

**COUNCIL MEETING
TUESDAY, JUNE 6, 2017
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: Noman, Iafallo, Jerge, Surdyke, Lewis
Dept. Heads: Present: Law, Comptroller, Public Safety, Recreation
Public Works, Development**

Approval of Minutes: of regular meeting of May 15, 2017

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

Carried 5-0

Departmental Reports:

1. City Comptroller-A/P Check Listing #47, May 11, 2017
2. City Comptroller-A/P Check Listing #48, May 19, 2017
3. City Comptroller-Revenue Report & Statement of Condition of Appropriations, as of 3/31/17
4. City Clerk-Monthly Revenue Report for May 2017
5. City Treasurer-Report of total receipts deposited into the General Fund Acct. for May 2017

Moved by Lewis seconded by Iafallo receive and file departmental reports one thru five
Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Communications from the Council:

Good Neighbor Award-2nd Ward Block Club

6. To: City Council

Recently at the 2nd Ward Group meeting, the attendees decided they would like to honor four (4) of their "Good Neighbors".

The body nominated-

James Walker –Edna Place
Scott Hayes- Elkhart Street
Larry Morse- Elkhart Street
Justin Zybert- Electric Avenue

I have asked that these individuals attend the June 6th Council meeting, and be recognized for their neighborly efforts.

Thank you in advance.

ANNETTE IAFALLO-2ND WARD COUNCIL MEMBER

Moved by Iafallo seconded by Noman, Jerge, Surdyke, Lewis, receive and file

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

WNY Downtown Revitalization Initiative

7. To: City Council

I submitted a letter to Christopher Schoepflin, Regional Director of the WNY Regional Economic Development Council, showing my support for the City of Lackawanna Department of Development's efforts of putting together a competitive DRI grant application. As a City Council Member, and more importantly as a local businessman in the City's downtown core, I submitted my full and complete support of the application.

I have recently invested a substantial amount of money developing, opening, and operating The Mess Hall Restaurant at 717 Ridge Road. The Mess Hall is located in the very heart of our central business district and is just steps away from the iconic Our Lady of Victory Basilica and is directly across the street from Lackawanna City Hall. I truly believe that locally owned and operated businesses are the backbone and very lifeblood of a successful CBD. I am not alone as an owner or operator as several locally owned and operated businesses have opened in the past years in our CBD.

Working together with the Director of Development, supported by such a grand infusion of capital, our CBD would be provided with the opportunity to realize a perfect balance between design factors, functionality, utility, and most importantly sustainability. These efforts to rebuild and renew the CBD must be a public/private partnership of all stakeholders coming together to strategically reshape the face of our CBD, and in particular the very visible corridor of South Park and Ridge Road. I might also note that although it is not within our city limits, the Erie County Botanical Gardens lies on the outer boundary of that corridor and in addition to the Basilica, it attracts many visitors through our CBD on a daily year round basis.

The CBD is situated to capitalize on the regional growth and would continue to attract and support local small business operators, tourism, entertainment, and housing opportunities. This funding would drive the initiative to create a dense, sustainable and attractive CBD where people would want to live, work, and enjoy a renewed quality of life.

JOE JERGE-OWNER/OPERATOR MULBERRY ITALIAN RISTORANTE, THE MESS HALL, DELLA MOSTRA- 3RD WARD COUNCIL MEMBER

Moved by Jerge seconded by Lewis receive and file

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Illegal House Party on Holland Avenue

8. To: City Council

As the 1st Ward Councilman, I requested answers from the Director of Public Safety, regarding an Illegal House Party that was hosted on Holland Avenue until the early hours on Sunday, May 21, 2017.

This is the second time these individuals held a party that attracted a very large crowd, and this time ending with gunshots. As per the news report, there was a DJ, but the City Council did not authorize an entertainment license nor was the Police Department made aware of the party.

Thank you in advance for your anticipated cooperation.
ABDUSALAM NOMAN-1st WARD COUNCIL MEMBER

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

Council President Lewis-3 Budget Proposals-2017-18

9. To: City Council
Attached to this correspondence are three separate amended 2017-2018 city budget proposals for your perusal. Each proposal is different than the Mayor's proposed 2017-2018 city budget proposal.

