

**COUNCIL MEETING
MONDAY, JUNE 6, 2016
COUNCIL CHAMBERS
www.lackawannany.gov**

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

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

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

Approval of Minutes: of regular meeting of May 16, 2016

Moved by DePasquale seconded by Lewis to adopt minutes as written
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Departmental Reports:

1. City Clerk-Monthly report for May 2016
2. City Treasurer-Receipts deposited into General Fund, May 2016
3. City Comptroller-A/P Check Listing #40, May 11, 2016
4. City Comptroller-A/P Check Listing #41, May 18, 2016
5. City Comptroller-A/P Check Listing #42, May 25, 2016
6. City Comptroller-Statement of Conditions of Appropriations as of April 30, 2016
7. City Comptroller-A/P Check Listing #43, May 31, 2016

Moved by Jerge seconded by Noman to receive and file departmental reports one thru seven
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Communications from the Mayor:

Traffic and Vehicle Municipal Code

8. To: City Council

I am requesting your Honorable Body pass the attached Ordinance amending Chapter 215 of the Traffic and Vehicle Municipal Code.

Thank you for your anticipated cooperation on this matter.

MAYOR GEOFFREY M. SZYMANSKI

Moved by Iafallo seconded by Lewis to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Communications from the Council:

Agendas/Meeting Minutes-Planning & Development, Zoning & Civil Service

9. To: City Council

I requested that the Planning & Development Board, Zoning Board of Appeals and the Civil Service Commission, **agendas and meeting minutes** be put on the City of Lackawanna's website. This will serve as an informational resource for the citizens of the City.

Any questions or concerns, please contact me.

KEITH E LEWIS-COUNCIL PRESIDENT

Moved by Lewis seconded by Iafallo to approve request, meeting agendas to be put on City's website

Yeas: Lewis, Noman, Iafallo, Jerge, Lewis

Carried 5-0

Rules & Regulations-Installation of Residential Solar Panels

10. To: City Council

I request the Council direct the Department of Development and the City Attorney to prepare rules & regulations for the City Code with regards to the installation of residential solar panels & systems.

- Moratorium on any new residential solar panel/system installations until City Code is updated with regards to same

-The aforementioned moratorium does not apply to previously installed residential solar panel/system applications

-Commercial applications are exempt from this moratorium and shall be approved on a case by case basis.

Any questions or concerns, please contact me.

JEFFREY DEPASQUALE-4TH WARD COUNCIL MEMBER

Moved by Lewis seconded by DePasquale to receive and file

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Communications from Department Heads/Division Heads:

Advertise for Bids-Fire Department-Washer/Dryer System

11. To: City Council

The fire department has received an Assistance to Firefighters Grant in the amount of \$24,762. This money is earmarked to purchase a Washer/Dryer System for the cleaning of turnout gear and other personal protective equipment and an electronic mask fit testing system. The cost shares of this grant for the City are \$1,238.

With studies showing that firefighters have an increased risk of cancer over the general public, the proper cleaning of turnout gear is essential. This proper cleaning will also extend the life of the turnout gear. Currently, we outsource our fit testing at a considerable cost to the City. The electronic fit testing system will allow us to do all fit testing in house at little cost to the City.

I ask your Honorable Body to please direct the City Clerk to advertise for bids. Specifications have been prepared and are ready for bid.

If you have any questions feel free to call me.

RALPH GALANTI-FIRE CHIEF

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

Chapter 230-Zoning

12. To: City Council

Please put the attached ordinances on the agenda for council approval. Thank you
ANTONIO SAVAGLIO-CITY ATTORNEY

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

LMHA-Glover Gardens-Deed Correction

13. To: City Council

Attached is the ordinance for the above mentioned property which would correct a defect in the deed description of the original transfer of City Property to the LMHA for the Glover Gardens public housing development. The ordinance covers the lot #41 in Map Cover 678 located on Simon Avenue. A lot approximately 30x120 which has been used and maintained by the LMHA for over 40 years.

