

**Special Council Meeting  
Council Chambers  
Monday, December 12, 2022  
11:00 a.m.**

**Live via Facebook@<http://Facebook.com/lackawannany>**

**No Caucus Required at Special Meetings  
Only Agenda Items May be Acted Upon**

**Meeting called to order/Pledge of Allegiance.**

**NB: Meeting being recorded.**

**Roll Call: Council:                      Muflahi, Anderson, Moretti, Surdyke (E), Marrano  
                  Dept. Heads:                Law, Comptroller**

**Communication from Law Department:**

**Submission of Documentation Supporting the Mayor's Executive Powers and Resolution Approving Overtime Pay for Certain City Employees During the November, 2022 Snow Storm.**

1. To: Lackawanna City Council

Re: Mayor's Executive Powers

After the last council meeting I thought it appropriate to do research regarding the Mayor's executive powers in times of emergency. Attached is a copy of the New York State Executive Law section 24 and section 25 as well as a copy of the New York State Municipal Law Section 90. Finally, I attach a copy of the resolution passed a couple of years ago.

Under New York State's Executive Law the Mayor has numerous powers once a local state of emergency has been declared. I am not going to discuss every one of these but if anyone has any questions regarding section 24 or section 25 please let me know and I will be happy to research further. I do note that specifically section 25 subdivision 1. provides that the chief executive of any political subdivision is hereby authorized and empowered to and shall use any and all facilities, equipment, supplies, personnel and other resources of his political subdivision in such manner as may be deemed necessary or appropriate to cope with the disaster or any emergency resulting therefrom. This section is a broad section which allows the Mayor to employ personnel in any manner within her discretion as may be necessary or appropriate to cope with any disaster or emergency situation. Also, and although not attached hereto under the procurement policy of the State of New York the normal competitive bidding requirements can be abandoned or disregarded during times of emergency. Likewise, the City Council previously authorized the prior Mayor to hire independent contractors in time of emergency. Although I don't think that this resolution was necessary given New York State Executive Law I do wish to point out that the Council did pass a prior resolution regarding the issue of outside contracting.

As far as overtime goes, section 90 of the New York State General Municipal Law appears to be controlling. Under this section the City Council by ordinance, or local law, or resolution may provide for the payment of overtime compensation to any or all public officers except elected officers and those officers otherwise excluded by law and any or all public employees employed by the city.

Also attached is a proposed Resolution covering a number of City Hall employees who were called to work during the recent snow storm. These employees worked during the evening or on the weekend

and some worked excessive hours throughout the weekend. Their hours are time above and beyond their normal work day hours. (Non-bargaining employees).

If you recall in the prior resolution or memorandum from the Mayor there was a request made for overtime for the Police Chief. This was an error. The Chief of Police is an exempt employee under the civil service and is not entitled to overtime. From what I understand he is not seeking overtime pay. In addition, the elected officials including Councilman Anderson and Mayor Iafallo only showed the time they worked but they are not seeking any overtime pay.

The Fire Chief has a separate benefit contract. Any overtime that he gets is governed by the terms of his contract. As for City Hall employees the Mayor is asking that they be compensated for the hours that they worked at time and one half. In order to encourage employees to respond in time of need the Mayor thinks it is appropriate that they receive some type of benefit for this additional service.

Especially, in light of the fact that most of this time is reimbursable by the State or FEMA.

As you know our Commissioner of Public Works worked a substantial number of hours as a result of the snowstorm. His scenario is complicated by the fact he works part-time at an annual salary of \$35,000 per year/20 hours per week. He is asking that he be compensated at time and one half but by his hourly rate that he was earning when he was a full-time commissioner.

Please note that any resolution that the Council passes relative to these several City Hall employees has a very minimal effect on the budget. All of these employees are entitled to regular rates of pay anyway. Notwithstanding that, up to 90% of this may be reimbursable by FEMA and the state. Perhaps the Council should consider some type of policy going forward to cover situations such as this.

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

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

Yeas: Muflahi, Anderson, Moretti, Marrano

Carried 4-0

### **RESOLUTION NO. 27, 2022**

**WHEREAS**, Section 90 of the New York State General Municipal Law authorizes the City Council of the City of Lackawanna to approve overtime pay to certain employees including non-bargaining unit employees; and

**WHEREAS**, the Mayor has provided the Council with a list of non-bargaining unit employees who worked evenings, weekends, and otherwise during time off as a result of the recent November snowstorm; and

**WHEREAS**, the Mayor has requested that the Council approve certain overtime pay to those non-bargaining unit employees;

**NOW, THEREFORE, BE IT**

**RESOLVED**, That the City Council hereby approves overtime pay to the individuals filling the positions identified in the attached schedule A in accordance with the number of hours worked and the rate of pay set forth on said schedule opposite their respective job title.

