

Regular Council Meeting
MONDAY, November 22, 2021
6:30 p.m. – Caucus/ Meeting to immediately follow
REMOTE ZOOM
Live via Facebook@http://Facebook.com/lackawannany

Meeting called to order/Pledge of Allegiance.

NB: Meeting being recorded.

Roll Call: Council: Ingram, Szymanski, Moretti, Surdyke, Marrano
Dept. Heads: Law, Comptroller, Recreation, Public Safety, Development (E),
Public Works (E), Public Information

Hearings from Citizens: None received.

Approval of Minutes: of the regular meeting of November 8, 2021 and special meeting of November 15, 2021.

Moved by Marrano seconded by Szymanski to adopt minutes of both meetings.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Departmental Reports:

1. **City Comptroller** – A/P Check Listing #14, dated November 3, 2021.
2. **City Comptroller** – A/P Check Listing #15, dated November 10, 2021.
3. **City Comptroller** – Capital Fund Check Register for October, 2021.
4. **City Clerk** – Monthly Revenue Report for the month of October, 2021.
5. **City Treasurer** – Cash Receipts for the month of October, 2021.

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

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Communications from Council:

Requests Approval for Martin Luther King Parade on January 17, 2022.

6. To: City Clerk

From: John Ingram, 1st Ward Councilman

Re: Items for the November 22, 2021 Council Meeting Agenda

I would like to ask the Council for permission to hold a Martin Luther King parade on January 17, 2022.

The parade will be part of the Martin Luther King celebration which will be held at the Mt. Olive Baptist Church, 66 Wasson Avenue.

It is only fitting, on this national holiday, that we celebrate Dr. King and everything he stands for in this country and the ultimate sacrifice he made.

The parade would begin at the site of the old Friendship House; walking from Ridge Road to Wasson Avenue and ending at Mt. Olive Baptist Church. The celebration will continue with guest speakers, elected officials, civil rights leaders and other leaders from our community. More details will follow in the upcoming weeks. I hope everyone will join the community in celebration of one of our national heroes.

Thank you for your time.

JOHN INGRAM, 1ST WARD COUNCILMAN

Moved by Marrano seconded by Ingram to approve request, refer to DPW Commissioner and Director of Public Safety.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Communications from Division/Department Heads:

Requests Approval of Ordinance to Close Out the Galanti Park Improvement Project,

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

Dear Council Members:

Please approve the attached ordinance to close out the Galanti Park Improvement Project and return the funds back to the General Fund. The project is now complete and the City has been reimbursed by the State Grant.

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

Sincerely,

CAROLYN A. NICOMETO, CITY COMPTROLLER

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

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

ORDINANCE

**AN ORDINANCE AMENDING THE 2020-2021 BUDGET ORDINANCES ADOPTED
MAY 18, 2021.**

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

SECTION 1. That the 2021-22 Budget Ordinance adopted May 18, 2021 is hereby amended to refund the General Fund and close out Capital Project – C-154121 Galanti Park Improvements.

SECTION 2. That the 2021-2022 Budget Ordinance is hereby amended to increase \$168,565.49 to budget Code A.0000.5990 Transfer from Other Fund – Capital.

SECTION 3. That the 2021-2022 Budget Ordinance is hereby amended to increase the City's Fund Balance by \$168,565.49.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

**Dated: November 22, 2021
Lackawanna, New York**

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

Carried 5-0

Requests Approval of Ordinance for an Additional Inter-Fund Advance for the Cleveland Avenue Paving Project.

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

Dear Council Members:

Please approve an additional inter-fund advance between the General Fund and the Capital Fund to pay for the Cleveland Avenue paving project. The Capital Fund will repay the advance within the 2021-2022 fiscal year when the CDBG reimbursement is received.

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 2021-2022 BUDGET ORDINANCES ADOPTED MAY 18, 2021.

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

- SECTION 1. That the 2021-2022 Budget Ordinance adopted May 18, 2021 is hereby amended to increase appropriations for CDBG – Capital Project 2021 Cleveland Avenue.
- SECTION 2. That the 2021-2022 Budget Ordinance is hereby amended to add \$244,147.00 to Budget Code A.9000.9550 Transfer to Other Fund-Capital.
- SECTION 3. That the 2021-2022 Budget Ordinance is hereby amended to appropriate \$244,147.00 of the City’s Fund Balance.
- SECTION 4. That the 2021-2022 Budget Ordinance is hereby amended to add \$244,147.00 to Budget Code H.2080.0600 Streets.
- SECTION 5. That the 2021- 2021 Budget Ordinance is hereby amended to increase budget code H.0000.2545 Capital Fund Inter Fund Transfers by \$244,147.00.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Dated: November 22, 2021
Lackawanna, New York

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

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Requests Approval for Use of the Senior Center by NYS Senator Tim Kennedy's Team for Follow-Up Vaccination Event.

