

**REGULAR MEETING
JUNE 16, 2014
COUNCIL CHAMBERS
www.lackawannany.gov**

Regular session of the Lackawanna City Council met in the Council Chambers, Council President Henry Pirowski presiding. The meeting was preceded by the Pledge of Allegiance led by Council President Pirowski.

**Meeting called to order
NB: Meeting being recorded**

**Roll Call: Council: Present: Noman, Iafallo, Jerge, Lewis, Pirowski
Dept. Heads: Present: Law, Development, Public Works, Comptroller,
Recreation
Excused: Public Safety**

Approval of Minutes: of regular meeting of June 2, 2014

Moved by Pirowski, seconded by Iafallo to adopt minutes of June 2, 2014 as written
Yeas: Norman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

Departmental Reports:

1. City Treasurer-Receipts deposited into General Fund, May 2014
2. City Clerk-Monthly report for May 2014
3. City Comptroller- A/P Check Listing #48, May 22, 2014
4. City Comptroller--A/P Check Listing #49, May 30, 2014

Moved by Pirowski seconded by Jerge to receive and file departmental reports one thru four
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

Communications from the Council:

Proposed Fire Department Overtime

5. To: City Council

I asked the Mayor to provide an explanation regarding the overtime in the fire Department line item in the proposed 2014-2015 budget.

The overtime in the fire Department was budgeted for \$300,000 in the 2014-2015 budget. Originally he requested \$300,000 in last year's budget and the Council dropped that number to \$270,000. At the conclusion of April, the Fire Department has used \$129,000 in overtime funds. The Council has learned that the Fire Department is now running with a full compliment for the first time in years. It was our thought that a full compliment would substantially decrease overtime. The numbers suggest that it has.

HANK PIROWSKI-COUNCIL PRESIDENT

Moved by Pirowski seconded by Jerge to receive and file
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Proposed Personal Service Line Item

6. To: City Council

I asked for either the Mayor or the City Comptroller to explain why 2 Foreman are listed in the Personal Service line 5110.101 at \$59,617. However in the expenditure line there was only \$59,617. My question was if there should be one Foreman for that amount or should it read \$119,234?

HANK PIROWSKI-COUNCIL PRESIDENT

Moved by Pirowski seconded by Jerge to receive and file
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Legality of Mayor's Proposed 2014-2015 Budget

7. To: City Council

I referred to the City Attorney regarding the discussion during the Council budget work session on Thursday, June 5th.

Specifically, the Council questioned several items pertinent to the submission of the Mayor's budget.

- (1.) The budget was submitted to the Council on May 14th. The Charter provides that the Mayor's budget be submitted to the Council on or before May 10th.
- (2.) In the Mayor's budget, he proposed as "enterprise fund" of \$255 per unit to cover the operation expense of the Sanitation Department, essentially, creating a "garbage tax".
- (3.) The Mayor did not consult with any member of the council prior to his budget submission concerning a \$255 "tax". For the record, every member of the Council stated publicly in that work session that they were opposed to a \$255 tax.
- (4.) We requested in writing, the legality of submitting a budget with a tax that not only had not been approved by the Council, but was never brought to the Council for discussion previous to the submission of said budget.
- (5.) Is it legal to submit a budget with zeros for the entire Sanitation Department based on a gamble that an additional tax would be passed?
- (6.) Because the Mayor submitted his budget late, without Council approval to do so, is it considered legal?

The City Attorney and I conferred at the conclusion of the meeting and we discussed this in greater detail. During our conversation I stated to him, that I would be agreeable to what I believed would have been the prudent thing for the Mayor to do. Submit two (2) budgets. One budget with the tax (that was not passed, in reality and theory) and another in the event the tax was not passed. I remained firm on that stance. It has been 5 days since we talked and I have heard nothing from you or the Mayor's Office concerning the next step.

I requested that the Mayor submit an alternative budget immediately in the event his actions are considered legal and his veto power remains. This way, we would actually understand what specifically he is vetoing and what the alternative would be. Nowhere in our Charter does it state that if the Mayor fails to prevent a constitutionally balanced budget, does he have the opportunity

to veto the Council's budget. We do not want to waste more taxpayer dollars in court over this matter, and we are requesting immediately a constitutionally balanced budget from the Mayor. We all know what is at stake here. Time is short. Please respond as quickly as possible so that we may move forward with this process.