FRANK E KRAKOWSKI-ASSESSOR

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

Adjusted Base Proportions-City & School

14. To: City Council

Pursuant to Article 19 of the New York State Real Property Tax Law and New York State Office of Real Property Services Rules, NYCRR-186-10, the legislative body of the City of Lackawanna must establish current and adjusted base proportions.

Attached are forms EA6701 and EA6703 with computations of the Current Base Proportions and Adjusted Base Proportions for the City of Lackawanna and Lackawanna School District portions of the 2016-2017 assessment roll. Please direct the City Clerk to certify these forms with the 0% Shift and forward them to the New York State Office of Real Property Services.

(Attachments on file with City Clerk)

FRANK E KRAKOWSKI-ASSESSOR

Moved by Lewis seconded by Jerge to receive and file
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale Carried 5-0

Purchase Offer-61 Ingham Ave.-Lackawanna Yemen Soccer Club

15. To: City Council

Please be advised that the Assessor's Office has received an offer from Lackawanna Yemen Soccer Club for a total price of \$600 for the purchase of 61 Ingham Avenue. A vacant corner lot approximately 30x120, currently unbuildable, with a total assessed value of \$3,000. The property would be used for additional parking for their club located at 51 Ingham Ave.

It is my recommendation that the City Council sell the parcel to Lackawanna Yemen Soccer Club for the amount of \$600.

FRANK E KRAKOWSKI-ASSESSOR

Moved by Lewis seconded by Jerge to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Purchase Offer-149 & 163 Ingham Ave.-Abdulsalam Noman

16. To: City Council

Please be advised that the Assessor's Office has received an offer from Abdulsalam K. Noman for a total price of \$1,000 for the purchase of 149 & 163 Ingham Avenue, a vacant parcel approximately 178x150 with a total assessed value of \$14,500. The property would be used to develop a two story building containing 4 apartment units. Total purchase price would be \$1,500. It is my recommendation that the City Council sell the parcel to Abdulsalam K. Noman for the amount of \$1,500. The deed should contain a reverter clause stating that the time of construction should begin within one year from the transfer of title.

FRANK E KRAKOWSKI-ASSESSOR

Moved by Jerge seconded by Iafallo to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Chapter 116 and Chapter 194 of the City Code

17. To: City Council

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

ANTONIO SAVAGLIO-CITY ATTORNEY

Moved by Iafallo seconded by Lewis to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Transfer of Funds-Special Revenue-Refuse and Garbage

18. To: City Council

Submitted for your review and approval is an ordinance to amend the 2015-16 Budget to transfer money to the Special Revenue Fund-Refuse and Garbage from the General Fund for payroll and social security taxes. This transfer is needed due to personnel from the General Fund-Streets Department being needed to work in Sanitation throughout the fiscal year.

PEGGY BIGAJ-SOBOL-CITY COMPTROLLER

Moved by Jerge seconded by Iafallo to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

2015 Paving Replacement Project-Inter-fund Transfer

19. To: City Council

I am requesting an inter-fund advance between the general fund and capital fund in the amount of \$435,000.00. This money will be used for the 2015 Paving Replacement Project. The advance will be repaid at the time of reimbursement from C.H.I.P.S. If you have any additional questions or concerns you may contact me at your earliest convenience.

ANTHONY DESANTIS-COMMISSIONER OF PUBLIC WORKS

Moved by Lewis seconded by Iafallo to receive and file, act on ordinance
Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Proposed Land Subdivision Ordinance

20. To: City Council

Attached for your perusals please find a copy of a draft ordinance that would regulate subdivision process with the City of Lackawanna. The Code currently fails to provide for the subdivision of parcels within the City of Lackawanna. This ordinance is intended to provide developers and others interested in subdividing with a clear methodology and process.

