:

**Whereas** City of Lockport (hereinafter the "City") proposes to conduct a Sanitary Sewer System Evaluation under New York State Environmental Facilities Corporation Engineering Planning Grant (NYS EPG) #130135; and

**Whereas** the NYS EPG requires a local match equal to 20 percent of the requested grant amount in cash and/or in-kind services; and

**Now therefore based on such review and consideration be it resolved** by the City's Common Council that the City hereby authorizes and appropriates a minimum 20% local

match as required by the NYS EPG Program for the City's Sanitary Sewer System Evaluation in the amount of \$10,000 and based upon the total EPG Grant award of \$50,000.

**Be it further resolved** the source of the local match, and any amount in excess of the required match, shall be provided by the City's general fund and/or in-kind services as needed.

Seconded by Alderman Devine and adopted. Ayes 6.

**041024.15A**

By Alderman Fogle:

**Whereas**, there was a residential fire at 96 Locust Street, Lockport, NY that occurred on October 19, 2023; and

**Whereas**, the fire damage to the structure was deemed a total loss of the property by the Lockport Fire Department and the Building Inspector has rendered an opinion in his report dated October 23, 2023, that the building is unsafe and needs to be demolished; and

**Whereas**, the City Council passed resolution 121323.12A in December of 2023, sponsored by Alderman Fogle and seconded by Alderman Beakman, wherein the Council approved a contract between the City and Durable Demolition, LLC, Lockport; and

**Whereas**, said resolution approved the contract for Durable Demolition LLC, to be paid \$34,935.00; and

**Whereas**, the demolition at 96 Locust has taken place; now therefor it be

**Resolved**, that the Common Council hereby amend the General Fund budget to reflect this need:

Expenditure

Decrease

A.1900.54775

Contingency

\$34,935.00

Increase

A.1900.54055

Professional Services

\$34,935.00

Seconded by Alderman Lupo. Ayes 6.

**041024.15B**

By Alderman Craig:

**Whereas**, the City of Lockport recognizes the critical importance of maintaining fully operational emergency response equipment for the safety and well-being of its residents; and

**Whereas**, it has come to our attention that the City's only Aerial Ladder Truck, a 2001 Pierce, VIN #4P1CT02S81A001256, is in need of emergent repair due to a hydraulic system issue discovered during a routine repair; now therefore be it

**Resolved**, that the City Council authorizes the allocation of contingency funds in the amount of \$67,343.33 to cover the necessary repair expenses; and be it further,

**Resolved**, that the Common Council hereby amend the General Fund budget to reflect this need:

Expenditure

Decrease

A.1900.54775	Contingency	\$67,343.33
Increase		
A.3410.54300	Vehicle Maintenance Repair	\$67,343.33

Seconded by Alderman Mullane. Ayes 6.

**041024.15C**

By Alderman Fogle:

**Whereas** in January 2012, Richelle Pasceri was appointed by the Mayor of the City of Lockport to serve a five-year term as the Lockport City Clerk and in 2017, Ms. Pasceri was reappointed to a second five-year term, and

**Whereas** on January 24, 2018, the City of Lockport (“City”) entered into a Collective Bargaining Agreement (“CBA”) with the Lockport Department Head Association (“Union”) for January 2013 through December 31, 2026, and

**Whereas** Ms. Pasceri’s position of City Clerk is clearly and unequivocally is included in the Union,

**Whereas** the City never made a simple application to the Public Employment Relations Board (“PERB”) to remove Ms. Pasceri’s position as City Clerk from the Union and Union protection prior to the City’s illegal termination of Ms. Pasceri, and

**Whereas** on April 1, 2020, the City issued a written Notice of Removal termination of Ms. Pasceri’s employment effective April 10, 2020, ignoring her status as a Union member per the CBA which the City signed on to, and

**Whereas** on April 16, 2020, the Union filed three grievances against the City relating to Ms. Pasceri’s termination, and

**Whereas** on June 16, 2020, the Union filed a demand to Arbitrate the grievances, and

**Whereas** on July 6, 2020, the City filed a Petition to Stay Arbitration arguing inexplicably that Ms. Pasceri as City Clerk was not a member of the Union and the CBA was inapplicable to Ms. Pasceri’s position, and

**Whereas** on August 14, 2020, the Niagara County Supreme Court ordered that the CBA was applicable as Ms. Pasceri was a member of the Union as City Clerk, that the agreement was enforceable between the City and the Union and granted the Union’s request to arbitrate, and

**Whereas** on October 16, 2020, the City filed a Notice of Appeal of the Supreme Court’s decision and

**Whereas** during the pendency of the Appeal, the City inexplicably entered into a stipulation that neither the City nor the Union would appeal the results of the decision to a higher court, and

**Whereas** on December 23, 2022, the New York State Appellate Division confirmed the Supreme Court’s initial decision that Ms. Pasceri was in fact a member of the Union entitling her to due process rights under the CBA, and

