

**REGULAR MEETING
SEPTEMBER 15, 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, Recreation,
Excused: Comptroller**

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

Moved by Pirowski, seconded by Jerge to adopt minutes of regular meeting of September 2, 2014 as written

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

Departmental Reports:

City Treasurer- receipts deposited into General Fund, August 2014
City Clerk - Monthly Report, August 2014

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

Communications from Department/Division Heads:

Traffic Signal-South Park & Warsaw/Verel

3. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* South Park Avenue and Warsaw Street/Verel Avenue

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash sine the recommendations were made last February

and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Iafallo to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Traffic Signal-South Park & Roland/Sharon Pkwy

4. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* South Park Avenue and Roland Avenue/Sharon Parkway

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash sine the recommendations were made last February and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Iafallo to table for study

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Traffic Signal-South Park & Autumn Lane

5. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* South Park Avenue and Autumn Lane

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash sine the recommendations were made last February and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Lewis to table for study

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Traffic Signal-South Park & Maple Grove

6. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* South Park Avenue and Maple Grove Avenue

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash sine the recommendations were made last February and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Iafallo to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Traffic Signal-Electric Avenue & Warsaw Street

7. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* Electric Avenue at Warsaw Street

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash sine the recommendations were made last February and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Pirowski seconded by Iafallo to table for study

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Traffic Signal-Abbott Road & West Elmview

8. To: City Council

Based on the Traffic Signal Warrant Analysis that was completed by TVGA Consultants dated February 11, 2013, I am requesting formal authorization to remove the Traffic Signal at the following location:

* Abbott Road & West Elmview

As you are aware the Traffic Signal Warrant Analysis determined that the signals at the referenced intersections are not required. The study recommended that the signals be placed on flashing yellow on the major street and flashing red on the minor street for three (3) to four (4) month

duration. This was done to ensure there were no safety issues with the recommendations provided in the report. The signals have been on flash since the recommendations were made last February and there have been no safety issues with vehicular or pedestrian traffic. Therefore, I am respectfully requesting authorization to remove the traffic signal.

TONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

NO MOTION BY THE COUNCIL-FAILED-SIGNAL TO REMAIN

NYS Assessors Annual Meeting

9. To: City Council

I am requesting approval to attend the New York State Assessors Annual Meeting from October 5th thru 8th, 2014, Lake Placid NY. Funds are available in the assessor's current budget, which will be reimbursed by the State of New York up to 80% of total expense.

FRANK E KRAKOWSKI-CITY ASSESSOR

Moved by Pirowski seconded by Jerge to approve request

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Budget Amendment-Youth Community

10. To: City Council

Please find attached for your review and approval an ordinance amending the 2014-2015 Budget Ordinance adopted July 14, 2014, to transfer \$2280 from A.7310.480 Youth Community Garden to A.7310.102 Youth Community Garden Personal Services.

If you have any questions, please feel free to give me a call.

PEGGY BIGAJ-SOBOL-CITY COMPTROLLER

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

Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Advertise for Bids-Demolition of City Owned Properties

11. To: City Council

Request is hereby asked that this honorable body direct the City Clerk to publish the appropriate notice soliciting bids for the demolition of the City of Lackawanna properties as follows:

1. 36 Center Street (apartment building)
2. 22 Edgewood (apartment building)
3. 110 Ingham (apartment building)
4. 35 Steelawanna (apartment building)
5. 297 Ridge (2 story commercial property)
6. 128 Milnor (2 family dwelling)
7. 29 and 33 Bethlehem (structure & garage)

It is intended that the bids be opened on or about Friday, October 10, 2014. The asbestos surveys will be completed prior to the issuance of bid packages.

Thank you in advance for cooperation in this matter. In the event there are any questions, I encourage you to contact me.