As this action is covered with the State Environmental Quality Review Act (“SEQR”), and NYS General Municipal Law Section 239-m, we are required to take the following steps:

1. Approve the Department of Development to circulate the draft ordinance together with the appropriate Environmental Assessment Form to the Erie County Department of Environment & Planning;
2. Appointment of this Honorable Body as the Lead Agency in compliance with SEQR; and
3. Authorize the City Clerk to publish the item to schedule a Public Hearing & hold open for Public Comment in accordance with applicable rule and regulations

This document is presented for your review and comments and will be presented for further action upon.

I trust that you find this information satisfactory however, should there be any questions or concerns, I encourage you to contact me.

(Complete attachment on file with City Clerk)

FRED K. HEINLE-DIRECTOR of DEVELOPMENT

Moved by Lewis seconded by Jerge to receive and file, City Council designates itself as lead agency for SEQR purposes

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Communications from Citizens:

Commissioner of Deeds-Front Page

21. To: City Council

I, Dr. Chitra Selvaraj, am the new Managing Editor for the Front Page and the South Buffalo News. I would like to apply to become a Commissioner of Deeds, as we issue several affidavits of publication for legal notices in our paper. The legal notices are usually, notice of Formation of LLC, Liquor License, and other public notices.

The affidavits have to be notarized every week, and that would be facilitated by my becoming a Commissioner of Deeds. I thank you for your consideration.

If you have any questions, please feel free to contact me at frontpagegroup@gmail.com.

CHITRA SELVARAJ

Moved by Iafallo seconded by Noman to TABLE for study

Yeas: Lewis, Noman, Iafallo

Nays: Jerge, DePasquale

Carried 3-2

John Ingram-Address Council

22. To: City Council

Items I would like to put on the agenda:

1. I would like to talk about the 5th Annual Community Fun Day
2. I would like to talk about the speeding on Steelawanna & on Church Street

JOHN INGRAM

Moved by Jerge seconded by Lewis to receive and file

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Business Registrations:

(1) Mohammad Mattan- DBA Travel House International-736 Ridge Road-Travel Agency

Moved by Lewis seconded by Noman to approve business registration

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(2) Larry Spacciopoli- DBA Larry Spacc GMC Inc.-1212 Abbott Road- Car Sales

Moved by Lewis seconded by Jerge to approve business registration

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(3) Lanette Welch- DBA Ice House Pub LLC- 715 Ridge Road- Bar/Restaurant

Moved by Jerge seconded by Lewis to approve business registration

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Entertainment Licenses:

(1) The Press Box-1841 Abbott Road- Live Music (\$50) & Volleyball (\$150)

(2) Lackawanna Grove-2847 South Park-Live Music (\$50)

(3) Winfield Pub-1312 Ridge Road-Live Music (\$50)

(4) Matthew Glab Post-1965 Abbott Road-Live Music (\$50)

(5) J's White Elephant-1404 Abbott Road-Live Music (\$50)

(6) Murph's Warsaw Grill-1 Warsaw Avenue-Live Music (\$50)

(7) Steel City Pub-1449 Abbott Road-Class 2-Mechanical Music (\$25)

Moved by Lewis seconded by Jerge to approve all entertainment licenses

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Resolutions:

A resolution regarding City Comptroller vacations during budget adoption period

BE IT RESOLVED, that the Lackawanna City Council request that the City Comptroller adhere to the following-

The City Comptroller will not take vacation time from her/his City position during the time period of May 10 thru June 10 of each fiscal year

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Jerge to receive and file

Ordinances:

(1) Outside Counsel Barclay Damon-Compact Disc Fee

AN ORDINANCE AMENDING THE 2015 BUDGET ORDINANCE ADOPTED JULY 16, 2015

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

SECTION 1. That the 2015-2016 Budget Ordinance adopted July 16, 2015 is hereby amended to transfer appropriations for Outside Counsel Fees

SECTION 2. That the 2015-2016 Budget Ordinance is hereby amended to transfer \$60.00 to budget code A.1010.465 City Council, Outside Counsel Fees

SECTION 3. That the 2015-2016 Budget Ordinance is hereby amended to transfer \$60.00 from budget code A.1900.1990 Special Items, Contingent Account