KEITH E. LEWIS-COUNCIL PRESIDENT

Moved by Lewis seconded by Iafallo receive and file all three budget proposals
Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis Carried 5-0

Budget Proposals-2017-18

10. To: City Council:
Attached to this correspondence is an amended 2017-2018 city budget proposal for your perusal. This budget proposal is very similar, with minor changes, to the Mayor's proposed 2017-2018 proposed budget.

**COUNCIL MEMBERS-ABDUL NOMAN-1st WARD, ANNETTE IAFALLO-2nd WARD,
JOSEPH JERGE-3rd WARD & KEVIN SURDYKE-4th WARD**

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

Waive Rules

Moved by Jerge seconded by Iafallo waive rules to introduce amended City budget
Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis Carried 5-0

Moved by Jerge seconded by Lewis to receive and file Council's jointly amended 2017-18 proposed City Budget
Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis Carried 5-0

2017-18 Adjusted Base Proportions-20% Shift

11. To: City Council
With regards to the 2017-2018 proposed city budget, I would like to propose a Current Base Proportions and Adjusted Base Proportion shift of 20% for the City of Lackawanna and Lackawanna School District. Based on information provided to this Council from the City Assessor and City Comptroller, the rates, if adjusted accordingly, would be as follows:

20% Shift-

City Homestead: 57.21062	School Homestead: 57.09674
Non-Homestead: 42.78938	Non-Homestead: 42.90326

Thank you for your attention to this matter.
JOSEPH JERGE-3rd WARD COUNCIL MEMBER

Moved by Jerge NO SECOND, MOTION FAILED

2017-18 Adjusted Base Proportions-10% Shift

12. To: City Council

With regards to the 2017-2018 proposed city budget, I would like to propose a Current Base Proportions and Adjusted Base Proportion shift of 10% for the City of Lackawanna and Lackawanna School District. Based on information provided to this Council from the City Assessor and City Comptroller, the rates, if adjusted accordingly, would be as follows:

10% Shift-

City Homestead: 55.51497

School Homestead: 55.26319

Non-Homestead: 44.48503

Non-Homestead: 44.73681

Thank you for your attention to this matter.

ANNETTE IAFALLO-2nd WARD COUNCIL MEMBER

Moved by Iafallo seconded by Surdyke receive and file, act on resolution

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Communications from Department/Division Heads:

Nuisance Ordinance

13. To: City Council

Please put the attached ordinance enacting Chapter 160 Nuisance on the agenda for council approval. Thank you.

ANTONIO SAVAGLIO-CITY ATTORNEY

Moved by Jerge seconded by Noman receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Purchase Offer-469 Ridge Road

14. To: City Council

My office has received an offer from Mostaga Tanbakuchi in the amount of \$3,000 to purchase the parcel located at 469 Ridge Road for purpose of constructing a parking lot for Quality Furniture which is located at 477 Ridge Rd. The current lot size is 127 x 285 and has an assessed value of \$5,000.

Therefore, it is my recommendation that the City Council **APPROVE** the sale of 469 Ridge Rd. to Mostaga Tanbakuchi in the amount of \$3,000.

FRANK E KRAKOWSKI-CITY ASSESSOR

Moved by Lewis seconded by Jerge receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Purchase Offer-106-146 Orchard Place

15. To: City Council

My office has received an offer from Robert & Elaine Fitzgibbons in the amount of \$5,000 to purchase the parcel located at 106-146 Orchard Place for purpose of constructing a 2400 Sq. Ft. Single family Home. The current lot size is 127 x 285 and has an assessed value of \$20,000.

Therefore, it is my recommendation that the City Council **APPROVE** the sale of 106-146 Orchard Place to Robert & Elaine Fitzgibbons in the amount of \$5,000.

FRANK E KRAKOWSKI-CITY ASSESSOR

Moved by Jerge seconded by Noman receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

City Owned Property

16. To: City Council

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

(Complete list on file with City Clerk)

FRANK E KRAKOWSKI-CITY ASSESSOR

Moved by Lewis seconded by Jerge receive and file, approve request.