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

Honorable Members of City Council:

I am requesting your Honorable Body to allow the use of the Senior Center by NYS State Senator Tim Kennedy and his team led by Director of Faith Based Initiatives Elyse Fears for follow-up vaccination event on December 11, from 11AM to 1PM. The first stage of vaccinations will be administered as a part of their Fall Fest Event on November 20, and this event would be for persons requiring their second dose of COVID vaccine.

Thank you for your consideration.

Sincerely,

BRIAN LAKSO, DIRECTOR OF PARKS AND RECREATION

Moved by Marrano seconded by Moretti to approve request.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Requests Approval to Purchase 2019 Freightliner Dump Truck.

10. To: Honorable Council,

I request that the Council approve the purchase of a fully equipped 2019 Freightliner dump truck VIN: 1FVHG3DV5KHKH7740. The total cost is \$220,000.00. The vehicle will be purchased from the Town of Hornellsville.

If you have any questions, please contact me.

Thank you,

ANTHONY DESANTIS, COMMISSIONER OF PUBLIC WORKS

Moved by Marrano seconded by Moretti to approve request.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Business Registrations:

Richard Richardson, dba Hi Mike Hi Tech, 206 Roland Avenue.

Moved by Marrano seconded by Szymanski to approve request.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Request to Waive the Rules:

Moved by Marrano seconded by Szymanski to waive the rules.

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Request to Waive the Rules and Approve the Bond Ordinance for Refunding a Portion of Outstanding Serial Bonds of the City.

Lackawanna City Council

714 Ridge Road

Lackawanna, New York 14218

Re: Bonding Refinance Ordinance

Hon. City Council:

I am requesting that your honorable body waive the rules to pass the above-referred Bond ordinance.

Also enclosed is additional information for your review.

Very truly yours,

RICHARD S. JUDA, JR., CITY ATTORNEY

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

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

Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

ORDINANCE NO. 38 / 2021

REFUNDING BOND ORDINANCE OF THE CITY OF LACKAWANNA, NEW YORK, AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF CERTAIN OUTSTANDING SERIAL BONDS OF SAID CITY, STATING THE PLAN OF REFUNDING, APPROPRIATING AN AMOUNT NOT TO EXCEED \$2,250,000 THEREFOR, AUTHORIZING THE ISSUANCE OF \$2,250,000 REFUNDING BONDS OF SAID CITY OR SO MUCH THEREOF AS MAY BE NECESSARY TO FINANCE SAID APPROPRIATION, AND MAKING CERTAIN DETERMINATIONS ALL RELATIVE THERETO.

(Adopted) November 22, 2021

Recitals

Whereas, the City of Lackawanna, New York (herein called "City"), has heretofore issued on July 11, 2011, its \$4,995,000 Capital Improvement Program Bonds, 2011 (herein called the "2011 Bonds"), now outstanding in the principal amount of \$2,180,000; (the "Outstanding Bonds"); such bonds bearing interest at the rates and on the dates, and being subject to prior redemption as set forth in each such respective bond; and

Whereas, Section 90.10 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), permits the City to refund all or a portion of the outstanding unredeemed maturities of the Outstanding Bonds by the issuance of new bonds, the issuance of which will result in present value debt service savings for the City;

now, therefore,

BE IT ENACTED BY THE COUNCIL OF THE CITY OF LACKAWANNA, ERIE COUNTY, NEW YORK (by the favorable vote of not less than two-thirds of the voting strength of said Council) AS FOLLOWS:

Section 1. In this ordinance, the following definitions apply, unless a different meaning clearly appears from the context:

- a. "Bond To Be Refunded" or "Bonds To Be Refunded" means all or a portion of the Outstanding Bonds of the City.
- b. "Bond Certificates" means one or more of the certificates of determination that (i) were executed by the City Comptroller, in accordance with the delegations of authority contained in the bond ordinance for each of the objects or purposes financed by the Bonds To Be Refunded, and (ii) provided for the issuance of such Bonds To Be Refunded.
- c. "Escrow Contract" means the contract to be entered into by and between the City and the Escrow Holder pursuant to Section 9 hereof.
- d. "Escrow Holder" means the bank or trust company designated as such pursuant to Section 9 hereof.
- e. "Present Value Savings" means the dollar savings which result from the issuance of the Refunding Bonds computed by discounting the principal and interest payments on both the Refunding Bonds and the Bonds To Be Refunded from the respective maturities thereof to the date of issue of the Refunding Bonds at a rate equal to the effective interest cost of the Refunding Bonds. The effective interest cost of the Refunding Bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually), necessary to discount the debt service payments on the Refunding Bonds from the maturity dates thereof to the date of issue of the Refunding Bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest.
- f. "Redemption Date" means February 25, 2022 or such later date as may be determined by the City Comptroller in the final refunding financial plan.
- g. "Refunding Bond" or "Refunding Bonds" means all or a portion of the \$2,250,000 bonds of the City of Lackawanna, authorized pursuant to Section 2 hereof.
- h. "Refunding Bond Amount Limitation" means an amount of Refunding Bonds sufficient to pay the sum of (i) the principal amount of Bonds To Be Refunded, (ii) the aggregate amount of unmatured interest payable on each Bonds To Be Refunded to and including the applicable Redemption Date, (iii) redemption premiums payable on such Bonds To Be Refunded as of such applicable Redemption Date, as hereinabove referred to in the Recitals hereof, and (iv) costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the Escrow Contract and all fees and charges of the Escrow Holder as referred to in Section 9 hereof.

