

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

Lockport Municipal Building

Regular Meeting  
Official Record

April 6, 2016  
6:30 P.M.

Mayor Anne E. McCaffrey called the meeting to order.

**ROLL CALL**

The following Common Council members answered the roll call:

Aldermen Abbott, Devine, Oates, O'Shaughnessy, Mullane, and Wohleben.

**INVOCATION**

**MAYOR'S UPDATE**

**TREASURER'S REPORT**

**RECESS**

Recess for public input.

**040616.1**

**APPROVAL OF MINUTES**

On motion of Alderman Wohleben, seconded by Alderman Oates, the minutes of the Regular Meeting of March 16, 2016 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

**PUBLIC HEARING**

The Mayor announced a public hearing on a proposed Bond Ordinance for the replacement of approximately 2 miles of a 13 mile 36" raw water line between the Niagara river and the City of Lockport Water Treatment facility.

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

Recess for public input.

The Mayor Closed the Public Hearing.

## FROM THE MAYOR

### Appointments:

4/4/16 Rolando Moreno, 71 East Remick Parkway, Lockport, NY – appointed as Director of Engineering effective January 1, 2016. Said appointment is permanent and subject to the City of Lockport Municipal rules and regulations.  
Received and filed.

4/4/16 Kristen Bernardi, 165 Park Lane Circle, Lockport, NY – appointed as Account Clerk effective February 16, 2016. Said appointment is permanent and subject to the City of Lockport Municipal 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)

3/21/16 Todd Sukdolak, Director of Athletics and Wellness, Lockport High School, 250 Lincoln Avenue, Lockport, NY – request permission to use the baseball diamonds at Outwater Park for the 2016 varsity baseball season.  
Referred to the Committee of the Whole

3/24/16 Kellie Trybalski, Race Director, Score This!!!, Inc. – request permission to conduct a 1-mile road race on September 1, 2016.  
Referred to the Committee of the Whole

3/29/16 Joanne Braun, Niagara-Orleans District of the Order of Eastern Star – request permission to conduct a fundraising event on May 18, 2016.  
Referred to the Committee of the Whole

4/4/16 Mary F. Murphy, DeSales Catholic School – request permission to conduct the annual DeSales Race for Fitness 5K run and 1 mile fun run on Saturday, May 7, 2016.  
Referred to the Committee of the Whole

### Notice of Defect:

3/17/16 51 Locust Street – sidewalk  
3/17/16 265 Lock Street – tree  
3/21/16 38 Juniper Street – tree  
3/28/16 111 Morrow Avenue – tree  
3/30/16 110 S. Transit Street – tree  
3/30/16 23 Morrow Avenue – tree  
4/1/16 145 Washington Street – tree stump  
Referred to the Director of Streets and Parks.

**Notice of Claim:**

3/23/16 Jeremy J. Beidle, 157 Olcott Street, Lockport, NY  
Referred to the Corporation Counsel.

**Notice of Petition** (for a judgment pursuant to Article 78 of the New York Civil Practice Laws and Rules)

3/24/16 Grace Episcopal Church, Lockport –vs- City of Lockport Zoning Board of Appeals  
Referred to the Corporation Counsel

**MOTIONS & RESOLUTIONS**

**040616.2**

By Alderman Wohleben:

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 8, 2016 as follows:

2015 Expenses:		
General Fund	Account #001	\$ 22,187.86
2016 Expenses:		
General Fund	Account #001	\$ 149,646.18
Water Fund	Account #002	\$ 23,039.48
Sewer Fund	Account #003	\$ 43,663.48
Capital Projects	Account #004	\$ 29,651.13
Refuse Fund	Account #012	\$ 617.12
Small Cities	Account #013	\$ 19,000.00
Self Insurance	Account #015	\$ 143,950.80
Payroll	Pay Date 3/17/16	\$ 430,224.87
	Pay Date 3/31/16	\$ 439,923.75

Seconded by Alderman Oates and adopted. Ayes 6.

**040616.3**

By Alderman Abbott:

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>
Kevin W. Pratt	30	Firefighter
Mark J. Seeloff	30	Fire Captain
Molly A. Lawson	15	Administrative Assistant (Water)

Seconded by Alderman Devine and adopted. Ayes 6.

By Alderman Abbott:

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

Seconded by Alderman Devine and adopted. Ayes 6.

#### **040616.4**

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

BOND ORDINANCE DATED APRIL 6, 2016.

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$6,100,000 BONDS OF THE CITY OF LOCKPORT, NIAGARA COUNTY, NEW YORK, TO PAY FOR THE COST OF THE RECONSTRUCTION OF A WATER LINE, 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 reconstruction of the water line running from the Niagara River to the City's Water Treatment Plant, for the City of Lockport, Niagara County, New York, including original furnishings, equipment, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$6,100,000.