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Adjusted Base Proportions-10%

17. To: City Council

The shift of 10% in the attached documents is representative of the 2017-2018 Budget Proposal. Pursuant to Article 19 of the New York State Real Property Service Rules, NYCRR-186-10 the legislative body of the City of Lackawanna must establish current and adjusted base proportions. Attached are forms RP6701 and RP6703 with computations of the Current Base Proportions and Adjusted Base Proportions for the City of Lackawanna and Lackawanna School District portions of the 2017-2018 assessment roll. Please direct the City Clerk to certify these forms with 10% Shift and forward them to the New York State Office of Real Property Services.

FRANK E KRAKOWSKI-CITY ASSESSOR

Moved by Iafallo seconded by Surdyke, direct the City Clerk to certify forms if shift is approved

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Budget Transfer-Travel Allowance

18. To: City Council

I am requesting a funds transfer of \$336.48 from budget code A.1315.464-City Comptroller, Travel Allowance to budget code A1015.464-City Council, Travel Allowance. This transfer is necessary to cover the travel cost to the NYCOM Conference attended by Council Member Surdyke on May 7-9, 2017, in Saratoga Springs, NY.

Attached is the corresponding Ordinance authorizing the transfer of stated funds.

CAROLYN NICOMETO-CITY COMPTROLLER

Moved by Jerge seconded by Lewis, receive and file, act on ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

2016-17 Budget Transfers

19. To: City Council

Attached, please find a list of transfers made with approval by the mayor for your review. These transfers were made as per pursuant to Chapter 12.12, Subdivision (C)2 of the City Charter. The Director of the Department of Administration and Finance, with the approval of the Mayor, may transfer any unencumbered appropriation balance or portion thereof between the same general classifications of expenditures within any department; and he or she shall report all such transfers to the Council.

CAROLYN NICOMETO-CITY COMPTROLLER

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

Carried 5-0

2014-2017 City Comprehensive Plan Update

20. To: City Council

Attached are two resolutions for the Lackawanna City Council to approve regarding the above identified project that consists of the Issuance of a Negative Declaration of SEQR (State Environmental Quality Review) and the Adoption of the Lackawanna Comprehensive Plan Update.

The Comprehensive plan has not been updated since 2001 and Mayor Geoffrey Szymanski, signed a contractual agreement on August 7, 2014 with New York State Energy Research and Development Authority (NYSERDA) to provide \$60,000 for this initiative along with a City match of \$20,000 for a total of \$80,000. The grant expires on August 6, 2017 and Kheops is the Consultant for the project.

A public hearing was held on April 25, 2017 at 6:00 p.m. at the Senior Center on Martin Rd. to seek comments, suggestions and input on the final draft. The Comprehensive Plan has been put on the City webpage as well.

This document represents the culmination of the outstanding efforts of residents, consultants and City representatives working together to develop a blueprint for the future of the City of Lackawanna.

Accordingly, this Honorable Body is hereby requested to accept the two attached resolutions for the City Comprehensive Plan Update.

DREW SHAPIRO-DIRECTOR of DEVELOPMENT

Moved by Jerge seconded by Noman, receive and file act on resolutions

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

“Honorary” Street Renaming Committee

21. To: City Council

At the May 1, 2017 regular meeting, your honorable body approved Recommendations/Procedures for Re-naming Streets.

Also, at that meeting you directed me to draw up procedures to formulate a newly created Street Naming Committee, whereas a body of five (5) members would make up the committee. Each Ward Council Member would submit a name for consideration and those four (4) committee members would be joined by the Council President, who shall act as chairperson. I was advised that the terms would be for three (3) years in length.

