

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

March 15, 2017
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

RECESS

Recess for public input.

031517.1

APPROVAL OF MINUTES

On motion of Alderman Wohleben, seconded by Alderman _____, the minutes of the Regular Meeting of March 1, 2017 are hereby approved as printed in the Journal of Proceedings. Ayes _____. Carried.

PUBLIC HEARING

The Mayor announced a public hearing on a Local Law to establish a sustainable energy loan program in the City of Lockport.

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

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on a request for a Special Use Permit to install four bocce courts and erect a new 34' x 24' building with a 12' x 20' covered patio to be used as a recreational use with beer and wine service located at 1 Short Street.

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

3/7/17 Charlene Seekins-Smith, Chairman, Lockport Planning and Zoning Board
– the Board recommends that the request for a Special Use Permit be approved with stipulations.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on a request for a Special Use Permit to utilize the existing stone lot for outdoor storage of topsoil, stone and fill located at 51 So. Transit and 40 State Road.

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

3/7/17 Charlene Seekins-Smith, Chairman, Lockport Planning and Zoning Board
– the Board recommends that the request for a Special Use Permit not be approved.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on a request to rezone the property locally known as 731 Davison Road from B-4 to R-1.

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

3/7/17 Charlene Seekins-Smith, Chairman, Lockport Planning and Zoning Board
– the Board recommends the request to rezone.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on a request for a Special Use Permit to utilize the rear improvement and area surrounding it to support the applicants home improvement business located at 33 Nicholls Street.

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

3/7/17 Charlene Seekins-Smith, Chairman, Lockport Planning and Zoning Board
– the Board recommends that the request for a Special Use Permit not be approved.

Recess for public input.

The Mayor closed the public hearing.

FROM THE MAYOR

Appointments:

3/7/17 Barbara Parker, 114 Niagara Street, Lockport, NY – appointed as Staff Accountant for the Accounting Department effective March 10, 2017. Said appointment is permanent and probationary and subject to the City of Lockport Municipal Civil Service Rules and Regulations.
Received and filed.

FROM THE CITY CLERK

The Clerk submitted payrolls, bills for services and expenses, and reported that the Department Heads submitted reports of labor performed in their departments.
Referred to the Finance Committee.

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

Notice of Defect:

Referred to the Director of Streets and Parks.

Notice of Claim:

Referred to the Corporation Counsel.

MOTIONS & RESOLUTIONS

031517.2

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 March 17, 2017 as follows:

General Fund	Account #001	\$
Water Fund	Account #002	\$

3/15/17

Sewer Fund Account #003 \$
Refuse Fund Account #012 \$
Payroll Pay Date _____ \$

Seconded by Alderman _____ and adopted. Ayes _____.

031517.3

By Alderman Oates:

Being Prepared - Sweet Summer 2017

031517.4

By Alderman Wohleben:

Whereas, the City of Lockport, with the assistance from Witt O'Brien's, has gathered information and prepared the Niagara County NY Hazard Mitigation Plan; and

Whereas, the Niagara County NY Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

Whereas, the City of Lockport NY is a local unit of government that has afforded the citizens as opportunity to comment and provide input in the Plan and the actions in the Plan; and

Whereas, the City of Lockport NY have reviewed the Plan and affirms that the Plan will be updated no less than every five years; now therefore be it

Resolved, by the Common Council that the City of Lockport NY adopts the Niagara County NY Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

Seconded by Alderman _____ and adopted. Ayes _____.

031517.5

By Alderman Oates:

WHEREAS, the City of Lockport proposes to conduct a Wastewater Engineering Planning Study to identify locations of excessive infiltration and inflow and to prioritize rehabilitation activities for the City's wastewater collection system; and

WHEREAS, the City of Lockport has determined that the proposed action is a Type II action pursuant to 6 NYCRR 617.5 (c)(18) and (21) as defined under SEQR; and

WHEREAS, Type II actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, Article 8; now therefore be it

RESOLVED, that the City of Lockport has determined that the Wastewater Engineering Planning Study does not require further SEQR review and will not result in significant adverse environmental impacts.