Section 2. The plan for the financing of the aforesaid maximum estimated cost is as follows:

- a) by the issuance of \$6,100,000 serial bonds of said City, hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; and

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 1 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 Health 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 Mullane	VOTING	YES
Alderman Oates	VOTING	YES
Alderman O'Shaughnessy	VOTING	YES
Alderman Wohleben	VOTING	YES

The ordinance was thereupon declared duly adopted.

**040616.5**

By Alderman Devine:

Resolved, that pursuant to their request, Lockport High School is hereby granted permission to use the baseball field at Outwater Park for the 2016 Varsity Baseball subject to approval of the schedule by the Highways & Parks Department and Lockport High School filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured.

Seconded by Alderman Mullane and adopted. Ayes 6.

**040616.6**

By Alderman Abbott:

Resolved, that the Mayor and Common Council do hereby extend condolences to the family of Richard C. Azzarella, a retired City of Lockport Police Officer who recently passed away.

Seconded by Alderman Devine and adopted. Ayes 6.

**040616.7**

By Alderman Wohleben:

Resolved, that pursuant to their request, Score This!!! is hereby given permission to conduct a running event on Main Street on Thursday, September 1, 2016, starting at approximately 7:00 p.m. subject to filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured. Said permission includes closing Main Street from North Transit to Washburn Street and Charles and Elm Streets for the duration of the event. Traffic flow on Cottage, Pine and Locust/Market Streets would be allowed to flow north and south after the runners pass those intersections. Also, permission is granted to use the parking lot in front of the Municipal Building and the Municipal Building foyer for race registration in case of rain, and be it further

Resolved, that the Director of Streets and Parks is hereby authorized and directed to arrange for delivery of barricades and street closed signs to the area prior to the event.

Seconded by Alderman O’Shaughnessy and adopted. Ayes 6.

By Alderman Wohleben:

Resolved, that resolution # 040616.8 be and the same is hereby tabled.

Seconded by Alderman Oates and adopted. Ayes 6.

**040616.8**

By Alderman O’Shaughnessy:

**WHEREAS**, the City of Lockport Common Council adopted Local Law No. 4 (Refuse & Recyclables) on August 17<sup>th</sup>, 2011 superseding former Chapter 113 (Garbage, Rubbish and Refuse) of the City of Lockport Code adopted May 2<sup>nd</sup>, 1992, and

**WHEREAS** Local Law No. 4 of 2011 was amended in its entirety on August 1<sup>st</sup>, 2012 by Local Law No. 2 of 2012 known as “Refuse & Recycling Code”, and

**WHEREAS** the purpose of said local law (Refuse & Recycling Code) is to provide protection of the public health, safety and general welfare of the people of the City of Lockport by establishing rules and regulations governing residential, commercial, institutional and industrial refuse and recycling, licensure, collection and management in the City of Lockport, and

**WHEREAS** said local law (Refuse & Recycling Code) authorized an advance of funds from the city’s 2011 “General Fund” to a “Special Revenue Fund – Recycling and Refuse” for

the purposes of funding the costs incurred by the City of Lockport for the collection and disposal of refuse, including recycling, and

**WHEREAS** said local law (Refuse & Recycling Code) required repayment to the City's General Fund" from the "Special Revenue Fund – Recycling & Refuse" all sums advanced for the collection and disposal of refuse, including recycling, before the end of fiscal year 2011, and

**WHEREAS** upon information and belief said advance sums to the "Special Revenue Fund – Recycling" have not been fully repaid to the City's "General Fund", and

**WHEREAS** said local law (Refuse & Recycling Code) states the Director of Refuse and Recycling is the City Clerk or a designee of the Mayor; both potential political appointees, and

**WHEREAS** the City of Lockport entered into an agreement for solid waste collection, hauling, disposal and recycling with Modern Disposal Services, Inc. (with offices at 4746 Model City Road, Model City, NY 14107) commencing on October 10, 2011 and terminating on September 30, 2016, and

**WHEREAS**, Section 3 of the above agreement states that "The term of this Agreement may be extended by written agreement, signed by both parties, for an additional five (5) year period. Notification must be given by the City to Modern in writing on or before ninety (90) days prior to the extension period, and

**WHEREAS**, the City of Lockport must determine not less than ninety days prior to September 30, 2016, (July 1, 2016) whether it desires to extend the present agreement with Modern, and

**WHEREAS** said agreement with Modern Disposal Services Inc. states, among other things, it will submit monthly invoices to the City of Lockport for services performed in the preceding month and that the City shall pay Modern the full amount for each invoice within 30 days, and

**WHEREAS** said agreement has burdened the City with significant administrative costs associated with billing, payment processing, collection and/or re-levy for non-payment from all residential, commercial, institutional and industrial units within the City of Lockport sometimes requiring subsidy by city taxpayers.