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Jerge to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(2) Budget Transfer-Council Travel Expense

AN ORDINANCE AMENDING THE 2015 BUDGET ORDINANCE ADOPTED JULY 16, 2015

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

SECTION 1. That the 2015-2016 Budget Ordinance adopted July 16, 2015 is hereby amended to transfer appropriations for City Council Travel Allowance

SECTION 2. That the 2015-2016 Budget Ordinance is hereby amended to transfer \$1,000.00 to budget code A.1010.464 City Council, Travel Allowance

SECTION 3. That the 2015-2016 Budget Ordinance is hereby amended to transfer \$1,000.00 from budget code A.1900.1990 Special Items, Contingent Account

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Jerge to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(3) Traffic & Vehicle-Ridge Road & Franklin-“Street-No Standing”

AN ORDINANCE AMENDING CHAPTER 215, TRAFFIC AND VEHICLES, 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 215.43, Subsection 177 Ridge Road and Franklin Street, shall be rescinded and replaced with the following:

No standing from the east curb line of Franklin Street to a point 20 feet easterly

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Iafallo seconded by Lewis to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(4) Playgrounds and Parks-Restrictions

AN ORDINANCE ENACTING CHAPTER 170 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED PLAYGROUNDS AND PARKS

BE IT ENACTED by the City Council as follows:

S170.1. Use by Non-residents Restricted

The use of a City playground or park shall be restricted to residents of the City of Lackawanna except as follows:

- A. A non-resident accompanied by a resident may be admitted
- B. A participant in or spectator of an organized program sponsored or approved by the City may be admitted subject to the terms and conditions of such program as determined by the Director of Recreation.

S170.2. Dates and Hours of Operation

- A. The City playgrounds and parks shall be opened from May 1st to October 31st.
Playgrounds and parks shall open at 9:00 am and shall close at sunset.
- B. The Director of Recreation shall have the authority to change the date of operation in the event of inclement weather or any other circumstances which may affect the use of said playground and parks.
- C. The provisions of Subsection A shall not be applicable to Memorial Field, Veteran's Stadium or the Bocce Court. Dates, hours of operation and terms of operation shall be determined by the Director of Recreation.
- D. No person shall remain in any playground or park after the same has been closed.

S170.3. Children Must be Accompanied by an Adult

No child under the age of 18 shall be permitted in a playground or park unless accompanied by an adult.

S170.4. Garbage and Refuse

- A. No person shall deposit, dump, throw or place any earth, rubbish, paper, bottle, glass or glassware metal, garbage or refuse, wood, stone or any other material of any kind in or upon any part of the grounds of any City playground or park.
- B. Use of receptacles. Garbage and refuse as set forth in subsection A must be deposited in the receptacles provided or carried out when receptacles are not provided.

S170.5. Motor Vehicles

No person shall operate any motor vehicle in or on any playground or park except on the roads and within the spaces specifically designated for parking.

S170.6. Injury to Property or Equipment Prohibited

No person shall injure, deface, disturb, damage, or remove any part of a City playground or park or any building, sign, equipment, tree, shrub, ornament, wall, fence, bench, structure or other property within a City playground or park.

S170.7. Dogs

- A. No person shall any dog into a playground or park unless said dog is on a leash not to exceed six feet in length. The dog must remain on the leash at all times while in said playground or park.
- B. A person who brings any dog into a City playground or park shall be responsible to remove any waste created by said dog.

S170.8. Fires and Smoking

- A. No person shall kindle, build, maintain or use a fire in any City playground or park.
- B. Smoking shall not be permitted in any playground or park.

S170.9. Sales Restricted

No person, firm, partnership, LLC or corporation shall sell or offer for sale within a City playground or park any items whatsoever, including food and refreshments unless authorized by the City Council.

S170.10. Alcoholic Beverages

- A. No person shall possess any alcoholic beverage within a playground or park unless a permit is issued by the City Clerk upon approval of the City Council.
- B. No person shall be under the influence of alcohol or drugs in a playground or park to the degree that he or she may annoy, harass or endanger himself, herself or another person.