Included are the submissions by your honorable body for consideration on the Street Naming Committee, and their respective wards:

1 st Ward:	Muna Abdulla 162 Wilkesbarre St	2 nd Ward:	Nancy Whelan 187 Colton Ave
3 rd Ward:	Mark Friend 136 Meadowbrook	4 th Ward:	Thomas Fino 137 Ludel Terrace

JEFFREY P DEPASQUALE-CITY CLERK

Moved by Jerge seconded by Noman to approve appointments, act on resolution

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

City Code-Licensing of Dogs-Amend Section 66-14

22. To: City Council

I am requesting an amendment to City Code section 66-14-Licensing and identification of dogs. Specifically referring to sub-section E, it reads as follows:

*“The owner of each dog shall be personally liable and accountable for his/her dogs. The owner of each dog shall provide proof of liability insurance to cover accountability for the property where the dog is housed. **Said insurance must cover the breed of dog housed.** No license shall be issued or renewed for a dog without said proof of insurance. An owner that fails to comply with the provisions of this section shall be subject to a fine not to exceed \$250.00” (Added 2-3-2014)*

I have underlined the section of code that I would like amended. I am requesting that the underlined sentence be deleted. While the need for liability coverage in the event of a dog bite or other circumstance seeks to protect the city, the need to specifically name the type of dog in the homeowner’s policy is not. This specific sentence is very rarely included in the language of a typical homeowner’s policy and provides no real purpose with regards to liability.

I have had conversation with the Law Department regarding this matter and have been advised there should be no issues removing that line in the City Code.

Thank you for your anticipated cooperation in this matter.

JEFFREY P DEPASQUALE-CITY CLERK

Moved by Lewis seconded by Iafallo approve request, direct City Attorney to prepare amended ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

City Code-Licensing Fees-Amend 168-13

23. To: City Council

I am requesting an amendment to City Code Section 168-13-License fee (Amended 3-20-2006)

Currently, as per sub-section A, B and E of this section, the fee shall be \$50.00 per annum, or fraction thereof (copy attached). Aside from this fee remaining constant for several years, the current fee is paid upon approval only, which means that if an application is denied for whatever reason, the City is not compensated for the associated administrative process, including the background check.

I propose the City increase this fee to a non-refundable fee of \$100.00, payable with the application. This process will ensure that only serious vendors apply, and that any effort by the City in doing its due diligence will not go uncompensated, regardless if the application is approved or not. Also, in looking at what other municipalities charge for a peddler permit, this increase is not out of line.

I also propose that *sub-section D* be amended to include all honorably discharged veterans. However, a non-refundable application fee of \$50.00 would apply to cover the administrative costs of reviewing the application.

Thank you for your anticipated cooperation in this matter.

JEFFREY P DEPASQUALE-CITY CLERK

Moved by Lewis seconded by Iafallo approve request, direct City Attorney to prepare amended ordinance

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Food Truck-License Fee-Special Events

24. To: City Council

I am requesting your Honorable Body waive the City license fee for food trucks for this year’s festival. I am trying to entice the businesses to return and make this a more successful event. Thank you in advance for your anticipated cooperation on this matter.

RICHARD ZYBERT-DIRECTOR of RECREATION

Moved by Jerge seconded by Noman approve request to waive fee for 2017 Lackawanna Festival food truck licensing

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Resolutions:

Resolution #10, 2017-Compredhensive Plan Update

WHEREAS, the City of Lackawanna has prepared an update to the City of Lackawanna Comprehensive Plan, pursuant to section 28A of the New York State general City Law; and **WHEREAS**, the draft Comprehensive Plan Update has been prepared under the review and guidance of the City of Lackawanna Comprehensive Plan Steering Committee, with consultant planning assistance provided by Kheops Architecture, Engineering and Survey, DPC, the City Engineer; and

WHEREAS, in accordance with Part 617 of the implementing regulations of Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), the Lackawanna City Council was designated as the SEQR Lead Agency and prepared an Environmental Assessment Form to identify and evaluate the potential impacts of adopting the City of Lackawanna Comprehensive Plan Update; and

WHEREAS, the Lackawanna City Council held a Public Hearing on August 15, 2016 to enable the public an opportunity to provide comments on the draft City of Lackawanna Comprehensive Plan Update, and has acknowledged and addressed all comments received from the Public; and

WHEREAS, the Lackawanna City Council, as the SEQR Lead Agency, conducted a coordinated review of the draft Comprehensive Plan Update, and acknowledged and addressed all comments received from interested and involved agencies; and

WHEREAS, upon completion of and in response to the findings of the coordinated review, the Lackawanna City Council issued a Negative Declaration based on their determination that the adoption of the Comprehensive Plan Update would not have a significant effect on the environment.