Section 2. The City Council of the City (herein called "Council"), hereby authorizes the refunding of the Bonds To Be Refunded of the City, more particularly described and referred to in the

Recitals hereof, and appropriates an amount not to exceed \$2,250,000 therefor to accomplish such refunding. The plan of financing said appropriation includes the issuance of not to exceed \$2,250,000 Refunding Bonds and the levy and collection of a tax upon all the taxable real property within the City to pay the principal of and interest on said Refunding Bonds as the same shall become due and payable. Bonds of the City in the maximum principal amount of \$2,250,000, are hereby authorized to be issued pursuant to the provisions of the Law. The proposed financial plan for the refunding in the form attached hereto as Exhibit A (the "refunding financial plan") prepared for the City by Masterson Advisors LLC and hereby accepted and approved, includes the deposit of all the proceeds of said Refunding Bonds with an Escrow Holder pursuant to an Escrow Contract as authorized in Section 9 hereof, the payment of all costs incurred by the City in connection with said refunding from such proceeds, and the investment of a portion of such proceeds by the Escrow Holder in certain obligations, the principal of and interest, together with the balance of such proceeds to be held uninvested, shall be sufficient to pay (1) the principal of and interest on the Bonds To Be Refunded becoming due and payable on and prior to the Redemption Date and (2) the principal of and premium on the Bonds To Be Refunded to be called for redemption prior to maturity on the Redemption Date.

Section 3. The Bonds To Be Refunded referred to in Section 1 hereof are all or a portion of the unmatured aggregate outstanding balances of the Outstanding Bonds which were originally issued pursuant to the bond ordinance of the City referenced in the Bond Certificate for the bonds for the purpose of providing original funding for the projects as set forth therein (the "Component Issues"). In accordance with the refunding financial plan, the Refunding Bonds authorized in the aggregate principal amount not to exceed \$2,250,000 have been allocated to the Component Issues, and shall mature in amounts and at dates to be determined. The City Comptroller, the chief fiscal officer of the City, is hereby authorized to approve all details of the final refunding financial plan not contained herein.

Section 4. The issuance of the Refunding Bonds will not exceed the Refunding Bond Amount Limitation. The maximum period of probable usefulness ("PPU") of each issue comprising the Bonds to be Refunded, commencing at the date of issuance of the 2011 Bonds, is as specified in the Bond Certificate for the 2011 Bonds, which is incorporated herein by reference.

Section 5. The aggregate amount of estimated Present Value Savings is set forth in the proposed refunding financial plan attached hereto as Exhibit A.

Section 6. The Refunding Bonds may be sold at public or private sale.

- a. If the Refunding Bonds are sold at private sale, the City Comptroller, as the chief fiscal officer of the City, is hereby authorized to execute a purchase contract on behalf of the City for the sale of said Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Comptroller.
- b. If the Refunding Bonds are sold at public sale pursuant to Section 57.00 of the Law, the City Comptroller is hereby authorized and direct to prepare or have prepared a Notice of Sale, which shall be published at least once in "THE BOND BUYER," published in the City of New York, not less than five (5) nor more than thirty (30) days prior to the date of said sale.
- c. Prior to the issuance of the Refunding Bonds the City Comptroller shall have filed with the Council a certificate approved by the State Comptroller setting forth the Present Value Savings to the City resulting from the issuance of the Refunding Bonds.

- d. In connection with such sale, the City Council hereby authorizes the preparation of an Official Statement and approves its use in connection with such sale, and, further, consents to the distribution of a Preliminary Official Statement prior to the date said Official Statement is executed and available for distribution.
- e. The City Comptroller is hereby further authorized and directed to take any and all actions necessary to accomplish said refunding, and to execute any contracts and agreements for the purchase of and payment for services rendered or to be rendered the City in connection with said refunding including the preparation of the refunding financial plan referred to in Section 2.

