

**REGULAR COUNCIL MEETING**  
**MONDAY, JULY 20, 2020**  
**7:00 p.m. – Caucus/ Meeting to immediately follow**  
**\*\* COVID- 19 Procedures in Effect\*\***  
Live via Facebook@<http://Facebook.com/lackawannany>  
[www.lackawannany.gov](http://www.lackawannany.gov)

**Attention Residents:**

In an effort to get the public more involved, beginning with the August 17<sup>th</sup> regular meeting of the Lackawanna City Council, future meetings will again be open to the public to attend. The venue has changed to the Senior Center to better comply with the CDC and NYS COVID-19 guidelines. Wearing of masks and maintaining proper social distancing are required. The City Council, Department Heads and fellow citizens appreciate your cooperation.

Meeting called to order/Pledge of Allegiance.

NB: Meeting being recorded.

Roll Call: Council: Ingram, Moretti, Surdyke, Marrano

Dept. Heads: Law, Comptroller, Recreation, Public Safety, Development, Public Works

**Hearings from Citizens:**

See notice at bottom.

**Approval of Minutes:** of the regular meeting of June 15, 2020 and special meeting of June 29, 2020.

Moved by Marrano seconded by Moretti to adopt minutes for both meetings as written.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Departmental Reports:**

1. **City Comptroller** – A/P Check Listing #46, dated June 11, 2020.
2. **City Comptroller** – A/P Check Listing #47, dated June 18, 2020.
3. **City Comptroller** – A/P Check Listing #48, dated June 22, 2020.
4. **City Comptroller** – A/P Check Listing #49, dated June 25, 2020.
5. **City Comptroller** – A/P Check Listing #50, dated June 30, 2020.
6. **City Clerk** – Monthly Revenue Report for June, 2020.
7. **City Treasurer** – Total receipts deposited into the General Fund Account for June, 2020.

Moved by Marrano seconded Moretti by to receive and file Departmental Reports one through seven.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Communications from the Council:**

**Requests the City Council Fill the Vacancy for 2<sup>nd</sup> Ward Council Member.**

8. To: City Clerk

Jeff:

Please put the open position for the Second Ward Councilman on the agenda for Monday, July 20, 2020.

Respectfully,

**FREDERIC J. MARRANO, COUNCIL PRESIDENT**

Moved by Marrano seconded by Ingram to receive and file, act on resolution.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**RESOLUTION NO. 16, 2020**

**Whereas**, a vacancy exists in the elective office of Council Member of the Second Ward of the City Council and the City of Lackawanna; and

**Whereas**, said vacancy shall be filled in accordance with Chapter 3, Section 3.2 of the Lackawanna City Charter by the Council appointment of a qualified person to serve as Council Member Second Ward expiring December 31, 2020;

**Now therefore be it resolved**, that Geoffrey Szymanski, 21 Modern Avenue, Lackawanna, New York in the Second Ward of the City of Lackawanna, County of Erie, State of New York, to serve as Council Member of the Second Ward, City of Lackawanna, and be it further

**Resolved**, that the said appointee takes and file the oath of office required by law; and be it finally

**Resolved**, that the City Clerk be and hereby is authorized to forward a certified copy of this resolution to the Mayor, City Comptroller, City Council and other concerned parties.

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**

**Lackawanna, New York**

Moved by Surdyke seconded by Moretti to adopt resolution as written.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Oath of Office Recited, Council Member Szymanski. Seated at 8:14 p.m.**

**Request for Action to be Taken by the Law Department Regarding 149 and 163 Ingham Avenue and 31 James Street.**

9. To: City Clerk

I am requesting the City Council to instruct the Lackawanna Law Department to use whatever legal means necessary to take back the properties at 149 and 163 Ingham Avenue and 31 James Street that was sold to Hana Home Solutions, LLC by Mr. Noman. SBL#141.52-5-13.12/141.52-513.11/141.52-5-18.

**JOHN INGRAM, 1<sup>ST</sup> WARD COUNCILMAN**

Moved by Ingram seconded by Marrano to receive and file, refer to Law Department for further action.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request for Action to be taken by the Law Department Regarding Rental of the Lackawanna Soccer Field.**

I am also asking the Council to have the Law Department find out how Mr. Noman was able to rent city properties such as the Lackawanna Soccer Field. I was told this is a clear violation and abuse of power. The Global Charter School paid the Lackawanna Soccer Club for use of the Lackawanna Soccer Field. Vendor ID LAC003 \$200 to Lackawanna Yemen Soccer Club 11/30/2009. Trans No. 7693 Type CDJ Vendor ID LAC003 \$960 to Lackawanna Yemen Soccer Club 8/26/2015. Trans No. 16547 CDJ Vendor ID LAC003 \$960 to Lackawanna Yemen Soccer Club 7/15/2016. Trans No. 17960 CDJ If any of these allegations are true I am asking the Council to instruct the Law Department to request the money be returned to the City of Lackawanna or return it to the Global Charter School. Thank you for your anticipated cooperation.

