

**REGULAR MEETING  
JULY 14, 2014  
COUNCIL CHAMBERS  
[www.lackawannany.gov](http://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 16, 2014

Moved by Pirowski, seconded by Iafallo to adopt minutes of June 16, 2014 as written  
Yeas: Norman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Departmental Reports:**

1. City Comptroller- A/P Check listing #50, June 12, 2014
2. City Comptroller- A/P Check listing #51, June 26, 2014
3. City Comptroller- A/P Check listing #52, June 30, 2014
4. City Comptroller—Statement of Condition of Approp. as of May 31, 2014
5. City Treasurer- Monthly report for June 2014
6. City Clerk- Monthly report for June 2014

Moved by Pirowski seconded by Iafallo to receive and file and approve as amended,  
departmental reports one thru six.  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Communications from the Mayor**

**Mayor's Veto of Council's 2014-2015 Operating Budget**

7. To: City Council

Pursuant to the powers vested to me by Section 4.4b of the City Charter, I am hereby line item vetoing three positions in the budget that was passed on June 16, 2004 and restoring to the salary set forth in the budget I submitted to the Council.

They are:

City Attorney, Comptroller, and Recreation Director

As you are aware these three positions are department head positions and are running understaffed while providing great service.

**GEOFFREY M SZYMANSKI-MAYOR**

Moved by Pirowski seconded by Jerge to override the Mayor's veto

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Communications from the Council:**

**Noise and Music Ordinance**

8. To: City Council

I respectfully request the City Council direct the City Attorney to prepare an ordinance amending the Municipal Code, Section 159-6 Noise Ordinance, exceptions; which would mandate all businesses operating near residential properties to cease any organized outdoor activities, including persons gathering on outdoor decks and patios, causing disturbances of nearby residents. I request that all noise, music and outdoor activities be ceased at 10:00 PM.

Your anticipated cooperation is appreciated.

**KEITH E LEWIS-4<sup>TH</sup> WARD COUNCIL MEMBER**

Moved by Lewis seconded by Noman to direct the City Attorney to prepare ordinance

Yeas: Noman, Iafallo, Lewis

Nays: Pirowski

Abstain: Jerge (Per chapter 5-26, all abstaining votes shall be recorded as an affirmative vote.

Carried 4-1

**Communications from Department/Division Heads:**

**Funding for Part Time Clerk-Comptroller's Office**

9. To: City Council

I am requesting approval for a part-time clerk in the Comptroller's office. The money (\$500) will be transferred from A.1315.464 to A.1315.101 to cover the cost.

**PEGGY BIGAJ-SOBOL-CITY COMPTROLLER**

Moved by Pirowski seconded by Noman to approve transfer

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

**2013-2014 Budget Transfers**

10. To: City Council

Please be advised, pursuant to Chapter 12.12, Subdivision ©2 of the City Charter, the attached lists of transfers were made.

**PEGGY BIGAJ-SOBOL-CITY COMPTROLLER**

Moved by Pirowski seconded by Jerge to receive and file

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Unsafe Trees**

11. To: City Council

Please put the attached ordinance on the agenda for Council approval. Thank you.

**ANTONIO SAVAGLIO-CITY ATTORNEY**

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

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Rental Dwelling Unit Registration**

12. To: City Council

Please put the attached ordinances on the agenda for Council Approval. Thank you.

**ANTONIO SAVAGLIO-CITY ATTORNEY**

Moved by Pirowski seconded by Iafallo to receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Request for Executive Session**

13. To: City Council

I hereby request a meeting in executive session at the next Council meeting to discuss pending litigation.

**ANTONIO SAVAGLIO-CITY ATTORNEY**

Moved by Pirowski seconded by Jerge to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Lease Agreement between CSX Transportation and City Lehigh Soccer Field**

14. To: City Council

Please put the above-referenced agreement on the agenda for Council approval and authorization for the Mayor to enter into said agreement. Thank you.