Seconded by Alderman _____ and adopted. Ayes _____.

031517.6

By Alderman Devine:

Whereas, Section C-45 of the city charter requires employees to become a resident of the City of Lockport within six months of the commencement of service, and

Whereas, Section C-45 (8) (a) permits a waiver of the residency requirement in instances where the City of Lockport has difficulty hiring the most qualified person because of its residency requirements, and

Whereas, the Mayor and Common Council have determined that it is in the best interest of the city waive the residency requirement for the position of Sr. Water Maintenance Worker, now therefore be it

Resolved, that the Mayor and Common Council having considered all of the aspects of the residency requirement and for the reason of lack of qualified candidates within the City limits hereby determines that the Sr. Water Maintenance Worker position shall be exempt from said residency requirement.

Seconded by Alderman _____ and adopted. Ayes _____.

031517.7

By Alderman Wohleben:

City of Lockport
Local Law No. 4 of the year 2017

A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM IN THE CITY OF LOCKPORT

Be it enacted by the Common Council of the City of Lockport, New York as follows:

Section 1. The Code of the City of Lockport is hereby amended by adding Section 151 “Energize NY Benefit Financing Program,” to read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the City of Lockport and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The Common Council finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the the City of Lockport, to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this chapter and fulfilling an important public purpose.
- B. The City of Lockport is authorized to implement this Energize NY Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.
- C. This chapter shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the City of Lockport”.

§2. Definitions

For purposes of this chapter, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the public authorities law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the City of Lockport to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this chapter) and providing for repayment of such funds from monies collected by the City of Lockport tax collector as a charge to be levied on the real property and collected in the same manner and same form as the City of Lockport taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the City of Lockport that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this chapter.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the City of Lockport, whereby EIC acting on its behalf, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this chapter, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. The funds provided shall not exceed the lesser of ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency

Improvements will be located, or the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in the City of Lockport may submit application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City of Lockport offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City of Lockport, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in subsection A of section 5 of this chapter. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the City of Lockport, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this chapter; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

§5. Application criteria

- A. Upon the submission of an application, EIC acting on behalf of the City of Lockport, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:
 - 1. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective by the Authority;
 - 2. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems will generate an estimated annual cost savings greater than the annual charge payments;
 - 3. Sufficient funds are available to provide to the property owner;
 - 4. The property owner is current in payments on any existing mortgage;
 - 5. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
 - 6. Such additional criteria, not inconsistent with the criteria set forth above, as the Common Council for the City of Lockport, or EIC acting on its behalf, may set from time to time.

§6. Opt-in, Energize Finance Agreement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize Finance Agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the City of Lockport.

- B. Upon execution of the Energize Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of the City of Lockport, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of section 7 of this chapter have been met.
- C. The Energize Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this chapter.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the City of Lockport, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their City tax bill and shall be levied and collected at the same time and in the same manner as City property taxes, provided that such charge shall be separately listed on the tax bill. The City of Lockport, shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the City of Lockport tax due date.
- B. The term of such repayment shall be determined at the time the Energize Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City of Lockport.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the City of Lockport at the time the Energize Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the Mayor for the City of Lockport on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such program.
- B. The Mayor for the City of Lockport shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This local law shall take effect upon filing with the Secretary of State.

Seconded by Alderman _____. A roll call vote was taken which resulted as follows:

Alderman Abbott	VOTING	_____
Alderman Devine	VOTING	_____
Alderman Mullane	VOTING	_____
Alderman Oates	VOTING	_____
Alderman O'Shaughnessy	VOTING	_____
Alderman Wohleben	VOTING	_____

The Local Law was thereupon declared duly adopted.