NOW, THEREFORE BE IT RESOLVED, that the Lackawanna City Council hereby adopts the City of Lackawanna Comprehensive Plan Update; and

BE IT FURTHER RESOLVED, that a copy of the Lackawanna Comprehensive Plan Update be filed in the office of the Lackawanna City Clerk and made available on the City’s website.

Moved by Lewis seconded by Noman to adopt resolution as written

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Resolution #11, 2017-Negative Declaration-Comprehensive Plan Update

WHEREAS, the City of Lackawanna has prepared an update to the City of Lackawanna Comprehensive Plan, pursuant to section 28A of the New York State General City Law; and **WHEREAS**, the draft Comprehensive Plan Update has been prepared under the review and guidance of the City of Lackawanna Comprehensive Plan Steering Committee, with consultant planning assistance provided by Kheops Architecture, Engineering and Survey, DPC, the City Engineer; and

WHEREAS, in accordance with part 617 of the implementing regulations of Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), the Lackawanna City Council was designated as the SEQR Lead Agency and prepared an Environmental Assessment Form to identify and evaluate the potential impacts of adopting the City of Lackawanna Comprehensive Plan Update; and

WHEREAS, the Lackawanna City Council held a Public Hearing on August 15, 2016 to enable the public an opportunity to provide comments on the draft City of Lackawanna Comprehensive Plan Update, ad has acknowledged and addressed all comments received from the public; and

WHEREAS, the Lackawanna City Council, as SEQR Lead Agent, conducted a coordinated review of the draft Comprehensive Plan Update and has acknowledged and addressed all comments received from interested and involved agencies; and

WHEREAS, the findings of the environmental review indicate that the adoption of the City of Lackawanna Comprehensive Plan Update will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and is consistent with all associated social and economic considerations.

NOW, THEREFOR BE IT RESOLVED, that the Lackawanna City Council, acting as the lead government entity for this action, has determined that the adoption of the City of Lackawanna Comprehensive Plan Update is not anticipated to result in any significant adverse impact on the environment, and that a Negative Declaration is hereby issued based on their findings set forth in the Negative Declaration Notice of Determination of Non-Significance; and

BE IT FURTHER RESOLVED, that the Mayor is authorized to sign the Environmental Assessment Form and direct their City Engineer to undertake the necessary filings and notifications.

Moved by Lewis seconded by Surdyke to adopt resolution as written

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Resolution #12, 2017-“Honorary” Street Naming Committee

WHEREAS, the City Council hereby establishes a Street Naming Committee to review all applications for street re-naming, and

WHEREAS, said Street Naming Committee will consist of five (5) members, which includes the Council President and one (1) resident from each ward submitted by their respective Council member, and

WHEREAS, each Committee Member will serve a three (3) year term without compensation, with the Council President acting as Chairman, and

WHEREAS, each three (3) year term shall expire on December 31 of third calendar year in which they were appointed, and

WHEREAS, said Street Naming Committee is advisory only, and recommends to the City Council Approval or Disapproval, based on the criteria set forth by the City Council as the City Council see fit.

NOW, THEREFORE, BE IT

RESOLVED, that the City Council hereby approves the establishment of the Street Naming Committee, effective upon the approval of the Street Naming Committee candidates submitted by their respective Council Members.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Noman, to adopt resolution as written

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Resolution #13, 2017-Adjusted Base Proportions-City

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 2017-2018 it is hereby established:

That the Council hereby adopts a 10% shift of its adjusted base Proportions resulting in the following *locally adjusted base proportions*:

<u>SHIFT</u>	<u>HOMESTEAD</u>	<u>Non –Homestead</u>
10%	55.51497	44.48503

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

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

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Resolution #14, 2017-Adjusted Base Proportions- School

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 Lackawanna School District tax levies for fiscal year 2017-2018 it is hereby established:

That the Council hereby adopts a 10% shift of its adjusted base proportions resulting in the following *locally adjusted base proportions*:

<u>SHIFT</u>	<u>HOMESTEAD</u>	<u>Non –Homestead</u>
10%	55.26319	44.73681

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY

Moved by Iafallo seconded by Surdyke, to adopt resolution as written
Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Ordinances:

(1) City Code-Nuisance

AN ORDINANCE ENACTING CHAPTER 160 OF THE CODE OF THE CITY OF LACKAWANNA ENTITLED NUISANCE

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

Section 160.1 Definition

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

Nuisance: a nuisance shall be deemed whatever annoys, injures, or endangers the safety, health, comfort, repose or tranquility of the public; offends public decency; interferes with or obstructs and renders dangerous any street, highway, lake, river or stream; or in any way renders the public insecure in life and property. All such conditions are hereby declared to be public nuisances.