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: December 12, 2022**

**Lackawanna, New York**

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

Yeas: Anderson, Moretti, Marrano

No: Muflahi

Carried 3-1

**Communications from the Mayor:**

**Requests Approval to Authorize Overtime Compensation to a List of City Employees Servicing the City During the November, 2022 Snow Storm.**

2. To: HONORABLE MEMBERS OF THE CITY COUNCIL

From: Annette Iafallo, Mayor

RE: November, 2022 Snow Storm

From: 11/17/2022 at 8:00 p.m.

To: 11/22/2022 at 11:59 p.m.

To: 11/23/2022 at 11:59 p.m. (for sanitation workers only)

Due to the State of Emergency situation arising out of the November, 2022 Snow Storm, separate wage accounts must be established and budgeted funds allocated to record overtime worked during the above-referenced time-frame. A separate contractual expense account must also be established to track related contractual expenses [estimated at \$645,006.25]. Establishing new accounts is required in order to track expenses for reimbursement purposes [FEMA is offering state-of-emergency reimbursement related to the storm].

In addition, although the following individuals do not typically receive overtime compensation, I hereby request authorization to compensate the following individuals for their exemplary service to the City throughout the duration of the storm.

**ANNETTE IAFALLO, MAYOR**

**Full context of this letter is on file in the City Clerk's Office.**

Moved by Marrano seconded by Anderson to receive and file.

Yeas: Muflahi, Anderson, Moretti, Marrano

Carried 4-0

**Communications from City Comptroller:**

**Requests Approval of Three (3) Ordinances Related to the November, 2022 Snow Storm.**

3. To: Honorable Frederic J. Marrano, President

Honorable Members of the City Council

714 Ridge Road

Lackawanna, NY 14218

RE: November, 2022 Snow Storm

[From: 11/17/2022 at 8:00 p.m. – To: 11/22/2022 at 11:59 p.m.]

Dear Council Members:

This transmittal is being submitted in furtherance of the request of Mayor Annette Iafallo in relation to the State of Emergency situation arising out of the November, 2022 Snow Storm.

In relation to said Storm, attached please find three (3) Ordinances for review, consideration and approval by this Honorable Body:

- Ordinance #1: Establishing and funding Budget Codes to track FEMA reimbursable expenses concerning administrative employee overtime in the total amount of \$33,179.54.

- Ordinance #2: Establishing and funding Budget Codes (if not already established in Ordinance #1) to track FEMA reimbursable expenses concerning contractual employee overtime in the total amount of \$220,884.20.
- Ordinance #3: Establishing and funding a Budget Code to track FEMA reimbursable contractual expenses in the total amount of \$645,006.25.

Reimbursement for said expenses incurred by the City as a result of the storm is being requested through FEMA (upon information and belief, said FEMA grant is being administered through the NYS Department of Homeland Security and Emergency Services, with the possible involvement of Erie County).

Once submitted, we are advised that we will be reimbursed by FEMA within eight weeks.

As always, should you have any questions, please feel free to contact me at you convenience.

Very truly yours,

**LINDA M. HYBICKI, CITY COMPTROLLER**

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

Yeas: Muflahj, Anderson, Moretti, Marrano

Carried 4-0

## **ORDINANCE**

### **AN ORDINANCE AMENDING THE 2022-2023 BUDGET ORDINANCES ADOPTED MAY 23<sup>RD</sup>, 2022.**

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

**SECTION 1.** That the 2022-2023 Budget Ordinance adopted May 23<sup>rd</sup>, 2022, is hereby amended to transfer funds in the amount of \$645,006.25 in relation to contractual expenses incurred concerning the November, 2022 Snow Storm State of Emergency, as follow:

**SECTION 2.** That the 2022-2023 Budget Ordinance is hereby amended to add the following Budget Code and increase the amount budgeted for said Codes, as follows:

New Budget Account Code (**):	A.5110.0408
Budget Code Department:	Maintenance of Streets
Budget Code Title:	Contractual Expenses (FEMA)
Budget Allocation:	\$645.006.25

\*\* If necessary the budget codes will be adjusted to conform with any mandates set forth by FEMA.