S170.11. Disorderly Conduct Prohibited

No person shall engage in any conduct in a City playground or park which is abusive, loud, boisterous, insulting, disorderly or otherwise interferes with the use and enjoyment of said playground or park by other persons or disturbs public peace and order.

S170.12. Penalties for Offenses

A violation of any provisions of this Chapter shall be an offense punishable by a fine not to exceed \$250.00 or imprisonment not to exceed 15 days, or both.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Iafallo to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(5) Zoning-Accessory Structures 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 230-45. Accessory Structures, be amended by rescinding and replacing the following:

- A. Every building hereafter erected shall be located on a lot as herein defined and, except as herein provided, there shall not be more than one main building and its accessory structures or buildings on one lot, except for nonresidential buildings and multifamily

- dwelling in districts where such uses are expressly permitted.
- B. All accessory structures shall observe the same yard requirements as principal buildings except that accessory buildings lying wholly within a rear yard may not be located within five feet of any residential lot line.
 - C. In any district, the distance between the main building and the accessory building shall be a minimum of 10 feet.
 - D. All accessory structures shall be located in the side or rear yard.
 - E. Accessory structures shall not exceed the lot coverage of the principal structure.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Jerge to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(6) Zoning-Rescinding Accessory Use or Structures

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

BE IT ENACTED by the City Council that Chapter 230 of the Municipal Code, Zoning Section 230.80 is hereby amended in the following manner:

1. **Add:**

USE

The specific purpose for which land, water or building or structure is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

2. **Rescind** Accessory Use or Structure and replace with the following:

Accessory use or Structure:

A use or structure which is customarily incidental and subordinate to the principal use of a lot, water area, or a building and located on the same lot, or water area, or a building and located on the same lot or water area therewith. All roof top solar heat or electric energy production systems in compliance with all height and setback requirements shall be considered an accessory use, as shall all ground mounted solar energy structures on the same parcel as a principal building or structure of not less than 100,000 square feet used primarily for commercial or manufacturing purposes, provided said ground mounted solar energy structures principal users utilizing 55% of the heat and 55% energy produced from the lot are on the same lot or within 5000 feet of the lot boundaries.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by DePasquale seconded by Lewis to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(7) LMHA-Property Transfer Correction

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 of property known as Sub lot #41 Map Cover 678, a parcel approximately 30x120, to Lackawanna Municipal Housing Authority.

SECTION 2. That the transfer is made for the sum of \$1 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 including a reverter clause for work to be complete within one year.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by DePasquale to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(8) Sale of 149 & 163 Ingham-Abdulsalam Noman

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 of property known as 149 & 163 Ingham Avenue, a parcel approximately 178x150, to Abdulsalam K Noman

SECTION 2. That transfer is made for the sum of \$1,500 in cash to the City of Lackawanna.

SECTION 3. That the purchase/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 including a reverter clause for work to be completed within one year.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Lewis to adopt ordinance as written

Yeas: Lewis, Iafallo, Jerge, DePasquale

Excused: Noman

Carried 4-0

(9) Sale of 61 Ingham-Yemenite Soccer Club

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 of property known as 61 Ingham Avenue, a parcel approximately 30x120, to Lackawanna Yemen Soccer Club.

SECTION 2. That transfer is made for the sum of \$600 in cash to the City of Lackawanna.

SECTION 3. That the purchase/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 including a reverter clause for work to be completed within one year.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Lewis to adopt ordinance as amended to include a stipulation paving of the property to be completed within one year

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

(10) Eviction for Illegal Drug Activity or Public Nuisance

AN ORDINANCE ENACTING CHAPTER 116 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED EVICTION FOR ILLEGAL DRUG ACTIVITY OR PUBLIC NUISANCE

BE IT ENACTED by the City Council of the City of Lackawanna, New York that City Code Chapter 116, shall be rescinded and replaced with the following:

116-1: DEFINITIONS

As used in this division, the following terms shall have the meanings indicated.