031517.8

By Alderman Oates:

Being Prepared - Approve purchase – Street Equipment

031517.9

By Alderman Wohleben:

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) is offering financial incentives to municipalities that adopt a uniform New York State solar permit process, and

WHEREAS, the City of Lockport Code Enforcement Officer has advised the Common Council of the City of Lockport that the New York State uniform process is consistent and compatible with the City of Lockport Zoning Code and permitting practices, and

WHEREAS, the Common Council supports the use of solar energy as a renewable energy source.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE COMMON COUNCIL OF THE City of Lockport that the City of Lockport hereby fully and formally adopts the

New York State Unified Solar Permit process for NY - Sun Solar Powering New York, and establishes the permit fee at \$ TBD.

FURTHER RESOLVED, the Common Council, in regular session duly convened, does hereby authorize and direct the Mayor or Clerk-Treasurer of the City of Lockport to execute such other and additional documents as may be required for to perfect the resolutions herein;

The adoption of the foregoing Resolution was moved by Alderman Wohleben, seconded by Alderman _____, and duly put to vote, which resulted as follows

Alderman Abbott	VOTING	_____
Alderman Devine	VOTING	_____
Alderman Mullane	VOTING	_____
Alderman Oates	VOTING	_____
Alderman O'Shaughnessy	VOTING	_____
Alderman Wohleben	VOTING	_____

THIS RESOLUTION WAS ADOPTED.

031517.10

By Alderman Abbott:

Whereas, the City has received a donation for the G.R.E.A.T. Program of \$25,000 from the "Moore for Kids" Foundation for the period of March 20, 2014 to December 2017, and

Whereas, these funds were not included in the 2017 budget, and

Whereas, the unused portions necessary to add the donation to the 2017 budget, now therefore be it

Resolved, that the following budget amended needs to be made:

Increase Appropriations:

001-3120-4375-3449	GREAT Expenses/ Training, Teaching Materials, Field Trips, T-Shirts	\$9,466.42
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001-599	Appropriated Fund Balance	\$9,466.42
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Seconded by Alderman _____ and adopted. Ayes _____.

031517.11

By Alderman Abbott:

WHEREAS, the City applied for and received a SFY 2016-17 Police Protective Equipment Program (PPEP) for the Lockport Police Department), and

WHEREAS, revenues and activities related to the grant were not budgeted for the year 2017, now therefore be it

RESOLVED, the budget needs to be amended for the receipt of revenue and appropriation of expenditures made relative to the grant.

INCREASE REVENUES:

001.0001.3389 New AR-15 Rifles \$12,672.00

INCREASE APPROPRIATIONS:

001.3120.0260 New AR-15 Rifles \$12,672.00

Seconded by Alderman _____ and adopted. Ayes _____.

031517.12

By Alderman Devine:

Resolved, that the request for a special use permit made by Darrin Chiappone to install four bocce courts and erect a new 34' x 24' building with a 12' x 20' covered patio to be used as a recreational use with beer and wine service, located at 1 Short Street, situated in an I-2 Zone, be and the same is hereby approved, subject to the following provisions:

- A total of 45 parking spaces are provided for the use either on or off site.
- The hours of operation for both the bocce courts and restaurant are 11 a.m. to 11 p.m.
- The two parcels purchased are combined into 1 Short Street.
- A solid fence is installed around the perimeter of the property.
- No change in character of neighborhood.
- No excessive noise or disturbance of neighborhood.
- No appreciable change in traffic.
- No outside storage of materials.
- Special permits can be indefinite or limited to a specific time.

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

Seconded by Alderman _____ and adopted. Ayes _____.

031517.13

By Alderman Abbott:

Resolved, that pursuant to the recommendation of the Planning & Zoning Board, the proposed amendment to the Zoning Ordinance to rezone 731 Davison Road from an B-4 zone to a R-1 zone is hereby adopted.

Seconded by Alderman _____ and adopted. Ayes _____.

031517.14

ADJOURNMENT

At _____ P.M. Alderman Wohleben moved the Common Council be adjourned until 6:30 P.M., Wednesday, April 5, 2017.

Seconded by Alderman _____ and adopted. Ayes _____.

RICHELLE J. PASCERI
City Clerk