**SECTION 3.** That the 2022-2023 Budget Ordinance is hereby amended to transfer a total of \$645,006.25 of unappropriated fund balance to the above itemized Budget Codes, in the amounts indicated.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: December 12, 2022**  
**Lackawanna, New York**

Moved by Marrano seconded by Anderson to adopt ordinance as written.  
Yeas: Muflahi, Anderson, Moretti, Marrano

Carried 4-0

## ORDINANCE

### AN ORDINANCE AMENDING THE 2022-2023 BUDGET ORDINANCE ADOPTED MAY 23<sup>RD</sup>, 2022.

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

**SECTION 1.** That the 2022-2023 Budget Ordinance adopted May 23<sup>rd</sup>, 2022, is hereby amended to transfer funds in the amounts reflected below concerning contractual employee overtime in relation to the November, 2022 Snow Storm State of Emergency, as follow:

**SECTION 2.** That the 2022-2023 Budget Ordinance is hereby amended to add the following Budget Codes (if not already added in conjunction with the administrative overtime ordinance) and increase the amount budgeted for said Codes, as follows:

<b>New Budget Code Department &amp; Title</b>	<b>New Budget Account Code**</b>	<b>Allocated Budget Amount</b>
Purchasing Overtime (FEMA)	A.1345.0108	\$3,081.19
Development: Overtime (FEMA)	A.3620.0108	\$185.86
Police: Overtime (FEMA)	A.3120.0108	\$28,592.20
Fire: Overtime (FEMA)	A.3410.0108	\$120,044.21
Maintenance of Street: Overtime (FEMA)	A.5110.0108	\$68,980.74
Total:		\$220,884.20

\*\* If necessary the budget codes will be adjusted to conform with any mandates set forth by FEMA.

**SECTION 3.** That the 2022-2023 Budget Ordinance is hereby amended to transfer unappropriated fund balance in the total amount to \$220,884.20 the above itemized Budget Codes.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: December 12, 2022**  
**Lackawanna, New York**

Moved by Marrano seconded by Anderson to adopt ordinance as written.  
Yeas: Muflahi, Anderson, Moretti, Marrano

Carried 4-0

**ORDINANCE**

**AN ORDINANCE AMENDING THE 2022-2023 BUDGET ORDINANCE ADOPTED MAY 23<sup>RD</sup>, 2022.**

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

**SECTION 1.** That the 2022-2023 Budget Ordinance adopted May 23<sup>rd</sup>, 2022, is hereby amended to transfer funds in the amounts reflected below concerning administrative employee overtime in relation to the November, 2022 Snow Storm State of Emergency, as follows:

**SECTION 2.** That the 2022-2023 Budget Ordinance is hereby amended to add the following Budget Codes and increase the amount budgeted for said Codes, as follows:

<b>New Budget Code Department &amp; Title</b>	<b>New Budget Account Code**</b>	<b>Allocated Budget Amount</b>
Mayor: Overtime (FEMA) (ONLY For secretary)	A.1210.0108	\$1,170.03
Purchasing Overtime (FEMA)	A.1345.0108	\$2,463.05
Public Information: Overtime (FEMA)	A.1480.0108	\$5,231.82
Public Safety: Overtime (FEMA)	A.3010.0108	\$3,201.24
Recreation Admin: Overtime (FEMA)	A.7020.0108	\$400.15
Maintenance of Street: Overtime (FEMA)	A.5110.0108	\$20,713.25
Total:		\$33,179.54

\*\* If necessary the budget codes will be adjusted to conform with any mandates set forth by FEMA.

**SECTION 3.** That the 2022-2023 Budget Ordinance is hereby amended to transfer unappropriated fund balance in the total amount to \$33,179.54 the above itemized Budget Codes.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: December 12, 2022**  
**Lackawanna, New York**

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

Yeas: Anderson, Moretti, Marrano

No: Muflahi

Carried 3-1

**Adjournment:**

Moved by Marrano seconded by Anderson to adjourn meeting.

Yeas: Muflahi, Anderson, Marrano

Carried 4-0

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Frederic J. Marrano-Council President

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Jeffrey P. DePasquale - City Clerk

Persons wishing to speak before the City Council shall provide their name, address and limit their comments to three (3) minutes on agenda items only. Please direct any comments to the Council President. To place an item on the agenda, persons shall submit their correspondence to the City Clerk's Office in a signed letter or via email ([cityclerk@lackny.com](mailto:cityclerk@lackny.com)) with full address and phone number contained therein, and must be received PRIOR to 12:00 noon on the Wednesday preceding the meeting. The City Council has the final approval of all agenda items. If attending the meeting in person, please silence your cell phones and gentlemen remove your hats. Commentary and actions shall always be respectful of the City Council, Department Heads and fellow citizens or you will be escorted from Chambers.

[www.lackawannany.gov](http://www.lackawannany.gov)