

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

Lockport Municipal Building

Regular Meeting  
Official Record

May 1, 2013  
6:00 P.M.

Mayor Michael W. Tucker called the meeting to order.

**ROLL CALL**

The following Common Council members answered the roll call:

Aldermen Kibler, Lombardi, McCaffrey, Fogle, Schrader, and Genewick.

**RECESS**

Recess for public input.

**050113.1**

**APPROVAL OF MINUTES**

On motion of Alderman McCaffrey, seconded by Alderman Lombardi, the minutes of the Regular Meeting of April 17, 2013 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

**FROM THE MAYOR**

**Resignations:**

4/26/13 Michael J. Norris – resigned as Third Deputy Corporation Counsel for the City of Lockport. Resignation effective April 25, 2013.  
Received and filed.

4/29/13 Donald E. Swanson – resigned as member of the City of Lockport Planning Board. Resignation effective April 26, 2013.  
Received and filed.

**Appointments:**

4/24/13 David P. Smith, 49 Regent Street, Lockport, NY – appointed as a member of the Housing Authority. Said term expires April 26, 2018.  
Received and filed.

4/29/13 Michael E. Benedict, 38 Woodbury Drive, Lockport, NY – appointed as 3<sup>rd</sup> Deputy Corporation Counsel.  
Received and filed.

5/1/13 Steven Stefanski, 1597 Ruie Road, North Tonawanda, NY – appointed as a Commissioner of Deeds. Said term expires December 31, 2013.  
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)

4/25/13 Melissa L. Dunlap, Executive Director, Niagara County Historical Society, 215 Niagara Street, Lockport, NY – requesting permission to conduct their annual Strawberries & Antiques Event on June 1, 2013.

Referred to the Committee of the Whole.

4/29/13 Frank Movalli, Principal, Lockport High School, 250 Lincoln Avenue, Lockport, NY – requesting permission to conduct an 8K Road Race on October 26, 2013.

Referred to the Committee of the Whole.

### **Notice of Defect:**

4/18/13 345 Pine Street, Lockport, NY – tree  
4/22/13 119 Spalding Street, Lockport, NY – tree  
4/23/13 245 VanBuren Street, Lockport, NY – tree  
4/24/13 303 Clinton Street, Lockport, NY – tree  
4/26/13 156 Vine Street, Lockport, NY – tree  
4/26/13 69 Chapel Street, Lockport, NY – tree  
4/26/13 498 Walnut Street, Lockport, NY – tree  
4/29/13 200 Lock Street, Lockport, NY – tree  
4/29/13 416 North Transit Street, Lockport, NY – tree  
4/29/13 276 Hawley Street, Lockport, NY – tree  
5/1/13 466 High Street, Lockport, NY – tree  
5/1/13 329 East Avenue, Lockport, NY – tree

Referred to the Director of Engineering.

### **Notice of Claim:**

4/24/13 Grant Gilbert, 291 West Caledonia Street, Lockport, NY

Referred to the Corporation Counsel.

## **MOTIONS & RESOLUTIONS**

### **050113.2**

By Alderman Genewick:

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 May 3, 2013.

Seconded by Alderman Kibler and adopted. Ayes 6.

### **050113.3**

By Alderman Genewick:

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 Lombardi and adopted. Ayes 6.

**050113.4**

By Alderman McCaffrey:

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>
Joseph P. Granchelli	30	Public Works Equipment Mechanic
James M. Nunnari	25	Sr. WWTP Operator
Douglas E. Sibolski	25	WWTP Chief Process Operator
Ronald B. Dernbach	10	WWTP Operator
Dennis McNamara	10	Sr. Water Treatment Plant Operator
Kristin M. Bernardi	5	Recreation Program Coordinator
Mark J. Haenle II	5	Motor Equipment Operator

Seconded by Alderman Fogle and adopted. Ayes 6.

**050113.5**

By Alderman Schrader:

Resolved, that the Director of Engineering is hereby authorized and directed to prepare bid specifications for Lining and Televising the Tudor Lane and Lock Street Sewers, and be it further

Resolved, that upon receipt of said specifications, the City Clerk is authorized and directed to advertise for bid proposals for same.

Seconded by Alderman Genewick and adopted. Ayes 6.

**050113.6**

By Alderman McCaffrey:

Whereas, Time Warner NY Cable LLC (“Franchise”), an indirect, wholly-owned subsidiary of Time Warner Cable Inc. (“TWC”) currently holds a franchise granted by the City of Lockport, NY (the “Community”) to own and operate a cable system in the Community (the “Franchise”); and

Whereas, TWC is undertaking an internal reorganization (the “Transaction”) whereby, pursuant to a series of concurrent interim steps, the Franchise will be held by Time Warner Cable Northeast LLC, and indirect, wholly-owned subsidiary of TWC; and

Whereas, the Transaction will not result in a transfer of control; TWC will retain ultimate ownership and management authority over the local cable system; and

Whereas, TWC has filed FCC Form 394 with the Community and has provided the Community with all information regarding the Transaction required by applicable law (collectively, the “Application”);

Whereas the Community has reviewed the Application and has determined that the Transaction is in the best interests of the Community and its residents and that Time Warner Cable Northeast LLC has the legal, technical, and financial qualifications to operate the cable system under the Franchise and all applicable local, state and federal laws.