Section 7. Each of the Refunding Bonds authorized by this ordinance shall contain the recital of validity prescribed by Section 52.00 of the Law and said Refunding Bonds shall be general obligations of the City payable as to both principal and interest by a general tax upon all the taxable real property within the City. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said Refunding Bonds and provision shall be made annually in the budget of the City for (a) the amortization and redemption of the Refunding Bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 8. Subject to the provisions of this ordinance and of the Law, and pursuant to the provisions of Sections 21.00, 50.00, 56.00, 90.10 and 168.00 of the Law, the powers and duties of the Council relative to (i) prescribing the terms, form and contents of the Refunding Bonds, (ii) the sale and issuance of the Refunding Bonds, (iii) the making of determinations to issue Refunding Bonds and provide for substantially level or declining debt service, (iv) authorizing and executing agreements for credit enhancement of the Refunding Bonds, and (v) executing the Escrow Contract described in Section 9 and the Official Statement referred to in Section 6, are hereby delegated to the City Comptroller as the chief fiscal officer of the City.

Section 9. Prior to the issuance of the Refunding Bonds the City shall contract with a bank or trust company located and authorized to do business in New York State for the purpose of having such bank or trust company act as the Escrow Holder of the proceeds, inclusive of any premium from the sale of the Refunding Bonds, together with all income derived from the investment of such proceeds. The Escrow Contract shall contain such terms and conditions as shall be necessary in order to accomplish the refunding financial plan, including provisions for the Escrow Holder without further authorization or direction from the City, except as otherwise provided therein, (a) to make all required payments of principal, interest and redemption premiums to the appropriate paying agent with respect to the Bonds To Be Refunded, (b) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the Escrow Contract and all of its fees and charges as the Escrow Holder, (c) at the appropriate time or times to cause to be given on behalf of the City the notices of redemption authorized to be given pursuant to Section 12 hereof, and (d) to invest the moneys held by it consistent with the provisions of the final refunding financial plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the holders of the Refunding Bonds.

Section 10. The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the City with the Escrow Holder in accordance with the Escrow Contract. All moneys held by the Escrow Holder shall be held in cash or invested only in direct obligations of the United States of America or in obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which obligations shall mature or be subject to redemption at the option of the holder thereof not later than the

respective dates when such moneys will be required to make payments in accordance with the refunding financial plan. Any such moneys remaining in the custody of the Escrow Holder after the full execution of the Escrow Contract shall be returned to the City and shall be applied by the City only to the payment of the principal of or interest on the Refunding Bonds then outstanding.

Section 11. That portion of such proceeds from the sale of the Refunding Bonds, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Bonds To Be Refunded, including any redemption premiums, in accordance with the refunding financial plan, shall be irrevocably committed and pledged to such purpose and the holders of the Bonds To Be Refunded shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided for herein shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof. Neither this ordinance, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 12. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Law, the Council hereby elects to call in and redeem all the Bonds To Be Refunded which are subject to prior redemption according to their terms on the Redemption Date. The sum to be paid therefor on the Redemption Date shall be the par value thereof, the accrued interest to the Redemption Date and the redemption premiums, if any. The Escrow Holder is hereby authorized and directed to cause notice(s) of such call for redemption to be given in the name of the City by mailing such notice(s) to the registered holders of the Bonds To Be Refunded which are subject to prior redemption at least thirty days prior to such Redemption Date. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Bonds To Be Refunded subject to prior redemption on the Redemption Date and the direction to the Escrow Holder to cause notice thereof to be given as provided in this section shall become irrevocable and the provisions of this section shall constitute a covenant with the holders, from time to time, of the Refunding Bonds, provided that this section may be amended from time to time as may be necessary to comply with the requirements of paragraph a of Section 53.00 of the Law, as the same may be amended from time to time.

Section 13. The validity of the Refunding Bonds may be contested only if:

(a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money; or

(b) The provisions of law which should be complied with at the date of publication of this ordinance are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This Refunding Bond Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing ordinance, in summary, together with a notice in substantially the form prescribed by §81.00 of the Law in "*Buffalo Business First*," the official newspaper of said City for such publication.

Dated: November 23, 2021
Lackawanna, New York

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

Carried 5-0

Old Business:

Adjournment:

Moved by Marrano seconded Szymanski to adjourn meeting.
Yeas: Ingram, Szymanski, Moretti, Surdyke, Marrano

Carried 5-0

Frederic J. Marrano-Council President

Jeffrey P. DePasquale - City Clerk

Any items to be placed on the agenda must be received by the City Clerk's Office by noon on the Wednesday before the scheduled meeting to be considered.

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