**JOHN INGRAM, 1<sup>ST</sup> WARD COUNCILMAN**

Moved by Ingram seconded by Marrano to receive and file, refer to Law Department for further action.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Communications from Department/Division Heads:**

**Request for the City Council to Review and Approve the Standard Work Day Reporting Resolution.**

**10.** To: Honorable Council President Frederic J. Marrano  
Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Attached for your review is the Standard Work Day Reporting Resolution for Elected and Appointed Officials Form RS 2417-A. The form is utilized to establish the standard work day for each position within the City as required by New York State and Local Retirement System. Please review and approve the attached schedule.

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

**Copy of the form may be obtained by contacting the City Clerk's Office.**

Moved by Szymanski seconded by Marrano to receive and file, approve request.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request to Approve Budget Amendment to Appropriate Funds from Sale of Fire Truck.**

**11.** To: Honorable Council President Frederic J. Marrano  
Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Please approve the budget amendment to appropriate funds from fund balance for the sale of an old fire truck to increase budget line Repairs to Equipment A.3410.443 for the fiscal year ending July 31, 2020. During the May 19, 2020 Council meeting, Council approved the sale of the vehicles and to increase the repair expenditure line for the proceeds.

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

July 9, 2020

Carolyn,

Today the Fire Department completed the sale of the old Fire Department vehicle. The total amount received for this vehicle is \$1,550.00. These funds were delivered to the City Treasurer. As approved by the City Council on May 19, 2020 these funds are to be put into the Fire Departments budget line 3410.0443.

If you have any questions feel free to call me at 572-2253.

Thanks,

**JAMES J. FINO, FIRE CHIEF**

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

Moved by Marrano seconded by Szymanski to receive and file, act on ordinance.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **ORDINANCE**

#### **AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCES ADOPTED JUNE 13, 2019.**

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

**SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 13, 2019 is hereby amended to increase appropriations for Fire Department Repairs to Equipment and decrease fund balance.

**SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to add \$1,550.00 to budget code A.3410.433 Fire Department – Repairs to Equipment.

**SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to increase \$1,550.00 of budget code A.0000.2770 Other Unclassified Revenues.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated : July 20, 2020**

**Lackawanna, New York**

Moved by Marrano seconded by Moretti to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

#### **Request to Approve Budget Amendments to Transfer Funds from the City's General Fund to the Special Refuse Fund.**

**12.** To: Honorable Council President Frederic J. Marrano

Honorable Members of the City Council

714 Ridge Road

Lackawanna, NY 14218

Dear Council Members:

Attached is an ordinance to transfer funds from the City's General Fund to the Special Refuse Fund. During the COVID-19 Pandemic the City utilized employees from the Maintenance of Streets department to pick up trash. In order to properly record the payroll expense in the Special Refuse Fund the transfer is necessary. Please note that we are utilizing the workforce from the Maintenance of Streets and no funds were used from fund balance.

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

Moved by Marrano seconded by Szymanski to receive and file, act on ordinance.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

## **ORDINANCE**

### **AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCES ADOPTED JUNE 13, 2019.**

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

- SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 13, 2019 is hereby amended to increase appropriations for the Special Refuse - Personal Services and Special Refuse – Social Security and decrease General Fund Streets – Personal Services and General Fund – Social Security.
- SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to add \$84,000.00 to budget code CL.8160.101 Special Refuse – Personal Services.
- SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to increase \$6,500.00 to budget code CL9000.9030 Social Security.
- SECTION 4.** That the 2019-2020 Budget Ordinance is hereby amended to increase by \$90,500.00 to budget code CL.0000.5031 Interfund Transfer.
- SECTION 5.** That the 2019-2020 Budget Ordinance is hereby amended to decrease \$84,000.00 to budget code A.5110.101 Maintenance of Streets – Personal Services.
- SECTION 6.** That the 2019-2020 Budget Ordinance is hereby amended to decrease \$6,500.00 to budget code A.9000.9030 Social Security.
- SECTION 7.** That the 2019-2020 Budget Ordinance is hereby amended to decrease by \$90,500.00 to budget code A.9000.9551 Interfund Transfer.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**

**Lackawanna, New York**

Moved by Szymanski seconded by Marrano to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **Request to Approve Budget Ordinance that is Required to Record FEMA Revenue and Recognition of Coronavirus Expenditures.**

**13. To:** Honorable Council President Frederic J. Marrano  
Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Please approve the attached ordinance that is required to record FEMA Revenue and recognition of Coronavirus Expenditures. These expenditures were necessary to comply with the New York State

guidelines to protect our employees and visitors to City Hall from the Coronavirus. At this time we anticipate reimbursement from FEMA by the end of 2020.