Criminal Conviction: means the entry of a plea of guilty to or a verdict of guilty for one or more counts set forth in an accusatory instrument.

Illegal Drug Activity: means use or possession of a controlled substance or marihuana [marijuana], as defined by the New York State Penal Law.

Owner: means the landlord of the premises, including his/her agent.

Premises: means a building or structure, or any part thereof.

Public Nuisance: the following are declared to be public nuisances.

1. Any premises, buildings, structure or real property used for the purposes of prostitution as defined by New York State Penal Article 230.

2. Any premises, building, structure or real property used for purposes of indecency,

obscene performances and/or promotion of obscene materials as defined by New York State Penal Law Article 235.

3. Any premises, building, structure or real property used for purposes of illegal gambling activity as defined by New York State Penal Law Article 225.

4. Any premises, building, structure or real property used for the purpose of illegal possession, use or sale of a firearm or weapon as defined by New York State Penal Law Article 265.

5. Any premises, building, structure or real property used for the purpose of illegal sale, manufacturing or consumption of alcohol beverages as defined by the New York State Alcohol Beverage Control Law.

6. Any premises, building, structure or real property wherein there exists or has occurred a criminal nuisance as defined by the New York State Penal Law Section 240.45 or 240.46.

Tenant: in addition to its ordinary meaning, shall include an occupant of one or more rooms in a rooming house or a resident, not including a transient occupant, of one or more rooms in a hotel who has been in possession for 30 consecutive days or longer.

116-2: EVICTION FOR USE OR OCCUPATION OF PREMISES FOR ILLEGAL DRUG ACTIVITY

A special proceeding to evict a tenant leased premises may be maintained upon the ground that the premise, or any part thereof, have been used or occupied for the purpose of illegal drug activity or a public nuisance as defined in 116-1.

116-3: PROCEDURES

The procedures applicable to summary proceedings to recover possession of real property under state law shall be applicable to any proceeding brought under this chapter.

116-4: SERVICE OF NOTICE, COMMENCEMENT OF EVICTION PROCEEDINGS

A. The following persons, corporations and agencies may serve personally upon the owner or landlord, or upon his agent, of demised real property used or occupied, in whole or in part, for the use or possession of illegal drugs or the existence of a public nuisance, a written notice requiring the owner or landlord to make an application for the removal of the person(s) so using or occupying the premises:

1. Any domestic corporation organized for the suppression of vice, subject to, or which submits visitation by the New York State Department of Social Service or the Erie County Department of Social Services, and possess a certificate from such department of such fact and of such conformity with regulations of the department.

2. Any duly authorized enforcement agency of New York State, or a subdivision thereof, and/or the City of Lackawanna, under a duty to enforce the provisions of the Penal Law or of any state or local law, ordinance, code, rule or regulation relating to buildings.

B. If the owner or landlord, or his agent, does not make such application within five days thereafter, or having made it, does not in good faith diligently prosecute it, the person, corporation or enforcement agency giving notice may bring a proceeding under this chapter for such removal as though the petitioner were the owner or the landlord of the premises, and shall have precedence

over any similar proceeding thereafter brought by such owner or landlord or to the one theretofore brought by him and not prosecuted diligently and in good faith. Proof of illegal drug activity or a public nuisance at the demised premises or by the occupants thereof, or of those resorting thereto, shall constitute evidence of the unlawful use of the demised premises required to be stated in the petition for removal. Notwithstanding the provisions of §116-5 and §116-6 of this chapter, multiple instances of illegal drug activity or a public nuisance are not required to commence and eviction proceeding under this chapter. Both the person(s) in possession of the property and the owner or landlord shall be made respondents in the proceeding under this chapter.