**NOW THEREFORE BE IT:**

**RESOLVED**, the Common Council hereby requests the Mayor to request the Director of Finance to provide the Common Council with an audit of all revenues collected or credited on behalf of the "Special Revenue Fund – Recycling & Refuse" and all expenses or transfers from said fund for the years 2011- 2015 no later than May 1<sup>st</sup>, 2016, and be it further

**RESOLVED**, that in accordance with General Municipal Law, Section 120-w, the City Engineer with the assistance of Corporation Counsel and subject to the approval of the Common Council is hereby directed to prepare a Request for Proposals (RFP) for solid waste collection, hauling and disposal, and recycling materials collection and processing, plus any other specialized services needed by or within the City of Lockport, and be it further

**RESOLVED** that upon receipt of said Request for Proposals (RFP) the City Clerk is authorized and directed to advertise the same no later than May 15<sup>th</sup>, 2016, and be it further

**RESOLVED**, that said Request for Proposals (RFP) shall include as an alternative the elimination of the City's billing and collection obligation related to said refuse and recycling, and be it further

**RESOLVED** that the Corporation Council be and is hereby directed to prepare a Local Law amending section 155-1 (c) of the City Code designating the Deputy City Treasurer in place of the "City Clerk" as the Director of Refuse and Recycling

**RESOLVED**, the Common Council hereby creates a "Citizen's Refuse & Recycling Advisory Board" to replace and supersede any prior ad-hoc committee on refuse and recycling.

Said Board to be charged with the mission to investigate and advise the Common Council on all matters relating to management of the City's residential, commercial and institutional refuse and recycling programs including hazardous or infectious waste collection and transportation. Said Advisory Board to consist of the sitting Alderman At Large plus four (4) citizen members with specialized interest, experience or expertise in solid waste and recycling programs. Said Board to meet minimally each quarter and report its deliberations and work to the Common Council and Mayor.

**040616.9**

By Alderman Wohleben:

Resolved, that permission be granted to Niagara-Orleans District of the Order of Eastern Star to use parking spaces in Parking Lot #5 on May 18, 2016 for a fundraising event, and be it further

Resolved, that the Director of Streets and Parks is hereby authorized and directed to arrange for delivery of traffic cones to the area prior to the event.

Seconded by Alderman Oates and adopted. Ayes 6.

**040616.10 WITHDRAWN** (Hickory Club PBA CBA audit)

**040616.10A**

By Alderman Wohleben:

Resolved, that pursuant to their request, the Lockport Fire Department is hereby granted permission to conduct a Community Picnic Day at Altro Park on August 6, 2016, with rain date being August 7, 2016, and be it further

Resolved, that the Director of Streets and Parks is hereby authorized and directed to arrange for delivery of extra trash bins prior to the event.

Seconded by Alderman Devine and adopted. Ayes 6.

**040616.10B**

By Alderman Wohleben:

Resolved, that pursuant to their request, permission is hereby granted to DeSales Catholic School to conduct their Annual DeSales Race for Fitness, a 5K run and a 1 mile fun run, on Saturday, May 7, 2016 beginning at 10:00 a.m. subject to approval of the race route by the Police Chief, and 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 Streets and Parks is hereby authorized and directed to arrange for delivery of barricades and street closed signs to the area prior to the event.

Seconded by Alderman Mullane and adopted. Ayes 6.

**040616.10C**

By Alderman Devine:

Whereas, The City of Lockport is contemplating replacement of an approximately two mile segment of its Raw Water Supply Main to improve reliability of the Main; and

Whereas, In accordance with the New York State Environmental Quality Review regulations (SEQR), the City of Lockport intends to serve as Lead Agency for the proposed action; and

Whereas, The City of Lockport has determined that the proposed action is a Type II action pursuant to NYCRR 617.5 (c)(1) as defined under SEQR; and

Whereas, Although not required for Type II actions, the City of Lockport, has caused to be prepared a Full Environmental Assessment Form to consider the significance of and potential environmental impact of the action described above, and

Whereas, The City of Lockport has considered Parts 1, 2 and 3 of the Full Environmental Assessment Form prepared for this action, including comments request from and received from The New York State Office of Parks, Recreation and Historic Preservation, now therefore be it

Resolved, that the City of Lockport declares that it will serve as Lead Agency for the Raw Water Supply Main Replacement Project; and, The City of Lockport declares that, based on the Full Environmental Assessment Form which has been prepared, the project will result in no significant adverse environmental impacts and, therefore, a Negative Declaration under SEQR is issued for this project.