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

Moved by Marrano seconded by Szymanski to receive and file, act on ordinance.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

## **ORDINANCE**

### **AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCES ADOPTED JUNE 13, 2019.**

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

- SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 13, 2019 is hereby amended to increase revenues for the Emergency Disaster Assistance FEMA account A.0000.4960 and Increase appropriations for A.1620.496 Buildings – Emergency Disaster Coronavirus Supplies, A.3120.296 Police - Emergency Disaster Coronavirus Equipment, A.3120.496 Emergency Disaster Coronavirus Supplies, A.3410.296 Fire - Emergency Disaster Coronavirus Equipment and A.3410.496 Fire – Emergency Disaster Coronavirus Supplies.
- SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to add \$23,900.00 to budget code A.0000.4960 Emergency Disaster Assistance FEMA.
- SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to increase \$12,000.00 to budget code A.1620.496 Buildings – Emergency Disaster Coronavirus Supplies.
- SECTION 4.** That the 2019-2020 Budget Ordinance is hereby amended to increase by \$1,400.00 to budget code A.3120.296 Police - Emergency Disaster Coronavirus Equipment.
- SECTION 5.** That the 2019-2020 Budget Ordinance is hereby amended to increase \$500.00 to budget code A.3120.496 Police – Emergency Disaster Coronavirus Supplies.
- SECTION 6.** That the 2019-2020 Budget Ordinance is hereby amended to increase \$3,000.00 to budget code A.3410.296 Fire – Emergency Disaster Coronavirus Equipment.
- SECTION 7.** That the 2019-2020 Budget Ordinance is hereby amended to increase by \$7,000.00 to budget code A.3410.496 Fire – Emergency Disaster Coronavirus Supplies.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**  
**Lackawanna, New York**

Moved by Szymanski seconded by Surdyke to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **Request to Approve Budget Ordinance to Increase the Budget Line for Legal Advertising.**

**14.** To: Honorable Council President Frederic J. Marrano

Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Please approve the attached ordinance to increase the budget line for Legal Advertising. The 2019-2020 Fiscal Year had multiple required advertisements which resulted in a larger than anticipated cost. This expense is offset by an increase in revenue for the Vital Statistics Fees and therefore it is not necessary to appropriate the funds from fund balance.

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

Moved by Szymanski seconded by Marrano to receive and file, act on ordinance.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **ORDINANCE**

#### **AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCE ADOPTED JUNE 13, 2019.**

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

- SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 13, 2019 is hereby amended to increase A.0000.1603 Vital Statistics Fees and increase line item A.1410.465 Legal Advertising.
- SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to increase budget code A.0000.1603 Vital Statistics Fees by \$1,500.00.
- SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to increase budget code A.1410.465 Legal Advertising by \$1,500.00.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**  
**Lackawanna, New York**

Moved by Marrano seconded by Ingram to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

#### **Request to Approve Budget Ordinance to Transfer Funds.**

**15.** To: Honorable Council President Frederic J. Marrano  
Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Please approve the attached ordinance to transfer funds from the Mayor – Personal Services line to the Fire – Department Call-In-Time line. This transfer is necessary to cover the extra overtime which incurred during the Coronavirus lock down period in which the trainees were not able to complete their training and fulfill their positions.

If you have any questions please feel free to contact me.

Sincerely,  
**CAROLYN A. NICOMETO, CITY COMPTROLLER**

Moved by Marrano seconded by Szymanski to receive and file, act on ordinance.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **ORDINANCE**

#### **AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCE ADOPTED JUNE 13, 2019.**

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

- SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 13, 2019 is hereby amended to increase A.3410.102 Fire – Call in Time and decrease line item A.1210.101 Mayor – Personal Services.
- SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to increase budget code A.3410.102 Fire Department Call in Time by \$9,800.00.
- SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to decrease budget code A.1210.101 Mayor Personal Services by \$9,800.00.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**  
**Lackawanna, New York**

Moved by Szymanski seconded by Marrano to adopt ordinance as written.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

#### **Request the City Council to Review the list of 2019-2020 Budget Transfers.**

**16.** To: Honorable Frederic J. Marrano, President  
Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218  
RE: 2019-2020 Budget Transfers

Dear Council Members:

Please be advised, pursuant to Chapter 12.12 Subdivision (C) 2 of the City Charter, after a review of the Office of Department of Administration and Finance, Office of the City Clerk, Department of Development, Department of Public Works, Department of Public Safety, and Department of Recreation, the attached lists of transfers were made to balance many of the 2019-2020 accounts.