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

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.

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

Section 160.2. Public nuisance prohibited.

It shall be unlawful for any owner, land contract vendee, vendor or lessee, or occupant of any premises to maintain a public nuisance on either public or private property anywhere in the City.

Section 160.3. Nuisance parties.

It shall be unlawful for anyone in the City of Lackawanna to have a nuisance party. A nuisance party is a gathering of people on property that results in any of the following occurring at the site of the gathering, on neighboring property or on an adjacent public property:

1. Unlawful sale, furnishing, possession or consumption of alcoholic beverages;
2. Violation of any of the provisions of Chapter 159 (Noise);
3. Fighting;
4. Property damage;
5. Littering;
6. Outdoor urination or defecation in a place open to public view;
7. The standing or parking of vehicles in a manner that obstructs the free flow of pedestrian or vehicular traffic;
8. Conduct that obstructs the free flow of pedestrian or vehicular traffic;
9. Conduct that threatens injury to persons or damage to property;
10. Unlawful use or possession of marijuana or any drug or controlled substance;
11. Trespassing; or
12. Indecent exposure

- B. *Nuisance parties prohibited.*** It shall be unlawful for any person having the right to possession of any premises, whether individually or jointly with others, to cause or permit a gathering on the premises to become a nuisance party
- C. *Police order to disperse.*** Any duly sworn law enforcement officials are authorized to order those attending a nuisance party to disperse. It shall be considered a violation of this section for any person not domiciled at the site of the nuisance party to fail or refuse to leave the premises immediately after being ordered to leave by any duly sworn law enforcement official.
- D. *Penalty.*** A person(s) who violates any section of 160.3 either by direct violation, or by giving permission to, or allowing by silent consent, or allowing by not prohibiting, or allowing by failure to exercise control of a nuisance party shall be guilty of a Civil Infraction and shall be subject to the following penalties which shall be assessed in addition to any other lawful sentence that the sentencing court may impose:
1. Notwithstanding the civil fines schedule set forth in Section 1-3 of the City Code of Ordinances, violation of this Chapter shall be punishable by a civil fine of \$500 (if first offense), \$1,000.00 (if second offense), or \$1,500.00 (if third offense). Plus costs and all other remedies available pursuant to the City Code of Ordinances or by statute.
 2. The cost of enforcement and prosecution shall be the actual amount of attorney fees and costs of enforcement. An itemized bill of fees and costs given oath shall be prima facie evidence of the attorney fees and costs.
 3. In addition, as an alternate remedy, the City shall have the authority to proceed in any court of competent jurisdiction to obtain an injunction, restraining order, or other appropriate remedy to compel compliance with the within ordinance. Election of one of the foregoing remedies shall not preclude the application of other remedies.

Section 160.4. Eviction for use or occupation of premises for nuisance

A special proceeding to evict a tenant from leased premises may be maintained upon the ground that the premises, or any part thereof, have been used or occupied for the purposes of a nuisance party.

Section 160.5. 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.

Section 160.6. 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 of a nuisance party, 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 Services 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 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 silently 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 all the nuisances of the demised premises, or of the occupants thereof, or of those resorting thereto, shall constitute presumptive evidence of the unlawful use of the demised premises required to be stated in the petition for removal. Both the person(s) in possession of the property and the owner or landlord shall be made respondents in the proceeding.