NOW, THEREFORE THE COMMUNITY DOES RESOLVE:

1. The Community consents to and approves of the Transaction to the extent required by the terms of the Franchise and applicable law.
2. The Community confirms that the Franchise is valid and in full force and effect and there are no defaults under the Franchise.
3. Effective upon the closing of the Transaction (the "Closing Date"), Time Warner Cable Northeast LLC shall be responsible for any obligations and liabilities under the Franchise.
4. This Resolution shall take effect upon its passage and publication in accordance with applicable law.

Seconded by Alderman Kibler and adopted. Ayes 6.

**050113.7**

By Alderman Genewick:

Resolved, that the City Treasurer is hereby authorized and directed to transfer \$2,928.96 from contingency account #001-1900-1990 to account #001-8510-0479 for purchase of flags for Memorial Day.

Seconded by Alderman Lombardi and adopted. Ayes 6.

**050113.8**

By Alderman Genewick:

Whereas, the City negotiated for a lump sum payment for use of the radio tower located at Outwater Park, and

Whereas, the outcome of the negotiation was unknown at the time the Budget was developed and no revenue was included, and

Whereas payment in the amount of \$222,536.38 has been received and the City desires to include these funds in the 2013 budget and appropriate the funds received, now therefore be it

Resolved, that the City Treasurer is hereby authorized and directed to amend the 2013 budget as follows:

Increase Revenue:

001-0001-2410	Rental of Property	\$222,536.38
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Increase Appropriations:

001-XXXX-0101	Overtime	\$222,536.38
	(per attached listing)	

Seconded by Alderman Fogle and adopted. Ayes 6.

By Alderman Kibler:

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

Seconded by Alderman Schrader and adopted. Ayes 6.

**050113.9**

The following ordinance was offered by Councilman Genewick, who moved its adoption, seconded by Councilman McCaffrey, to wit:

BOND ORDINANCE DATED MAY 1, 2013.

AN ORDINANCE AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$27,000 BONDS OF THE CITY OF LOCKPORT, NIAGARA COUNTY, NEW YORK, TO PAY THE ADDITIONAL CITY'S SHARE OF THE COSTS OF THE RESTORATION OF LOCKS 69 AND 70, INCLUDING ENVIRONMENTAL STUDIES AND PLANNING COSTS IN CONNECTION WITH THE ERIE CANAL HISTORIC LOCKS RESTORATION PROJECT, IN AND FOR SAID CITY.

WHEREAS, the City of Lockport, Niagara County, New York (the "City") is the recipient of a federal grant-in-aid administered through the office of the New York State Comptroller, under Comptroller Contract No. D030121, for the reconstruction of certain historic Erie Canal Locks in said City; and

WHEREAS, the site of the historic Erie Canal Locks is adjacent to City-owned real property, including currently operational City Locks and a park and recreational area of the City; and

WHEREAS, it is a matter of City concern that the proper environmental review and related planning considerations be completed for the project as described in Comptroller's Contract No. D030121; 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. For the purpose of paying the additional City's share of costs of the restoration of Locks 69 and 70, including environmental studies and planning costs in connection with the Erie Canal Historic Locks Restoration Project, required pursuant to

Comptroller's Contract No. D030121, in and for the City of Lockport, Niagara County, New York, there are hereby authorized to be issued an additional \$27,000 bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. The maximum estimated cost of such specific object or purpose is now determined to be \$407,000, and the plan for the financing thereof is as follows:

- (a) By the issuance of the \$380,000 bonds of said City, heretofore authorized to be issued therefor pursuant to a bond ordinance dated March 20, 2013; and
- (b) By the issuance of the additional \$27,000 bonds of said City herein authorized.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years, pursuant to subdivision 19(c) 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 bonds 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 bonds 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 bonds 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 bonds herein authorized, including renewals of such notes, is hereby delegated to the City Treasurer, the chief fiscal officer. 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. Such bonds shall be in fully registered form and shall be signed in the name of the City of Lockport, Niagara County, New York, by the manual or facsimile signature of the City Treasurer and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. 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 8. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, 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 51.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 9. 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 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 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. This ordinance, which takes effect immediately, 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 Fogle	VOTING	Yes
Alderman Genewick	VOTING	Yes
Alderman Kibler	VOTING	Yes
Alderman Lombardi	VOTING	Yes
Alderman McCaffrey	VOTING	Yes
Alderman Schrader	VOTING	Yes

The ordinance was thereupon declared duly adopted.