(Complete text on file in City Clerk's office)

**ANTONIO SAVAGLIO-CITY ATTORNEY**

Moved by Pirowski seconded by Noman to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**STOP-DWI Resolution**

15. To: City Council

Please put the attached resolution on the agenda for Council approval. Thank you.

**ANTONIO SAVAGLIO-CITY ATTORNEY**

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

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Electric Ave Drainage & Paving Project**

16. To: City Council

As you are aware, your Honorable Body has authorized the City Clerk to advertise for bids for the above referenced project. The bid opening is scheduled for Wednesday, July 16<sup>th</sup>, 2014 at 11:00 AM in the City Council Chambers.

Since the bid opening is scheduled after the July Council Meeting, I am requesting that the City Council authorize the award of this contract contingent on the following items:

- \* Our engineering consultant reviews all bids to make sure they are mathematically correct and that the low bidder is competent to complete the work in a manner that is satisfactory to the City of Lackawanna. This will be determined by projects previously completed for the City by the low bidder, or a detailed reference check of similar projects completed for similar work in other Municipalities.

If everything checks out, this will allow us to commence construction prior to the next City Council meeting. This will be more convenient for the general public and shorten the duration it will impact school buses and the like as a fair amount of work should be completed prior to school starting.

If you have any questions, please contact me at your earliest convenience.

**ANTHONY DESANTIS-COMMISSIONER OF PUBLIC WORKS**

Moved by Pirowski seconded by Lewis to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**City Owned Properties**

17. To: City Council

The properties on the attached are not needed for any municipal purpose. Please adopt the attached list of City owned property and make them available for sale as required by the City Charter and Municipal Code Chapter 12-7.

If you have any further questions please contact my office.

(Complete list on file in City Clerk’s office)

**FRANK E KRAKOWSKI-CITY ASSESSOR**

Moved by Pirowski seconded by Jerge, to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**2014-2015 Locally Adjusted Base Proportions**

18. To: City Council

Enclosed for your consideration are resolutions for the Locally Adjusted Base Proportions for the 2014-2015 tax levies for the City of Lackawanna and the Lackawanna School District. As previously discussed with your honorable body, the resolutions authorize a 20% local adjustment or “shift”.

Thank you for your attention to this matter. If you have any questions, please call me.

(Complete text on file with City Clerk)

**FRANK E KRAKOWSKI-CITY ASSESSOR**

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

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

**Property Acquisition In Rem Auction Policy**

19. To: City Council

This letter shall serve to confirm that the City of Lackawanna is adopting the attached Property Tax and Maintenance/foreclosure Proceeds Distribution Policy for 2014 with the Buffalo Erie Niagara Land Improvement Corporation. This policy will only pertain to the property located at 1745 Abbott rd. for this 2014 In Rem Auction.

The policy is the same as other City agreements with BENLIC for property acquisition in order to rehabilitate and return properties top the tax rolls. Rehabilitation would be completed by BENLIC and **not** City tax Dollars.

I would therefore encourage the City Council to pass the attached Policy for the In Rem auction slated for July 15, 2014.

(Complete text on file with City Clerk)

**FRANK E KRAKOWSKI-CITY ASSESSOR**

Moved by Pirowski seconded by Noman to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Amendment to Local Law Establishing User Fees**

20. To: City Council

Please put the attached amended 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 amendment

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

**Communications from Citizens:**

**Use of Soccer Field**

21. To: City Council

On behalf of the Lackawanna Islamic Mosque I am writing this letter requesting the City Council to approve the use of the Lackawanna Soccer field located on Lehigh Street in the 1<sup>st</sup> Ward on July 27<sup>th</sup> or 28<sup>th</sup> of 2014 and October 5<sup>th</sup>, 6<sup>th</sup> or 7<sup>th</sup> of 2014. We will be using the area to gather to the community to celebrate our Eid holiday for the month of Ramadan. We will only be using it from 8Am-12PM Noon on one of those two days. We will also be using both Lehigh and Ingham Avenues for parking as well during this time frame.

We thank you for your consideration and look forward to hearing from you.