**Whereas** on May 17, 2022, the City and Pasceri participated in an arbitration hearing and on October 20, 2022, the arbitrator issued an 89-page opinion in favor of Ms. Pasceri and the Union concluding that the City did not have just cause to terminate Ms. Pasceri and that Ms. Pasceri being in fact a member of the Union at the time of her termination and must be made whole through an award, and

**Whereas** on August 23, 2023, the City filed a motion to vacate or modify the Arbitration award,



**Whereas** and on October 25, 2023, and Supreme Court Judge Frank A. Sedita, III, issued an Order denying the City's motion to vacate or modify and confirmed the entire award to Ms. Pasceri holding that it is unclear how the City could even advance such a claim in good faith when there is already a Supreme Court decision and Order directing that the CBA was applicable to the position of City Clerk and that Ms. Pasceri was in the Union and that the very same decision and order was already upheld by the New York State Appellate Division, and

**Whereas** on January 24, 2024, the Niagara County Supreme Court issued an Order and Judgment awarding Ms. Pasceri the following relief:

Mitigated Earnings during loss period of \$50,247.39  
Value of Vacation Days of \$16,081.06  
Value of Personal Days of \$2,336.56  
Value of Sick Days Buyout \$13,029.78  
Value of Retirement Contribution of \$5,656.32  
Value of HRA Contribution of \$1,000.00  
Value of Longevity Pay of \$1,500.00  
Value of Health Insurance Coverage Premium of \$48,834.78

That Ms. Pasceri's NYSLR ERS retirement credit be restored for the period of April 2020 to June 2022. If the City is unable to restore Ms. Pasceri's NYSLRS ERS retirement credit for the period of April 2020 to June 2022, it must pay Ms. Pasceri the additional monthly retirement benefits she would have gained if that retirement credit had been applied properly for the duration of her retirement period.

Ms. Pasceri receive health insurance coverage as provided for under the CBA when she reaches age 55 and files the papers for retirement with NYSLRS.

Pursuant to CPLR 5002, pre-judgment interest of 9% on the total award of \$138,685.89 from October 2022, of \$15,570.26, for a total amount due of \$154,256.15, and

**Whereas** the prior administration has expended over \$61,000.00 in costs for outside attorney fees and arbitration fees in this matter, and when combined with the award below the City will have spent over \$215,000.00, and the cost to further appeal this matter is estimated at over \$15,000.00 with minimal chance of success, and

**Whereas** in accordance with the latest Order by Niagara County Supreme Justice Frank A. Sedita, III, Corporation Counsel for the City of Lockport concurs with all of the above rulings of the Arbitrator, Supreme Court and New York State Appellate Division and hereby advises against the filing of any further appeals in this matter, and

**Whereas** the Mayor hereby concurs with the advice and guidance of Corporation Counsel and request that the Common Council satisfy the above relief awarded to Ms. Pasceri.

**Now, therefore be it resolved** That the Mayor and Common Council direct that Funds in the amount of \$12,870.26 shall be transferred

From:  
A.1900.54775          Contingency

To:

A.1900.54765      Judgement and Claims, and BE IT FURTHER

**Resolved**, that the Common Council hereby authorizes the payment of the following relief:

Mitigated Earnings during loss period of \$50,247.39  
Value of Vacation Days of \$16,081.06  
Value of Personal Days of \$2,336.56  
Value of Sick Days Buyout \$13,029.78  
Value of Retirement Contribution of \$5,656.32  
Value of HRA Contribution of \$1,000.00  
Value of Longevity Pay of \$1,500.00  
Value of Health Insurance Coverage Premium of \$48,834.78

That Ms. Pasceri's NYSLR ERS retirement credit be restored for the period of April 2020 to June 2022. If the City is unable to restore Ms. Pasceri's NYSLRS ERS retirement credit for the period of April 2020 to June 2022, it must pay Ms. Pasceri the additional monthly retirement benefits she would have gained if that retirement credit had been applied properly for the duration of her retirement period.

Ms. Pasceri receive health insurance coverage as provided for under the CBA when she reaches age 55 and files the papers for retirement with NYSLRS.

Pursuant to CPLR 5002, pre-judgment interest of 9% on the total award of \$138,685.89 from October 2022, of \$15,570.26, for a total amount due of \$154,256.15, and

Said payment of \$154,256.15 shall be paid from accounts below as follows:

A.2688 -	Other Accrued Liabilities	\$141,385.89
A.1900.54765 –	Judgement & Claims	\$12,870.26

Seconded by Alderman Craig and adopted. Ayes 4 (Craig, Devine, Fogle, Kirchberger). Nays 2 (Lupo and Mullane).

**041024.16**

## **ADJOURNMENT**

At 6:30 P.M. Alderman Fogle moved the Common Council be adjourned until 6:00 P.M., Wednesday, April 24<sup>th</sup>, 2024.

Seconded by Alderman Kirchberger and adopted. Ayes 6.

SARAH K. LANZO  
City Clerk