HANK PIROWSKI-COUNCIL PRESIDENT

Moved by Pirowski seconded by Jerge to receive and file

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Communications from Department/Division Heads:

NYS Transportation Alternative Program

8. To: City Council

I am requesting the Council's approval of the resolution authorized by the Mayor to secure grant money regarding New York State TAP (Transportation Alternative Program). If you have any question or concerns please feel free to contact me at your earliest convenience.

ANTHONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Jerge to receive and file, act on resolution

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Local Law-Establishing User Fee

9. To: City Council

Please put the attached local law on the agenda for council approval. Thank you.

ANTONIO SAVAGLIO-CITY ATTORNEY

Moved by Pirowski seconded by Jerge to receive and file, act on Local Law

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

Resolution #9, 2014

A resolution authorizing and directing the Mayor to act on behalf of the City in all matters related to funding through the NYS DOT Transportation Alternative Program

WHEREAS, the City of Lackawanna, herein called the "City", after thorough consideration of the various aspects of the problem and study of available data, has hereby determined that certain work, as described in its application and attachments, herein called the "Project", is desirable, is in the public interest, and its required in order to implement the Project: and

WHEREAS, the City is proposing improvements to the South Park Avenue transportation corridor in order to continue to provide a safe and reliable surface transportation routes to pedestrians, bicyclists, and vehicles traveling within the corridor and,

WHEREAS, a portion of the financing for said improvements to the South Park Avenue transportation corridor will require New York State Department of Transportation funding through the Transportation Alternatives Program initiative; and

NOW THEREFORE BE IT RESOLVED, that Geoffrey Szymanski, as Mayor of the City of Lackawanna, is the representative to act on behalf of the City in all matters related to funding through the Transportation Alternatives Program initiative and is hereby authorized and directed to complete the application, execute documents and otherwise act for the City's governing body in all matters related to the Project, and

BE IT FINALLY RESOLVED, that the City Council of the City of Lackawanna directs that the total amount of the project shall not exceed \$2,000,000 (2 million dollars) and that the City is required to pay 20% (local share) of the project costs.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Pirowski seconded by Jerge to adopt resolution as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Local Law- a Local Law establishing a user fee for the public for the collection of solid waste

NO MOTION ON THE FLOOR, LOCAL LAW FAILED

Waive Rules

Moved by Pirowski seconded by Jerge to waive rules to admit four (4) items:

Local Law

A LOCAL LAW ESTABLISHING USER FEES FOR THE PUBLIC COLLECTION OF SOLID WASTE

BE IT ENACTED by the City Council of the City of Lackawanna, New York as follows:

Section 1. Public Collection User Fees

- A. Pursuant to the City of Lackawanna's home rule powers, the City of Lackawanna hereby establishes user fees to fund the public collection of solid waste. There shall be fees for all users. Users shall be defined as any person, resident, commercial establishment or other entity for which the City collects solid waste.
- B. The Council shall have the power to enact appropriate authorizing ordinances or resolutions for user fees for the public collection of solid waste, and the Commissioner of public works is hereby authorized to adopt appropriate rules and regulations pursuant to this section and pursuant to local laws, ordinances or

resolutions adopted pursuant to this section. The fees charged pursuant to this section shall be in such amounts as shall apportion the entire cost of the solid waste collection and disposal services and among the users of such services in a fair and equitable manner. The factors for such apportionment may include the cost of collecting solid waste, the fees charged to the City for disposal of solid waste, Administrative and labor costs, capital costs for maintaining the system, the frequency of collection, the type of waste collected, revenues derived from recycling, other sources of revenue, fixed and incremental costs of service, and other appropriate factors.