Seconded by Alderman Abbott and adopted. Ayes 6.

#### **040616.10D**

By Alderman Devine:

Whereas, the City of Lockport is contemplating replacement of an approximately two mile segment of its Raw Water Supply Main to improve reliability of the Main; and

Whereas, the City of Lockport is seeking opportunities to offset project costs with grants and/or competitive financing; and

Whereas, the City of Lockport has identified the New York State Water Infrastructure Improvement Act as a potential grant source and the New York State Drinking Water State Revolving Fund as a potential source of competitive financing; and

Whereas, the City of Lockport, has caused to be prepared application forms related the New York State Water Infrastructure Improvement Act Grant Program and the New York State Drinking Water State Revolving Fund; and

Whereas, the New York State Water Infrastructure Improvement Act Grant Program and the New York State Drinking Water State Revolving Fund Program are competitive and therefore the City of Lockport may not be awarded a grant and/or competitive financing; and

Whereas, if awarded, the City of Lockport is not obligated to accept a grant or competitive financing from the New York State Water Infrastructure Improvement Act Grant Program and/or the New York State Drinking Water State Revolving Fund Program, now therefore be it

Resolved, that the Mayor of City of Lockport is authorized to sign application forms related to the New York State Water Infrastructure Improvement Act Grant Program and/or the New York State Drinking Water State Revolving Fund Program.

Seconded by Alderman Abbott and adopted. Ayes 6.

#### **040616.10E**

By Alderman Wohleben:

Resolved, that pursuant to their request, the Lockport Evangelical Minister's Association is hereby granted permission to conduct their annual "Meet at City Hall" prayer gathering in the Common Council Chambers of the Lockport Municipal Building on Thursday, May 5, 2016 starting at 6:00 p.m. until 8:30 p.m. in conjunction with the "National Day of Prayer".

Seconded by Alderman Mullane and adopted. Ayes 6.

**040616.10F**

By Alderman Wohleben:

WHEREAS, it has been determined that several capital projects that have been closed by the City Council have outstanding invoices associated with them; and

WHEREAS, projects #4136-Highway & Parks Radios, #4135 Water Dept. Radios were authorized by Bond Ordinance #032013 in the amount of \$9,900 and \$7,700 respectively and were approved for closure by Res# 090215.6, and

WHEREAS, these projects had not, in fact, been completed and the City has received invoices in the amounts of \$5,158 and \$8,853 respectively, and

WHEREAS, project #4122-Parking Ramp Demolition contained a contract with Industrial Power and Light in the original amount of \$71,000 plus a 15% contingency and was authorized by Resolution #041013.2, and

WHEREAS, the former Mayor executed a change order in the amount of \$21,190 without City Council approval and in excess of the contingency, and

WHEREAS, additional invoices for project #4122 in the amount of \$9,116.80 have been identified which require the City Council to authorize the change order and re-established this project to allow for payment, and

WHEREAS, there was an unanticipated expense incurred by the City in concert with a demonstration project to upgrade blowers at the wastewater treatment plant subsidized by a NYSERDA grant that began in 2009 causing an overage of the project by \$10,566.04 needing City Council approval; and

WHEREAS, the cash balances of which were transferred and are available in Bond & Debt Reserve, now, therefore be it

RESOLVED, that the following projects are hereby reestablished in the amounts listed, funding of which to be provided from the appropriate Bond & Debt reserves and all change orders and project totals are hereby authorized to complete these projects as identified herein.

Re-establish Projects:

004.0004.0520.4136	Highway & Parks Radios	\$ 8,853.63
004.0004.0520.4135	Water Department Radios	\$ 5,158.02
004.0004.0520.4122	Parking Ramp Demolition	\$ 9,116.80

Increase Project

004.0004.0520.0076	Blower Upgrades – Sewer	\$10,566.04
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Reduce:

Bond & Debt Service Reserve, General	\$ 17,970.43
Bond & Debt Service Reserve, Water	\$ 5,158.02
Bond & Debt Service Reserve, Sewer	\$ 10,566.04

Seconded by Alderman Mullane and adopted. Ayes 6.

**040616.11**

**ADJOURNMENT**

At 7:51 P.M. Alderman Wohleben moved the Common Council be adjourned until 6:30 P.M., Wednesday, April 20, 2016.

Seconded by Alderman Abbott and adopted. Ayes 6.

RICHELLE J. PASCERI  
City Clerk