Respectfully,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

**A copy of this information may be obtained by contacting the City Clerk's Office.**

Moved by Szymanski seconded by Moretti to receive and file.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

#### **Request to Review the RFP's for Audit Services for the City of Lackawanna for the Fiscal Year 2019-2020.**

**17.** To: Honorable Frederic J. Marrano, President



Honorable Members of the City Council  
714 Ridge Road  
Lackawanna, NY 14218

Dear Council Members:

Attached are the bids for Audit Services for the City of Lackawanna. As per the City Charter Section 12.19 the City Council shall appoint a Certified Public Accountant to perform an annual audit of the financial statements. At your request I have prepared an RFP for the annual audit. The following firms have submitted their proposals (attached for your review) for the 2019-20 fiscal year:

The Bonadio Group CPA's, Consultants & More:	Annual Audit	\$20,000
	Single Audit	\$ 2,500
EFPR Group, CPA's, PLLC:	Annual Audit	\$16,000
	Single Audit	\$ 3,000
Lumsder McCormic LLP:	Annual Audit	\$18,000
	Single Audit	\$ 3,000
Tette, Ingersoll & Co, CPAs, PC:	Annual Audit	\$17,000
	Single Audit	\$ 1,000

If you have any questions please feel free to contact me.

Sincerely,

**CAROLYN A. NICOMETO, CITY COMPTROLLER**

**Complete copies of the proposals are on file in the City Clerk's Office.**

Moved by Marrano seconded by Surdyke to receive and file, and upon recommendation of comptroller, award bid to EFPR Group CPA's, PLLC.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request for Two Parking Ordinances Regarding the Parking on Victory and Colton Avenues.**

**18.** To: Hon. City Council

As per the Fire Chief's letter dated June 23, 2020 I am submitting for council approval two ordinances amending the parking on Victory and Colton Avenues to allow for alternate parking.

June 23, 2020

Lackawanna City Council  
Honorable Fred Marrano, President  
City Hall – Room 217  
714 Ridge Road  
Lackawanna, NY 14218

Re: Parking on Victory Ave and Colton Ave

Dear Council Members:

On June 20, 2020, the Fire Department was called for a house fire at 27 Victory Avenue. Upon arrival there were cars parked on both side of the street making it difficult for the fire apparatus to get down the street to the house that was on fire. Because of the cars parked on both sides of the street, there was less than three feet of space on each side of the fire truck, making it difficult to establish a feed to the pumper from the hydrant. The firefighters also had difficulty getting ladders and tools from the trucks due to the limited amount of space.

The same condition with parked cars exists on Colton Avenue.

I am requesting your Honorable Body to enact an ordinance creating the alternate parking of vehicles for both Victory and Colton Avenues. With vehicles being permitted to park on only one side of the street. Emergency vehicles along with other city trucks with have ample space to operate.

Sincerely,

**JAMES J. FINO, FIRE CHIEF**

Very truly yours,

**RICHARD S. JUDA, JR. CITY ATTORNEY**

Moved by Marrano seconded by Moretti to receive and file, act on ordinance.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **ORDINANCE**

#### **AN ORDINANCE AMENDING CHAPTER 215, CITY OF LACKAWANNA MUNICIPAL CODE, TRAFFIC AND VEHICLES**

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

**SECTION 1.** Section 215.43 "Parking, Standing and Stopping Restrictions" shall be amended as follows:

216. Victory Avenue

On the east side:

No parking from Maple Grove to a point thirty (30) feet southerly from the south curb line of Ridge Road from 4:00 p.m. Wednesday to 4:00 p.m. Sunday.

On the west side:

No parking from Maple Grove to a point thirty (30) feet southerly from the south curb line of Ridge Road from 4:00 p.m. Sunday to 4:00 p.m. Wednesday.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**

**Lackawanna, New York**

Moved by Marrano seconded by Szymanski to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

### **ORDINANCE**

#### **AN ORDINANCE AMENDING CHAPTER 215, CITY OF LACKAWANNA MUNICIPAL CODE, TRAFFIC AND VEHICLES**

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

**SECTION 1.** Section 215.43 "Parking, Standing and Stopping Restrictions" shall be amended as follows:

44. Colton Avenue

On the east side:

No parking from Maple Grove to a point thirty (30) feet southerly from the south curb line of Ridge Road from 4:00 p.m. Sunday to 4:00 p.m. Wednesday.