Section 160.7. 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: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

(2) Sale of-469 Ridge Road

**AN ORDINANCE AUTHORIZING THE SALE/TRANSFER OF PROPERTY
PURSUANT TO MUNICIPAL CODE CHAPTER 12**

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 142.37-2-1.1 (469 Ridge Rd.) a parcel 127 feet by 285 feet, to Mostaga Tanbakuchi

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 Lewis seconded by Noman to adopt ordinance as written, City Attorney to prepare reverted clause if required

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

(3) Sale of 106-146 Orchard Place

AN ORDINANCE AUTHORIZING THE SALE/TRANSFER OF PROPERTY PURSUANT TO MUNICIPAL CODE CHAPTER 12

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 142.11-8-71 (106-146 Orchard Pl.) a parcel 250 feet by 127 feet to Robert & Elaine Fitzgibbons

SECTION 2. That transfer is made for the sum of \$5,000 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 document to be executed for the transfer of the property

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Surdyke to adopt ordinance as written, City Attorney to prepare reverter clause if required

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

(4) Budget Transfer-Travel Allowance

AN ORDINANCE AMENDING THEN 2016-2017 BUDGET ORDINANCE ADOPTED JULY 16, 2016

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

SECTION 1. That the 2016-2017 Budget Ordinance adopted June 16, 2016 is hereby amended to transfer appropriations for City Council, Travel Allowance

SECTION 2. That the 2016-2017 Budget Ordinance is hereby amended to transfer \$336.48 to budget code A.1010.464 City Council, Travel Allowance

SECTION 3. That the 2016-2017 Budget Ordinance is hereby amended to transfer \$336.48 from budget code A.1315.464 City Comptroller, Travel Allowance

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Noman to adopt ordinance as written

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Tabled Items:

Moved by Lewis seconded by Jerge to remove from table, Budget ordinance from May 15, 2017 Council meeting

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

2017-2018 City Budget Proposal

AN ORDINANCE ADOPTING THE CURRENT EXPENSE BUDGET OF THE CIT OF LACKAWANNA FOR THE FISCAL YEAR 2017-2018

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

SECTION 1. The City Charter of the City of Lackawanna, New York requires that the City Council, at a meeting thereof, held not later than the 10th day of June; adopt a Current Expense Budget for the fiscal year, August 1, 2017 through July 31, 2018, showing all City expenditures and revenues and including the real property tax rate.

SECTION 2. That the sum of \$10,503,518.00, being the entire amount determined to be necessary to be raised by taxation to defray the expense of the City for the 2017-2018 fiscal year, apportioned in the amount of \$5,831,025.00 for properties qualifying as homestead properties and \$4,672,493.00 for non-homestead properties, in accordance with the detailed statement of revenues and expenses as estimated and adopted by the City Council, be and the same is hereby levied upon all real and personal property subject to taxation upon the assessment roll of the City of Lackawanna for the 2017-2018 fiscal year.

SECTION 3. That the City Clerk be and hereby is directed to extend and apportion the said sum levied and to be raised by taxation as aforesaid in the last assessment roll of the City of Lackawanna delivered to him and to deliver a certified duplicate of the same, with a warrant annexed, under the seal of the City of Lackawanna, to the City Treasurer, commanding her to receive, levy and collect the several sums in said roll specified as assessed against the persons or property therein mentioned or described with such percentage in the manner provided by law for the collection and levying of City taxes by the City Treasurer.

SECTION 4. That the following schedule be and the same is hereby adopted as the Current Expense Budget of the City of Lackawanna for the fiscal year August 1, 2017 through July 31, 2018 along with the revenues and taxation estimated and levied herein, and that same be and hereby is appropriated in the sums set forth in the third column of said schedule to the use of several boards, departments and offices for the purpose enumerated therein, to wit:

Homestead Tax Rate: \$17.07 of assessed valuation
Non-Homestead Tax: \$35.38 of assessed valuation

SECTION 5. That the City Clerk be and he hereby is directed to forward a copy of this Ordinance to the City Treasurer, Director of Administration and Finances, City Comptroller and the City Attorney's Office.
THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

Moved by Jerge seconded by Iafallo to adopt the combined Budget Proposal from Council Members, Lewis, Jerge, Noman, Iafallo and Surdyke

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Adjournment:

Moved by Lewis seconded by Noman meeting adjourned

Yeas: Noman, Iafallo, Jerge, Surdyke, Lewis

Carried 5-0

Keith E. Lewis, Council President

Jeffrey P. DePasquale, City Clerk