**050113.10 WITHDRAWN**

(Authorize City Clerk to prepare bid specs for 3<sup>rd</sup> Party Administrator for Health Reimbursement Account)

**050113.11**

By Alderman Kibler:

Whereas, the City of Lockport desires to refurbish the Tennis Courts at Altro Park, and

Whereas, bids were received on April 12, 2013 for said work, and

Whereas, the Director of Engineering has reviewed said bids and interviewed the lowest bidder, and

Whereas, the Director of Engineering recommends that a Contract be issued to the lowest bidder, now it therefore be

Resolved, that the Mayor, subject to Corporation Counsel approval, be and the same is hereby authorized and directed to execute a contract with American Paving and Excavating, 5880 Thompson Road, Clarence, NY for Resurface Tennis Courts at Altro Park at a cost of \$97,764.64 plus a 10% Contingency to be charged to account #004-0004-0520-4125.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

**051313.12**

By Alderman Lombardi:

Resolved, that pursuant to their request, permission is hereby granted to The Chapel at Lockport to barricade Elm Street on from Main Street to Bellah Alley on Saturday, June 1 and Sunday, June 2, 2013 for an outdoor service, and be it further

Resolved, that the Director of Engineering 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 Genewick and adopted. Ayes 6.

**050113.12A**

By Alderman Fogle:

Resolved, that pursuant to their request, the Niagara County Historical Society is hereby granted permission to close Niagara Street to eastbound traffic from Prospect Street to Bristol Avenue for diagonal parking along the north side of Niagara Street on Saturday, June 1, 2013, from 8:30 a.m. to 4:00 p.m. during their Annual Strawberries & Antiques Social, and be it further

Resolved, that the Director of Engineering is hereby authorized and directed to arrange for delivery of "street closed" signs, barricades, and traffic cones to said area prior to the event.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

**050113.12B**

By Alderman Schrader:

Resolved, that pursuant to their request, Lockport High School is hereby granted permission to conduct an 8K Road Race on Saturday, October 26, 2013, subject to approval of the race route by the Police Chief and subject to filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, and be it further

Resolved, that the Director of Engineering is hereby authorized and directed to arrange for delivery of barricades and cones as required, and be it further

Resolved, that the Traffic Captain is hereby directed to arrange for police support for said event.

Seconded by Alderman Genewick and adopted. Ayes 6.

**050113.12C**

By Alderman McCaffrey:

**RESOLUTION AUTHORIZING FLIGHT OF FIVE FUNDING AGREEMENT WITH NEW YORK STATE CANAL CORPORATION**

WHEREAS, the New York State Canal Corporation and the City of Lockport desire that a project to rehabilitate Historic Locks E-69 and E-70 at the Flight of Five in the City of Lockport (hereinafter referred to as the "Project") be carried out;

WHEREAS, the Board constituting the Corporation, pursuant to Resolution No. 571 adopted at Meeting No, CC-180 held on December 17, 2012, authorized the Chief Engineer to advertise, award and construct project R17.1 of the 2013 Contracts Program, rehabilitation of Historic Locks E-69 and E-70 at the Flight of Five in the City of Lockport;

WHEREAS, the Board constituting the Corporation, pursuant to Resolution No. 571 adopted at Meeting No. CC-180 held on December 17, 2012, authorized the Chief Engineer to enter into and execute agreements with localities in order to facilitate the administration, award and construction of projects that are in the 2013 Contracts Program;

WHEREAS, the City will design and obtain all of the necessary permits to progress the Project;

WHEREAS, the Corporation will advertise, award and construct the Project;

WHEREAS, the City will pay for all costs of the Project;

WHEREAS, the United States has provided for the apportionment of Federal-aid funds to New York State for the purpose of carrying out Federal-aid projects pursuant to the pertinent sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA");

WHEREAS, the Corporation will enter into a Federal- aid agreement with the New York State Department of Transportation ("NYSDOT") in order to obtain SAFETEA-LU High Priority Funds that have been authorized for the Project; and

WHEREAS, such federal High Priority Funds will cover up to 80 percent of the Federal-aid eligible costs of the Project and cannot exceed the available Federal- aid authorized amount (currently \$1,626,140);

NOW, THEREFORE, BE IT

RESOLVED, that the Mayor be and is hereby authorized to execute a Funding Agreement with the New York State Canal Corporation.

Seconded by Alderman Lombardi and adopted. Ayes 6.

**050113.13 ADJOURNMENT**

At 6:20 P.M. Alderman McCaffrey moved the Common Council be adjourned until 6:00 P.M., Wednesday, May 15, 2013.

Seconded by Alderman Fogle and adopted. Ayes 6.

RICHELLE J. PASCERI  
City Clerk