On the west side:

No parking from Maple Grove to a point thirty (30) feet southerly from the south curb line of Ridge Road from 4:00 p.m. Wednesday to 4:00 p.m. Sunday.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020  
Lackawanna, New York**

Moved by Marrano seconded by Ingram to adopt ordinance as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Informational Communication Regarding 161 – 163 Ingham Avenue – Reverter Clause.**

**19. To: City Council**

As you know the Council had asked that I review the reverter clause provisions in the deeds covering the above property. Indirectly I have reported to the Council and have spoken at length with the Mayor and the Council President regarding this issue. As the council also knows we did meet with the new owner of this property. After discussing this matter with the Mayor as well as the new owner the Mayor feels it is in the best interests of the city to let this matter be reviewed by a court.

Because the City Council originally approved the sale of this property subject to the reverter clause the Mayor asked that the Council authorize me as City Attorney to start legal action to have the city's rights fully determined with respect to this parcel.

The Mayor has also asked me to review other parcels in the city and advise both her and the Council regarding any other parcels that may be affected by reverter clauses that have not been complied with. I will do so as my time permits.

**RICHARD S. JUDA, JR. CITY ATTORNEY**

Moved by Marrano seconded by Ingram to receive and file.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request Approval of Resolution Supporting NYS Assemblyman Patrick Burke's Bill #'s A.5654 and A.5694 Designating South Park Avenue and Ridge Road as State Highways.**

**20. To: Honorable Council President  
Honorable City Council Members  
714 Ridge Road  
Lackawanna, NY 14218**

Dear Council Members,

Please approve the attached resolutions supporting NYS Assemblyman Patrick Burke's Assembly Bill #'s A.5654 and A.5694, respectively designating South Park Avenue and Ridge Road as State Highways.

You previously approved NYS Senator Tim Kennedy's Senate version of the same bill.

In addition, in approving the resolutions, the Mayor shall be authorized to request that the aforesaid legislation be enacted and forward said request to the State legislature.

Respectfully,

**JEFFREY P. DEPASQUALE, CITY CLERK**

Moved by Szymanski seconded by Marrano to receive and file, act on resolutions.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**RESOLUTION NO. 17, 2020**

**WHEREAS**, Assemblyman Patrick Burke has introduced legislation to designate South Park Avenue as a state highway, attached hereto, and

**WHEREAS**, the legislation introduced is hereby designated as New York State New York State Assembly Bill A.5654, and

**WHEREAS**, the City Council deems it in the best interest of the City to support said legislation, and

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

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the 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 forward said request to the State Legislature.

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**  
**Lackawanna, New York**

Moved by Szymanski seconded by Marrano to adopt resolution as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**RESOLUTION NO. 18, 2020**

**WHEREAS**, Assemblyman Patrick Burke has introduced legislation to designate Ridge Road as a state highway, attached hereto, and

**WHEREAS**, the legislation introduced is hereby designated as New York State New York State Assembly Bill A.5694, and

**WHEREAS**, the City Council deems it in the best interest of the City to support said legislation, and

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

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the 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 forward said request to the State Legislature.

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020**  
**Lackawanna, New York**

Moved by Szymanski seconded by Marrano to adopt resolution as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Potential Use of Bike Paths to Quiet Ridge Road, Improve Bike and Pedestrian Safety, and Add Multi-Modal Connectivity to Regional Destinations.**

**21. To: Common Council of the City of Lackawanna**

Over the past year we have had numerous communications from residents regarding safety concerns along Ridge Road.

In addition, this office's observation has been that truck traffic levels, the width of the thoroughfare, and the actual speed of commercial vehicles have created a noise pressure nuisance-like condition on the streets, and also appears to make it more difficult for pedestrians to cross Ridge Road. Furthermore, noise pressures appear to make it difficult to carry on conversations along Ridge Road, which impairs the use of outdoor space to support local businesses.

In May 2020, CPL and the City Engineers completed a traffic study which concluded additional signals were not warranted, and suggested a road diet (a/k/a lane reductions) be implemented to quiet the roadway and ease the ability of pedestrians to cross Ridge Road, particularly in the First Ward.

Also, since February, we have been looking at ways to draw off the regional resource of Shoreline Bike Trail, which now connects Lackawanna to downtown Buffalo through a path on the west side of Route 5, and is expected to be extended further south to Woodlawn Beach.

The concerns about Ridge Road traffic noise and related safety concerns appear to be addressable through a road dieting plan which would limit Ridge Road east-west vehicular traffic to one lane, and use the freed up thoroughfare space to create safe bike lanes connecting our downtown heart at Ridge Road and South Park to the Shoreline Trail.

We have been working with GoBike and their traffic engineer to design concept plans that could be quickly implemented on a trial basis to install safe bike lanes which would encourage a safe bicycling community, and would also enhance our downtown commercial district.