FRED K HEINLE-DIRECTOR OF DEVELOPMENT

Moved by Pirowski seconded by Noman to approve request, City Clerk to advertise for bids
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

Solar Energy-Special Use Permit

12. To: City Council

Please be advised that in accordance with the applicable sections of the City of Lackawanna Code a final decision on the Text Amendment associated with the solar panel installation within the former Bethlehem Steel Site is required.

Although, an ordinance dated June 17, 2014 was adopted based upon the unanimous vote of this honorable body at the June 16, 2014 meeting (see attached), unfortunately discrepancies based upon the timing of the City of Lackawanna Planning Board created an issues as to the passing of the ordinance.

Accordingly, attached for your approval please find a revised Resolution of the City of Lackawanna Council to approve the text amendment to allow Solar Energy Production in the BRA-MI District upon the issuance of a special Use Permit.

Thank you in advance for cooperation in this matter. In the event there are any questions I encourage you to contact me.

FRED K HEINLE-DIRECTOR OF DEVELOPMENT

Moved by Pirowski seconded by Noman to receive and file, act on resolution
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski Carried 5-0

Director of Public Safety Requirements

13. To: City Council

It has been past practice to hire a Director with minimum experience as a Lieutenant for this position, in violation of the Charter, due to the extremely limited pool of candidates available. Therefore, I am requesting your approval of the attached Local Law changing the requirements to enable the City to have access to a larger amount of candidates for the job.

ANTONIO SAVAGLIO-CITY ATTORNEY

Moved by Pirowski, NO SECOND ON MOTION- MOTION FAILED

Resolutions:

(1) Resolution #16, 2014 Special Use Permit-Solar Energy

RESOLUTION OF THE CITY OF LACKAWANNA COUNCIL TO APPROVE THE TEXT AMENDMENT TO ALLOW SOLAR ENERGY PRODUCTION IN THE BRA-MI DISTRICT UPON THE ISSUANCE OF A SPECIAL USE PERMIT

Project Name: Text Amendment Making Solar Energy Production a Specially-Permitted Use in the Bethlehem Redevelopment Area-Medium Industry (“BRA-MI”) District

Project Description: The City of Lackawanna Council proposes to amend the City of Lackawanna Code (“Code”) Section 230-17 (D)(2)(b) to allow for solar energy production in the BRA-MI district upon the issuance

of a Special Use Permit (“Amendment”). The Amendment will affect lands within the BRA-MI district, the area of which totals approximately 150 acres.

Location: Areas zoned BRA-MI located at 1951 Hamburg Turnpike, City of Lackawanna, Erie County, New York.

WHEREAS, the Council is authorized and empowered by Section 230-73(A) of the Code to amend, supplement, change or repeal the regulations, restriction and boundaries established by this the Code to meet the growing and changing needs of the City of Lackawanna; and

WHEREAS, at its June 16, 2014 meeting, the City of Lackawanna Council (“Council”) proposed an amendment to Section 230-17 (D)(2)(b) of the Code to allow solar energy production in the BRA-MI upon the issuance of a Special Use Permit (“Amendment”) and referred the Amendment to the City Planning and Development Board (“Planning Board” for its recommendation; and

WHEREAS, the Project is Type 1 action pursuant to Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and regulations (collectively referred to as “SEQR”) because it involves the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district; and as such, pursuant to and consistent with the requirements of SEQR, the Council as lead agency conducted a coordinated review of the Project and on September 2, 2014 adopted a negative declaration for the Project; and

WHEREAS, at its July 10, 2014 meeting, the Planning Board recommended that the Council approve the Amendment; and

WHEREAS, the Council referred the Application to Erie County pursuant to Section 239-m of Article 12-B of the New York General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and, Erie County, by letter dated August 19, 2014, concluded that the Amendment is consistent with County planning documents, provided the City undertake a case-specific review of each special use permit application to ensure solar energy production is an appropriate land use on specific parcels; and

WHEREAS, the Amendment has undergone the City of Lackawanna text amendment process pursuant to Section 230-73 of the Code, and