**ABDO ABDALLAH-VICE PRESIDENT LACKAWANNA ISLAMIC MOSQUE**

Moved Pirowski seconded by Noman to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Miscellaneous:**

**Business Licenses:**

**Masocco's Take N Bake-** 1805 Abbott rd- Pizzeria- Melissa Rook

Moved by Pirowski seconded by Jerge to approve business license  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Appraisals by Frank Caligiuri-** 22 Krakow St- Vehicle Appraisal

Moved by Pirowski seconded by Iafallo to approve business license  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Entertainment Licenses:**

**Our Lady of Victory-** Pennies to Heaven-live music- 5 day permit

Moved by Pirowski seconded by Jerge to approve entertainment license  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Our Lady of Bistrica-** lawn fete outdoor music- 5 day permit

Moved by Pirowski seconded by Jerge to approve entertainment license  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

**Resolutions:**

**(1) A Resolution adopting the adjusted base proportion tax levies for the City of Lackawanna 2014-2015**

**RESOLUTION #10, 2014**

**WHEREAS,** The City of Lackawanna may adopt locally adjusted base proportions pursuant to Local Law No. 3, 1993 and Section 1903.4 of the New York State Real Property Tax Law,

**NOW THEREFORE, BE IT**

**RESOLVED,** that for the City of Lackawanna tax levies for fiscal year 2014-2015, it is hereby established:

That the Council hereby adopts a 20% shift of its adjusted base proportions resulting in the following locally adjusted base proportions:

<u>Shift</u>	<u>Homestead</u>	<u>Non-Homestead</u>
20%	51.66119	48.33881

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY**

Moved by Pirowski seconded by Jerge to adopt resolution #10 as written

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

**(2) A Resolution adopting the adjusted base proportion tax levies for Lackawanna School District 2014-2015**

**RESOLUTION #11, 2014**

**WHEREAS,** The City of Lackawanna may adopt locally adjusted base proportions pursuant to Local Law No. 3, 1993 and Section 1903.4 of the New York State Real Property Tax Law,

**RESOLVED,** **NOW THEREFORE, BE IT** that for the Lackawanna School District tax levies for fiscal year 2014-2015, it is hereby established:

That the Council hereby adopts a 20% shift of its adjusted base proportions resulting in the following locally adjusted base proportions:

<u>Shift</u>	<u>Homestead</u>	<u>Non-Homestead</u>
20%	51.35101	48.64899

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY**

Moved by Pirowski seconded by Jerge to adopt resolution #11 as written

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried 4-1

**(3) A resolution authorizing the Mayor to enter in and execute agreement for the STOP-DWI Program with Erie County**

**RESOLUTION #12, 2014**

**WHEREAS,** the City has been engaged in the STOP-DWI program in conjunction with the County of Erie for several years; and

**WHEREAS,** the County has requested the City to enter into a formal agreement with the County setting forth the terms and conditions between the County and the City; and

**WHEREAS,** attached hereto, is a copy of the proposed contract for the period commencing January 1, 2014 and terminating December 31, 2016; and

**WHEREAS,** the City Council deems it is the best interest of the City of Lackawanna to enter into said agreement,

**RESOLVED,** **NOW, THEREFORE, BE IT** that the Mayor be and hereby is authorized and directed to executed said

**RESOLVED,** agreement on behalf of the City of Lackawanna; and be it further that the City Clerk forward certified copies of this resolution to the Mayor, Director of Public Safety, Chief of Police and the City Attorney

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

Moved by Pirowski seconded by Jerge to adopt resolution #12 as written  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Ordinances:**

**(1) AN ORDINANCE AMENDING CHAPTER 210 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED TREES, UNSAFE**

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

Section 210-2(D) is hereby rescinded.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Pirowski seconded by Iafallo to adopt ordinance as written  
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**(2) Rental Dwelling Exemptions Criteria**

**AN ORDINANCE AMENDING CHAPTER 177, RENTAL DWELLING UNIT REGISTRATION, OF THE CITY OF LACKAWANNA MUNICIPAL CODE**

**BE IT ENACTED** by the City Council of Lackawanna, New York that City Code Chapter 177-3 (B), rescinded and reenacted as follows:

- B. Exemptions. The provisions of this chapter shall not apply to owner-occupied properties containing two or fewer dwelling units; hotels; motels; bed-and- breakfast establishments; rooming houses or boarding houses; hospitals; nursing homes; or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients or tenants.