They have prepared three options which are attached for your consideration. I ask that you allow a ten minute presentation by GoBike to explain each of the options; then we could use the break between council sessions to review the options and receive public comments, and determine how to move forward.

GoBike has been providing engineering and design work without any charge to us, and has grant funding for restriping, vertical delineators (synthetic bollards), and construction, but not for added costs for signage.

The proposed Project would also help connect our downtown hub with a regional bike Southern Tier connector trail they are working on that would go from Buffalo to Ellicottville, New York.

**RICHARD E. STANTON, DIRECTOR OF DEVELOPMENT**

**A copy of this information may be obtained by contacting the City Clerk's Office**

Moved by Marrano seconded by Moretti to receive and file, approve request.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Brief Presentation by GoBike**

**City Adoption of Pending Zoning Code Amendments.**

**22. To: Common Council of the City of Lackawanna**

In May of this year we submitted proposed Zoning Code Amendments as set forth in a communication of this office.

Prior to adoption of the same we were required, pursuant to Section 239-m of the municipal law to solicit comments from the Erie County Department of Planning.

The County has responded by suggesting we further enhance the Special Use Permit Review process by adding additional language to subdivision 75-26 which would provide the following:

- The proposal will not create excessive additional requirements of public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

- The proposal will be served adequately by essential public facilities. Such as highways, streets, police and fire protection, storm water drainage, water and sewer and schools, or that the applicant for the proposed special use shall otherwise provide that these services be adequately obtained. This office is in agreement with the County's comments and suggest the proposed amendment to Chapter 75 of the City Code now be amended to read as set forth in Attachment A hereto. If this honorable body could provide any other comments to the proposed Code Amendments we could then modify the same, and have resolutions prepared for adopting the same at our next meeting.  
**RICHARD E. STANTON, DIRECTOR OF DEVELOPMENT**

Moved by Marrano seconded by Szymanski to receive and file.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Waive the Rules Request**

Moved by Szymanski seconded by Marrano to waive the rules.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request Approval of Resolution Relocating Future Council Meetings to the Senior Center to Accommodate the Public's Attendance.**

To: Honorable Council President  
Honorable Council Members  
714 Ridge Road  
Lackawanna, NY 14218

Dear Honorable Council Members:

After discussion with Tom Nicometo, Gene Oliveri and Council President Fred Marrano, it was decided that the public will be allowed back for future Council meetings commencing Monday, August 17, 2020. Due to social distancing guidelines and internet reliability, it was suggested that future Council meetings be held at the Senior Center, 230 Martin Road, until further notice.

Please approve the attached resolution that moves all future meetings to the Senior Center until such time as it is appropriate to move them back to Council Chambers.

Thank you for your time and consideration in this matter.

**JEFFREY P. DEPASQUALE, CITY CLERK**

Moved by Marrano seconded by Ingram to receive and file, act on resolution.  
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**RESOLUTION NO. 19, 2020**

**Whereas**, Chapter 3, Section 3.7 of the Charter of the City of Lackawanna provides for meeting dates, time and location of the Lackawanna City Council; and

**Whereas**, the City Council is desirous of complying with the City of Lackawanna Open Meetings Law of the State of New York; and

**Whereas**, the City Council is desirous of changing the meeting venue of future Council meetings in 2020 to the Lackawanna Senior Center, and said venue change shall remain in effect until this resolution is rescinded, and

**Be it further resolved**, that a copy of this resolution be posted on the centrally located bulletin board in the lobby of City Hall, the Council bulletin board, the City Clerk's Office and on the official website for the city.

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: July 20, 2020  
Lackawanna, New York**

Moved by Marrano seconded by Szymanski to adopt resolution as written.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Communications From Citizens:**

**Submission of Communication and Proposal Regarding Smokes Creek Erosion Issue.**

**23.** To: Council President Frederic Marrano

Council Members

July 7, 2020

Honorable Council Members:

My name is Thomas DiVito. My wife, Patricia and I and my family have been residents of 190 Sharon Parkway for over thirty (30) years. We have maintained and improved our property outstandingly and are proud to be residents of a wonderful neighborhood.

As many in attendance here may be aware, for over twelve (12) years I have pursued an effort to restore the creek bank and replace lost soil due to an erosion issue created by lack of maintenance by the City of Lackawanna and poor original design of the 1960's Federal Flood Control Project of the Smokes Creek. Not only has this been a public safety issue but also threatens the integrity of my home.

On June 16, 2016 the Szymanski Administration passed a Budget Ordinance Sections 1-5 to appropriate \$107,000.00 for the Capital Project of Stream Bank Erosion on Sharon Parkway. This allowed the hiring of an engineering firm to begin a study for a remediation plan. I Thank the City for initializing this.