WHEREAS, the Council has considered the comments and points of view of Erie County, detailed in a letter dated August 19, 2014 and of the public as expressed at a public hearing held by the Council on August 11, 2014 in accordance with Section 230-73 (b)(3) of the Code; and

WHEREAS, the Council also held a meeting September 2, 2014 to hear and consider the Amendment and additional information related thereto; and

WHEREAS, it is appropriate that the Council approve the Amendment.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF LACKAWANNA AS FOLLOWS:

Section 1. The Amendment meets the requirements for amendments to the Code as articulated in Section 230-73 of the Code, and that with the multiple meetings at which the Council has considered the Amendment, the Council had sufficient time to fully consider the Amendment and no additional time is either warranted or necessary.

Section 2. Based on the discussions of the Council, the County comments dated August 19, 2014, the comments at the public hearing held on August 11, 2014 and the Council’s SEQR review, the Council makes the following determinations with respect to the Amendment:

The Amendment conforms with the Code, adopted City development plans and all other applicable laws because the Amendment provides an opportunity for beneficial use of vacant Brownfield land within the City.

The Amendment conforms with the Code as wind energy production is currently allowed in the BRA-MI upon the issuance of a Special Use Permit, and wind energy production is a much more intensive land use than low-profile solar energy production.

The proposed use of solar energy production is a beneficial use that takes into account the current condition of the land in the BRA-MI, as that land is subject to institutional and engineering controls, and much of the land has substantial underground foundations in place.

The BRA-MI is intended to encourage “nonsmokestack” manufacturing while remaining compatible with both the Heavy Industry and Light Industry districts. The Amendment is a “nonsmokestack” commercial use.

The low profile, green technology and private investment associated with the implementation of renewable energy within the BRA-MI is consistent with the guidelines in the Local Waterfront Revitalization Program document pertaining to future redevelopment of the Bethlehem Steel Site.

The addition of solar energy production within the BRA-MI is also consistent with the City of Lackawanna’s Comprehensive Plan and its policy pertaining to development of the Bethlehem Steel Site, including the goal of returning Brownfield sites to productive uses in accordance with restrictions included in the specific remediation plan for each site.

The BRA-MI is also ideal for the implementation of solar energy production due to the permeability of underlying slag material and the slag cover system requirements in place for remedial programs underway on the BRA-MI property.

The Amendment is appropriate because each solar energy production project will require a Special Use Permit review by the City Planning and Development Board. As such, the City will be able to review each project on a case-by-case basis, to determine if solar energy production is the most appropriate use of the land and most suitable use for each parcel.

Areas subject to the Amendment are located approximately a quarter of a mile from residential areas in a location containing vacant land and industrial development. Accordingly, the BRA-MI is uniquely suited to the Amendment, which is the type of development intended to be located in the Bethlehem Redevelopment Area, and will not significantly impact public health, safety and welfare.

Section 3. For all of the foregoing reasons, the Council hereby approves the Amendment.

Section 4. The President of the Council and the City Clerk are hereby authorized and directed to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 5. This Resolution shall take effect immediately.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Pirowski seconded by Noman to adopt resolution s written
Yeas: Noman, Iafallo, Jerge, Lewis, Pirowski

Carried 5-0

Ordinances:

(1) Youth Board Community Garden

AN ORDINANCE AMENDING THE 2014-2015 BUDGET ORDINANCE ADOPTED JULY 14, 2014

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

SECTION 1. That the 2014-2015 Budget Ordinance adopted July 14, 2014 is hereby amended to transfer appropriations for Youth Community garden Personal Services

SECTION 2. That the 2014-2015 Budget Ordinance is hereby amended to transfer \$2,280.00 to budget code A.7310.102 Youth Board, Youth Community Garden Personal Services

SECTION 3. That the 2014-2015 Budget Ordinance is hereby amended to transfer \$2,280.00 from budget code A.7310.480 Youth Board, Youth Community Garden

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

Waive Rules

Moved by Noman, seconded by Iafallo to waive rules

Yeas: Noman, Iafallo, Lewis

Nays: Jerge, Pirowski

Carried 3-2

Ordinance:

(1) Sale of Ridge Road Properties- Yemenite Benevolent Association

AN ORDINANCE AUTHORIZING THE SALE/TRANSFER OF PROPERTY PURSUANT TO MUNICIPAL CODE SECTION 107

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

SECTION 1. That the City Council hereby approves of the transfer part of property known as\ SBL 141.43-1-6 & 141.43-1-7 & 141.43-1-8 & 141.43-1-9 & 141.43-1-10 & 141.43-1-11 parcels totaling 240 feet by 140 feet, to the Yemenite Benevolent Association

SECTION 2. That transfer is made for the sum of \$3,000 in cash to the City of Lackawanna

SECTION 3. That the purchaser/transferee shall be responsible for expenses related to the transfer other than those specifically belonging to the City of Lackawanna

SECTION 4. That the law Department shall prepare documents to be executed for the transfer Of the property

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Noman, seconded by Iafallo to adopt ordinance as written

Yeas: Noman, Iafallo, Lewis
Nays: Pirowski
Abstained: Jerge

Carried 4-1

(2) Solar Energy Ordinance

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

Project Name: Text Amendment Making Solar Energy Production a Specially-Permitted Use in the Bethlehem Redevelopment Area-Medium Industry (“BRA-MI”) District

Project Description: The City of Lackawanna Council proposes to amend the City of Lackawanna Code (“Code”) Section 230-17 (D) (2) (b) to allow for solar energy production in the BRA-MI district upon the issuance of a Special Use Permit (“Amendment”). The Amendment will affect lands within the BRA-MI district, the area of which totals approximately 150 acres.

Location: Areas zoned BRA-MI located at 1951 Hamburg Turnpike, City of Lackawanna, Erie County, New York.

WHEREAS, the Council is authorized and empowered by Section 230-73(A) of the Code to amend, supplement, change or repeal the regulations, restriction and boundaries established by this the Code to meet the growing and changing needs of the City of Lackawanna; and

WHEREAS, at its June 16, 2014 meeting, the City of Lackawanna Council (“Council”) proposed an amendment to Section 230-17 (D)(2)(b) of the Code to allow solar energy production in the BRA-MI upon the issuance of a Special Use Permit and referred the Amendment to the City Planning and Development Board (“Planning Board” for its recommendation; and

WHEREAS, the Project is Type 1 action pursuant to Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and regulations (collectively referred to as “SEQR”) because it involves the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district; and as such, pursuant to and consistent with the requirements of SEQR, the Council as lead agency conducted a coordinated review of the Project and on September 2, 2014 adopted a negative declaration for the Project; and

WHEREAS, at its July 10, 2014 meeting, the Planning Board recommended that the Council approve the Amendment; and

WHEREAS, the Council referred the Application to Erie County pursuant to Section 239-m of Article 12-B of the New York General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and, Erie County, by letter dated August 19, 2014, concluded that the Amendment is consistent with County planning documents, provided the City undertake a case-specific review of each special use permit application to ensure solar energy production is an appropriate land use on specific parcels; and

WHEREAS, the Amendment has undergone the City of Lackawanna text amendment process pursuant to Section 230-73 of the Code, and

WHEREAS, the Council has considered the comments and points of view of Erie County, detailed in a letter dated August 19, 2014 and of the public as expressed at a public hearing held by the Council on August 11, 2014 in accordance with Section 230-73 (b)(3) of the Code; and
WHEREAS, the Council also held a meeting September 2, 2014 and September 15, 2014 to hear and consider the Amendment and additional information related thereto; and
WHEREAS, the Council approved the amendment by resolution dated September 15, 2014, it is now appropriate that the Council pass the amended ordinance.

NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF LACKAWANNA AS FOLLOWS:

City Code 230-17 (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 Lewis to adopt ordinance as written

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

Henry R Pirowski-Council President

Jacqueline A. Caferro –City Clerk