Section 2. Public Collection of Solid Waste

- A. No person, except City employees in the performance of their official duties and City contractors, shall engage in the collection of residential solid waste. No solid waste collector or regulated substance collector shall collect residential solid waste unless authorized by the commissioner.
- B. The Department of Public Works shall collect and dispose of solid waste originating in the City, as further limited by this article. The City shall not collect infectious waste, regulated materials, regulated medical waste or hazardous waste. The Commissioner may promulgate regulations covering the items of collection and disposal of solid waste as he or she may deem necessary, provided that such regulations are not contrary to the provisions of this article.
- C. Solid waste shall not be accumulated except in accordance with the regulations of the commissioner and prepared by owners and occupants in accordance with the provisions of this article.

Section 3. User Fees

- A. There shall be established user fees for collection of solid waste. The user fee for the 2014-2015 budget year shall be \$155.00 per user.
- B. All users shall be billed for public solid waste collection and disposal services.
- C. All users fees are payable in advance and shall be due on the first day of the period for which service is provided; and if not received within forty-five (45) days of the due date, there shall be added to that bill a collection processing charge at the rate of one and one-half percent (1/5%) per month from the due date on the total amount owing until paid in full, and any fees, charges, and costs of collection, including (without limitation) attorney's fees, will be in addition to the amount owing.
- D. The bill shall be rendered as an annual statement with provisions for both payment in its entirety of the annual amount stated or by payment of a quarterly statement. If the owner chooses to pay the quarterly installment that quarterly payment must be made within forty-five (45) days of the due date.
- E. In the event a user fee bill is referred to a collection agency, the collection agency's charges shall be added to the fees with interest due and owing.

Section 4. Unpaid User Fees

Unpaid user fees, including interest, costs, administrative and legal expenses and collection charges incurred, shall be the personal liability of the owner and shall also be a lien upon the real property in connection with which solid waste collection is offered as and from the due date for services billed and to be offered in the fiscal year commencing on the date. Notwithstanding any ordinance or local law to the contrary, this lien shall be superior to any and all other liens, excepting those for general taxes and local assessments which lien can be enforced by foreclosure proceedings instituted at the expiration of one (1) year from the date of the creation of the lien, in addition to and notwithstanding any and all other remedies available to the city for the collection of unpaid user fee bills.

Section 5. Special Revenue Fund

The Comptroller shall establish and maintain a separate fund to record and report the financial activity related to the public collection and disposal by the city by of refuse, recyclable and other solid waste material as designated by the Commissioner and shall be known as the "Special Revenue Fund". This fund shall be maintained on the same fiscal year as that of the city. Notwithstanding any other law to the contrary, the fees, charges, late fees, interest and other costs and disbursements charged and collected pertaining to public collection of solid waste, shall be paid into the Special Revenue Fund

Section 6.

This local law shall take effect upon its filing with the Secretary of State or August 1, 2014, whichever is later. This local law shall expire on July 31, 2015 unless the City Council passes a resolution extending this local law.

Moved by Pirowski seconded by Noman to adopt Local Law establishing the user fee for collection of solid waste

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

Operating Budget

Operating Budget for the City of Lackawanna for the fiscal years 2014-2015
(Complete text on file in the City Clerk's office)

Moved by Pirowski seconded by Jerge to approve budget for 2014-2015

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

Ordinance

AN ORDINANCE AMENDING CHAPTER 230, ZONING, OF THE CITY OF LACKAWANNA MUNICIPAL CODE

BE IT ENACTED, by the City Council of the City of Lackawanna, New York that City Code Chapter 230-217 (D) (2) (b), shall be amended by adding the following:

10. Solar Energy Production

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Pirowski seconded by Jerge to adopt ordinance as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Advertise for Bids-Electric Avenue paving/Drainage Project

To: City Council

I am requesting your Honorable Body to authorize the City Clerk to advertise for 2014 Electric Avenue Paving and Drainage Project. As you are aware this project is partially funded through the US Department of Housing and Urban Development Community Development Block Grant Program. The remainder of the project will be funded with available City of Lackawanna CHIP's money.

If you have any questions, please contact me.

ANTHONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Iafallo to approve request, City Clerk to advertise for bids

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Adjournment

Moved by Pirowski seconded by Iafallo meeting is adjourned.

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Henry R Pirowski-Council President

Jacqueline A Caferro -City Clerk