I submitted a Freedom of Information Request to the City of Lackawanna on June 19, 2020 to "establish a timeline and expenditures to date for remediation regarding this continuing condition." Those documents revealed payments to three engineering firms – none of which presented satisfactory recommendations. I know for a fact, soil samples were taken from my property twice because the first samples were "lost". I believe AECOM is possibly working with the NYSDEC but the FOIL request shows no invoices or payments to that firm to date as of January 31, 2019.

As disappointing as it seems, I feel all work done by these engineering firms has been a tremendous waste of funding, since they all have had unsatisfactory designs. None of them included replacing my lost property nor correcting the migration of the creek channel twenty-five (25) feet towards my home. All the necessary design information, specifications, and guidelines are stated and described on the NYSDEC website and are easily interpreted.

In short: Of the original \$107,000.00 appropriated, \$65,257.70 has been spent – leaving a balance of \$41,742.30. What change in the erosion issue has this yielded? **NO CHANGE AT ALL!** In fact, because of the delays in any action, the situation has exponentially worsened. From a property survey done in April of 2019 I had lost two thousand seven-hundred (2,700) square feet of property. Seventeen (17) feet at the west end and fifteen (15) feet at the east end along one-hundred eighty (180) feet of back lot line. You can be assured more land has been lost since last year. *I can physically see it and my mature evergreens now perched atop a cliff prove it...*

Your Honorable Body-

I have spent over twelve (12) years of my life researching and contacting every available source for creek bank restoration. These contacts have ranged from the Secretary of the Army (USACE), to ALL local representatives – Assemblyman, Senator, Congressman, the NYSDEC Commissioner, the local USACE Divisions, NYS and Erie County Fish and Wildlife Departments, Forestry Departments, Land Restoration,

County Executive Poloncarz, Trout Unlimited, the Buffalo Niagara Waterkeepers, and yes numerous others. **ALL TO NO AVAIL.** All claim the NYSDEC resides over this.

I believe the NYSDEC has been trying to dissuade me from any action. Sadly, I am only one voice at this point. I had advised years ago that despite their bureaucratic delays and procrastination I would not allow my home to fall victim to their incompetence.

I was promised fourteen (14) months ago a viewing of the proposed plan. Requests to do so have been ignored. Mr. Myers states the plan is 90% completed in Albany. I am of the mindset there actually is no plan to remedy this situation. Should they have indeed developed a plan and it does not include replacing my lost property, then it stands as unacceptable.

I have in my possession the FOIL request from April 23, 2009 from the United States Army Corps of Engineers. This contains copies of the inspection reports of the channel done with the City Officials. In fact, the 1984 reports describe - #5. Banks – one eroded area on the right bank, south branch, near upstream limits should be monitored” – that inspection detail was referring to my property and it was never addressed or monitored.

In other words the City has been negligent in maintaining the upkeep of the channel since before 1984 – I have supporting documentation. Had they cooperated with the USACE, a plan could have been implemented for restoration. Instead, the channel was classed as “inactive C-5 poor” and lost eligibility. On August 21, 2006 the channel was inspected and failed –as explained in the following letter.

Operations Branch

Mr. Steve Len, P.E. Unit Head

Flood Control Projects Unit

Flood Control and Coastal Erosion Section

Bureau of Flood Protection and Dam Safety

New York State Department of Environmental Conservation

625 Broadway

Albany, New York 12233-3507

Dear Mr. Len:

This is to notify you upon receipt of this correspondence, the Smokes Creek flood damage reduction project will be placed in an “Inactive” status. Under the current policy in Engineer Pamphlet (EP 500-1-1), Section 5.8 for Federal and non-Federal projects, a project that receives an overall condition rating of “Unacceptable”, shall be immediately placed in an inactive status in the Rehabilitation and Inspection Program (RIP) and, therefore, becomes ineligible for Public Law (PL 84-99) rehabilitation assistance until the deficiencies have been corrected.

As discussed during our November 9, 2006 meeting regarding the latest periodic inspection for Smokes Creek conducted on August 21-22, 2006, the Smokes Creek channel system resulted in a project condition rating of C-5 or “Unacceptable” condition. Moreover, we have worked with your office each year, to include the last three years in which your project has been evaluated at a C-5 rating. During this time, as indicated in each inspection report, there has been little or no evidence of annual maintenance being performed.

The condition rating of “Unacceptable” is due to extensive shoaling in the channel and overall encroachment of heavy vegetation. The project as a system is rated “C-5 Poor” in accordance with Appendix C of Engineer Regulation (ER 1130-2-530), “Flood Control O & M Policies” or “Unacceptable” under the new guidelines presented in the USACE “Levee Owner’s Manual for Non-Federal Flood Control Works” (March 2006). The deficiencies found over the last three years, including 2006 inspection, will adversely impact the effectiveness of the flood damage reduction project.