**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



**(3) Rental Dwelling Inspection Criteria**

**AN ORDINANCE AMENDING CHAPTER 177, CITY OF LACKAWANNA MUNICIPAL CODE, RENTAL SWELLING UNIT REGISTRATION**

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

Section 177-13(A) Enforcement inspection criteria and authority is hereby rescinded and replaced with the following:

**A.** A registration certificate will not be issued if one of the following occurs:

1. The owner fails to properly register subject properties, or the registration certificate is revoked;
2. Such unit has been abandoned by the owner, or the owner of such unit cannot be found;
3. An excessive amount of exterior inspection violations or excessive callback fees have been imposed or billed as a result of enforcement activity under Chapter 83 of the City Code;
4. The unit is on parcel of land which is on the list of delinquent taxes filed by the Department of Assessment and Taxation, or a list of delinquent user fee charges, or outstanding administrative adjudication charges, or any other collection accounts outstanding with the City of Lackawanna;
5. The unit or the property within which the unit is located has, within the preceding three months, been the subject of a written petition filed with the Department of Development or by a City Council member, which petitions request that such unit be inspected and is signed by five or more persons having personal knowledge of the unit or property, stating one or more reasons why such unit should be inspected by the City;
6. The Director or Code enforcement Officers have a reasonable basis to believe that there exists within such unit one or more violations of codes which constitutes a serious danger to the health, safety and welfare of persons living in such unit, or which would make the unit or structure in which the unit was located a dangerous structure or unfit for human habitation under Chapter 83 and Chapter 139 of the City Code;
7. If the owner has failed or refused to pay fees to the City for inspections, certificates or any Other fees required by Law.

**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

**Local Law:**

**An amendment to Local Law No. 1, 2014- User Fees**

**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. Except as provided herein, each user shall pay a fee for each unit said user owns 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. Thereafter, the fees shall be set by the Council.

- B. All users shall be billed for public solid waste collection and disposal services.
- C. All users fees shall be due on the same day that the corresponding City tax bills shall be due; and if not received by said due date, there shall be added to that bill a collection processing charge at the rate of two percent (2%) 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 provision for both payment in its entirety of the annual amount stated or by payment of a semi-annual installment, that semi-annual payment must be made on or before August 31<sup>st</sup> and on or before January 31<sup>st</sup>.
- 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.
- F. Any user who owns multiple units, on or before August 31<sup>st</sup>, request an exemption for a unit which is not occupied, provided he makes a sworn affidavit under penalty of perjury that a unit is unoccupied and that the unit shall not be occupied during the fiscal year for which the user fee applies. Said unit shall be subject for a semi-annual, random inspection by code enforcement to determine whether said unit is occupied. The owner of such a unit shall be required to inform the City within five days of said unit being occupied. The user fee for such a unit shall be prorated so the owner shall pay the user fee for said unit for the time that said unit is occupied. Failure to comply with the provisions of this section shall be punishable by a fine of \$2,500.00 together with the portion of the user fee which accrued while the unit was occupied.

#### **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 Jerge to approve amendment to Local Law

Yeas: Noman, Iafallo, Jerge, Pirowski

Nays: Lewis

Carried-4-1

Moved by Pirowski seconded by Jerge, move to executive session @7:44 PM

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Meeting reconvened @ 8:06 PM

**Roll Call: Noman, Iafallo, Jerge, Lewis, Pirowski**

**Waive Rules:**

Moved by Pirowski seconded by Iafallo to wave the rules

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Moved by Pirowski seconded by Noman to approve settlement of Larkin Construction litigation funds to be taken out of general fund

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

**Adjournment:**

Moved by Pirowski seconded by Iafallo meeting adjourned

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

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Henry R Pirowski-Council President

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Jacqueline A Caferro –City Clerk