116-5: MULTIPLE CONVICTIONS CONSTITUTE PRESUMPTION EVIDENCE

Two or more convictions of any person or persons had, within a period of one year, for any of the offenses defined an Article 220 or 221 of the Penal Law or any of the offenses set forth as a public nuisance in §116-1 arising out of conduct engaged in the same real property consisting of a dwelling as that term is defined in Subdivision 4 of the New York State Multiple Dwelling Law, shall be presumptive evidence of conduct constituting use and occupancy of the premises for the purpose of using and possessing illegal drugs or of the existence of a public nuisance and of the tenant's knowledge thereof.

116-6. OTHER EVIDENCE OF PROHIBITED CONDUCT AS PRESUMPTION OF EXISTENCE OF ILLEGAL DRUG ACTIVITY OR A PUBLIC NUISANCE

Two (2) or more incidents of the following activities at any building, structure or real property within one (1) year period prior to the commencement of a civil action by notice of such action as provided within this Chapter shall be prima facie evidence of the existence of illegal drug activity or a public nuisance.

A. Service of an accusatory instrument charging any of the offenses defined in Article 220 and 221 of the New York State Penal Law occurring upon the property. For the purposes of this section, an accusatory instrument shall include, but not be limited to, any criminal information, misdemeanor and/or felony complaint filed in a court of competent jurisdiction.

B. Service of a search warrant on the building, structure or real property where controlled substances, marihuana [marijuana], drug paraphernalia and/or weapons are seized.

C. Recovery of illegal controlled substances, drug paraphernalia or illegal firearms or weapons on the building, structure or real property.

D. Investigative purchases of illegal controlled substances on the building, structure or real property by law enforcement agencies or their agents.

E. Two or more arrests or convictions for any of the activities set forth in the definition of a public nuisance in §116-1 at any premises, building, structure or real property within a two (2) year period shall be prima facie evidence of the existence of a public nuisance.

116-7. CIVIL PENALTIES

A court granting a petition pursuant to this section may, in addition to any other order provided by law, make an order imposing and requiring the payment by the respondent of a civil penalty not exceeding five-thousand dollars (\$5,000.00) to the City of Lackawanna, in which subject premises is located, and the payment of reasonable attorneys' fees and the cost of the proceeding to the petitioner. In any such case, multiple respondents shall be jointly and severally

liable for any payment so ordered, and the amounts of such payments constitute a lien upon the subject real property.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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

Carried 5-0

(11) Streets & Sidewalks-Construction

AN ORDINANCE AMENDING CHAPTER 194 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED STREETS AND SIDEWALKS

BE IT ENACTED by the City Council of the City of Lackawanna, New York that the following section of Chapter 194 shall be amended by adding the following:

S194-2. Construction to Conform to City Specifications

Any person, firm, partnership, corporation, LL or other entity which digs into a public right-of-way, street or sidewalk for repairs, construction, utilities or any other reason must receive authorization from the Commissioner of Public Works, and may, at his discretion, require a performance bond as a condition of said authorization, prior to the commencement of such work. Upon completion of such work the street, sidewalk or public right-of-way shall be restored to its original condition. The Commissioner of Public Works shall inspect such work during and upon completion to determine whether the work was performed in accordance with all specifications, standards and requirements of the City.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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

Carried 5-0

(12) Budget Transfer-Garbage & Refuse Fund

AN ORDINANCE AMENDING THE 2015-2016 BUDGET ORDINANCE ADOPTED JULY 16, 2015

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

SECTION 1. That the 2015-2016 Budget Ordinance adopted July 16, 2015 is hereby amended to transfer appropriations for Sanitation payroll from the General Fund to the Special Revenue-Refuse and Garbage Fund

SECTION 2. That the 2015-2016 Budget Ordinance is hereby amended to transfer \$183,005.00 to budget code A.9000.9551 Transfer to Special Revenue Fund

SECTION 3. That the 2015-2016 Budget Ordinance is hereby amended to transfer

\$170,000.00 from budget code A5110.101 Maintenance of Streets, Personal Services and \$13,055.00 from budget code A.9000.9030 Employee Benefits, Social Security.

SECTION 4. That the 2015-2016 Budget Ordinance is hereby amended to increase budget code CL0000.5031 Special Revenue Fund-Garbage and Refuse Interfund transfers by \$183,005.00.