Consequently, the project will not provide the level of protection of public health and safety it was designed for during a flood event.



We understand based on our previous discussions and meetings that you have a plan to correct deficiencies. We will continue to provide the technical assistance that we can, as you develop and implement corrective actions that will allow the Smokes Creek flood damage reduction project to return active status in the Rehabilitation and Inspection Program.

We have provided a copy of this letter to state and local Congressional representatives, FEMA Region II, the Erie County Department of Public Works, and the City of Lackawanna mayor regarding the project rating, as required by our regulations (ER1130-2-530, paragraph 3-3.g; or ER 500-1-1, paragraph 5-5.c). A copy of the latest inspection report will be provided to any of these entities upon request by contacting the undersigned.

**DEPARTMENT OF THE ARMY, BUFFALO DISTRICT CORPS OF ENGINEERS**

I offer to you, Council President Marrano, Honorable Council Members, and to your Honorable Mayor lafallo the following proposal for your consideration:

I have researched material costs, machinery rental, and NYS DEC recommended methods for stream erosion restoration. I have had a Licensed Structural Engineer complete a report on my home last year to establish a base for comparison. Number 166 Sharon has a rear basement wall settling downward to collapse. This remediation for my property **MUST** be completed this year.

Below is a simple breakdown to repair the migrated channel and replace my 1/6<sup>th</sup> of an acre of lost property. This will return my home's current assessment to \$188,000.00 – it has dropped \$83,000.00 – barely \$10,000.00 more than I purchased it for in 1989. This loss is heartbreaking to say the least.

I ask you give this estimate your utmost consideration.

Excavator Rental	2 weeks	\$2900.00
Excavator Fuel		\$2500.00
125 ton anchoring boulders @ \$50/ton		\$6750.00
300 ton 8-10" Rip Rap @ \$35.00/ton		\$10,000.00
5,000 sq ft non woven needle punched geofabric		<u>\$2200.00</u>
Total Materials		\$24,350.00
<b>Total LABOR</b>		<b>\$0.00</b>

As you can see from the Estimated Material Cost it would be covered by the balance left from the initial appropriations of 2016. Obviously, there is always a possibility for unexpected expenses. However, the balance remaining from the original Capital Project of Stream Bank Erosion certainly incorporates additional costs if needed.

I submit this to you with a **ZERO DOLLAR** labor cost. I would be operating the excavator, as I have experience with heavy equipment. I will be working in a private stream legally restoring my private property. The City – if it does not already exist – would be required to insure the rental machine for damage.

This proposal:

1. Restores my lost property
2. Stabilizes and prevents any damage to my home
3. Raises my home's value to proper assessment
4. Eliminates safety issues and personal anxieties
5. Produces a positive affect on the flood waters downstream as in its current condition velocity and erosion downstream have increased
6. Eliminates any further reconstruction or soil loss due to antiquated design

Please note: I have supporting documentation for all references and statements. Thank you.

Sincerely,

**THOMAS AND PATRICIA DIVITO, RESIDENTS**

Moved by Marrano seconded by Surdyke to receive and file, refer to Law Department for review and invite Mr. DiVito to attend next meeting.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Request for Waterline for the Community Garden on Bethlehem Street.**

**24.** Monday, July 13<sup>th</sup>

We would like a waterline hooked up for the community garden on Bethlehem Street. Our topic should only take a few minutes of your time.

392-4612 or my work number at Baker Victory 238-4026

**RICH FOLEY, RESIDENT**

Moved by Szymanski seconded by Marrano to receive and file, refer to DPW Commissioner for cost estimates and Law Department for other options.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**New Business Registration:**

Bart Adams, dba Flex E Brick Products, Inc. (Sale of artificial brick and mortar).  
1219 Abbott Road

Moved by Szymanski seconded by Marrano to approve Business Registration.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Saqr Aladani, dba 360 Smokeshop, Inc. (Sale of tobacco products, hookah and E-liquids).  
734 Ridge Road

Moved by Szymanski seconded by Marrano to approve Business Registration.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

**Old Business:**

Status update of legal action regarding 161 Steelawanna Avenue.

**Pending hearing within 30 days.**

**Adjournment:**

Moved by Marrano seconded by Szymanski to adjourn meeting.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

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Frederic J. Marrano-Council President

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Jeffrey P. DePasquale - City Clerk

Due to the COVID-19 pandemic City Hall is closed and meetings are closed to the public. Any questions from the public related to meeting agenda must be received by email ([cityclerk@lackny.com](mailto:cityclerk@lackny.com)) or US mail by 12 p.m. the day of the meeting to be considered.