SECTION 5. That the 2015-2016 Budget Ordinance is hereby amended to increase budget code CL.8160.101 Special Revenue Fund-Garbage and Refuse Personal Services by \$170,000.00 and budget code Cl.9000.9030 Special Revenue Fund-Garbage and Refuse Social Security by \$13,005.00

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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

Carried 5-0

(13) Inter-Fund Transfer-2015 Pavement Replacement Project

AN ORDINANCE AUTHORIZING AN INTER-FUND ADVANCE BETWEEN THE GENERAL FUND AND THE CAPITAL FUND

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

SECTION 1. That the General Fund will advance \$435,000.00 to the Capital Fund for the 2015 Pavement Replacement Project

SECTION 2. That the Capital Fund will repay the advance with the reimbursements from CHIPS

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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

Carried 5-0

(14) Budget Increase- Assistance to Firefighter Grant

AN ORDINANCE AMENDING THE 2015-2016 BUDGET ORDINANCE ADOPTED JULY 16, 2015

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

SECTION 1. That the 2015-2016 Budget ordinance adopted July 16, 2015 is hereby amended to increase revenues and appropriations for the Assistance to Firefighters Grant

SECTION 2. That the 2015-2016 Budget Ordinance is hereby amended to increase

revenues to budget code A..4391, Assistance to Firefighters Grant by \$24,762.

SECTION 3. That the 2015-2016 Budget Ordinance is hereby amended to add \$24,762 to budget code A.3410.253 Fire Department, Emergency Equipment

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by DePasquale to adopt ordinance as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Waive Rules:

Moved by Lewis seconded by DePasquale to waive rules

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

South Park Avenue-State Highway-Resolution #15, 2016

WHEREAS, New York State Assembly Member Michael P. Kearns has introduced legislation to designate South Park Avenue within the City of Lackawanna as New York State highways, New York State Assembly Bill No. A10080, and

WHEREAS, the City Council deems this to be in the best interest of the City of Lackawanna to support said legislation, and

WHEREAS, the City of Lackawanna does not have the power and authority to enact such legislation by local law.

NOW, THEREFORE, BE IT

RESOLVED, that the Lackawanna City Council hereby approves of and requests the enactment of the aforesaid legislation, and be it further

RESOLVED, that the Mayor is hereby authorized to request that the aforesaid legislation be enacted, and

RESOLVED, that the Mayor is further authorized to submit a request to the New York State Legislature to support and enact the legislations as introduced by Assembly Member Kearns.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Lewis seconded by Noman, Iafallo, Jerge and DePasquale to adopt resolution as written

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Executive Session:

Moved by Lewis seconded by Iafallo to move to executive session at 7:38 PM

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

Meeting reconvened at 8:19 PM

Roll Call: Council: Present: Lewis, Noman, Iafallo, Jerge, DePasquale

Moved by DePasquale seconded by Lewis to remove ordinance regarding funding for consultant fees during comptroller's absence, from table

Yeas: Lewis, Noman, Iafallo, Jerge, DePasquale

Carried 5-0

AN ORDINANCE AMENDING THE 2015-2016 BUDGET ORDINANCE ADOPTED JULY 16, 2015

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

SECTION 1. That the 2015-2016 Budget Ordinance adopted July 16, 2015 is hereby amended to increase appropriations for Consultant Fees

SECTION 2. That the 2015-2016 Budget Ordinance is hereby amended to add \$16,800 to Budget code A.1315.469 Comptroller, Consultant Fees

SECTION 3. That the 2015-2016 Budget Ordinance is hereby amended to appropriate \$16,800 of the City's Fund Balance

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by DePasquale seconded by Lewis to adopt ordinance as amended to provide funds not to exceed \$16,800 of the City's fund balance

Yeas: Lewis, Noman, Iafallo, DePasquale

Carried 5-0

Adjournment:

Keith E. Lewis, Council President

Jacqueline A Caferro, City Clerk