

**THE HONORABLE BODY**  
**Council Chambers**  
**Municipal Building**  
**North Tonawanda, New York 14120**  
**Wednesday, April 3, 2002**  
**7:18 P.M.**

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**REGULAR SESSION CALLED TO ORDER BY PRESIDENT SCHWANDT**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:**                    **President Schwandt**  
                                      **Aldermen Rizzo, Sommer, Soos**

**Absent:**                    **Alderman Hogan**

**Also Present:**            **Mayor David J. Burgio**  
                                      **City Attorney Henry D. Wojtaszek**

**APPROVAL OF THE MINUTES OF THE REGULAR SESSION HELD MARCH 19, 2002**

**MOVED by Alderman Rizzo                    SECONDED by Alderman Soos**  
**That the minutes of the regular session held on March 19, 2002 be approved as**  
**circulated and filed in the Office of the City Clerk.**  
**CARRIED.**

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**APPROVAL OF THE MINUTES OF THE SPECIAL SESSION HELD MARCH 13, 2002**

**MOVED by Alderman Rizzo                    SECONDED by Alderman Sommer**  
**That the minutes of the special session held on March 13, 2002 be approved as**  
**circulated and filed in the Office of the City Clerk.**  
**CARRIED.**

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**PROOF OF PUBLICATION PUBLISHED FEBRUARY 11 & 20, 2002**

- 1) 2002 Budgets – City Accountant
- 2) Chapter 69-3 Amendment of Plumbing Code – City Clerk

**MOVED by Alderman Rizzo                    SECONDED by Alderman Sommer**  
**That the aforementioned proofs of publication be received and filed.**  
**CARRIED.**

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**AUDIENCE PARTICIPATION**

**Jerry Doucette, 154 Pine St., spoke against the proposed resolution regarding the Fire Department.**

**Robert Shugarts, 439 Witmer Rd., asked about the charter's intent concerning Department Heads authority.**

**Thomas Krantz, 303 Oakdale Dr., asked what the city is going to gain from these resolutions regarding the Police and Fire Depts.**

**Peter Smolinski, 499 Robert Dr., asked why we need another law regarding car dealers.**

**Cosmo Capozzi, 227 Schenck St., spoke in favor of the proposed new ordinances.**

**Greg Frank, 960 Sweeney St., spoke about the creation of a new Fire Department and asked if this is necessary under the new charter.**



Ascension Parish in North Tonawanda will host its Second Annual Bike Race on Saturday, August 10, 2002 at 2:00 PM. This race will be held in conjunction with the Ascension Festival, to be held on the church grounds.

This criterion bike race (age-specific categories), will take place on the block bounded by Keil, Oliver, Sommer and Payne Streets. In order to ensure the proper safety of the racers, pedestrians, and vehicular traffic, our race committee is respectfully requesting a parking and driving ban on the aforementioned streets, or segments of, between the hours of 12 PM and 6 PM on Saturday, August 10<sup>th</sup>. Race officials from bike shops in the area tell us that a parking and driving ban will establish safe sight-lines, passing lanes, and maneuverability space for the racers.

Our race committee appreciates your time for reviewing this request and looks forward to hearing from you at your convenience. Thank you.

Respectfully,  
 Stephen Ash  
 Ascension Parish Parishioner  
 744 Park Avenue  
 North Tonawanda, NY 14120  
 Phone: 694-4492

From the Mayor:

March 18, 2002

Common Council  
 216 Payne Avenue  
 North Tonawanda, NY 14120

Dear Common Council:

Ascension Parish will be holding their second annual bike race on Saturday, August 10, 2002 at 2 PM

In order to ensure the safety of the racers and pedestrians, I will instruct the Police to block off vehicle traffic, and disallow parking on the block bounded by Keil, Oliver, Sommer and Payne, from 12 PM – 6 PM on the day of the Bike Race.

Sincerely,  
 David J. Burgio

MOVED by Alderman Schwandt      SECONDED by Alderman Rizzo  
 That the Common Council hereby receives and files the aforementioned communication.  
 CARRIED.

I.3  
 Mayor  
 Request from North Tonawanda Catholic Consolidated School

March 23, 2002

Mayor, City of North Tonawanda  
 216 Payne Avenue  
 North Tonawanda, NY 14120

Dear Mr. Mayor:

On June 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup>, 2002, North Tonawanda Catholic School will hold its 8<sup>th</sup> annual Carnival on the grounds of St. Albert the Great Church, Niagara Falls Blvd. All proceeds from this Carnival will be used for the support and improvement of our school.

In conjunction with the Carnival, we will be holding our 6<sup>th</sup> annual "5K RUN FOR EDUCATION" which is being sponsored by the Knights of Columbus, Madonna Council. This involves a 5K race and a fun run/walk (1 mile). The race and fun run will begin at 11:00 AM on the 9<sup>th</sup> of June. It will start at the corner of Melody Lane and Majestic Lane, proceed to Erie Avenue, to Wurlitzer Dr., to Vanderbilt Avenue, to Deerfield Drive, to Ohio Street, to Niagara Falls Blvd., through the parking lot at the front of the old Wurlitzer Bldg. and end where it started on Melody Lane.

Concerning the Carnival and 5K Run, we are requesting assistance from North Tonawanda for certain services that will make the weekend a success. Certain items will be needed beginning on Friday, June 7<sup>th</sup>. These are as follows:

- A Trash Packer
- Some snow fencing and stakes
- Garbage cans
- Picnic tables
- Permission and assistance to place a banner over Payne Avenue. (Early May)
- Street cones for reducing traffic on Erie Avenue for the length of time that the runners are on the street. (5K Run and Fun Run on 6/9)
- Police assistance for traffic control
- No Parking signs for the right hand side of Wurlitzer, Vanderbilt and Deerfield in the direction of the race. Also No Parking signs for the right hand side of Melody Lane facing in the direction of the race.

We are planning to open the event on Friday with a small parade. We are requesting permission to hold the parade which will tentatively begin in the Coach USA parking lot on Erie Avenue, move down Wurlitzer Dr. turn left at Erie Avenue, turn at Melody Lane and end behind St. Albert's church, just past the corner of Majestic Lane. We would hope to receive approval and some police support for the short time we will be on Erie Avenue. The Parade is scheduled to begin at 5:45pm on Friday, June 7<sup>th</sup>, 2002.

We would like to take this opportunity to again thank the city of North Tonawanda for its support during the previous years as we know we can count on your continuous support this year. If you should have any questions, please contact Joseph Suto at 692-9201, Russ Trippe (Race Director) 731-3078 or me at 692-6906.

Sincerely,  
Lawrence J. Pfalzer, Jr.  
Co-Chairperson

From the Mayor:

March 26, 2002

Common Council  
216 Payne Avenue  
North Tonawanda, NY 14120

Dear Common Council:

Please be advised that North Tonawanda Catholic School will hold its 8<sup>th</sup> annual Carnival and 5K Run June 7-9, 2002 at St. Albert the Great on Niagara Falls Blvd.

I will instruct the Dept. of Public Works, Recreation Dept. and the Police Department to assist them for this event.

Thank you.

Sincerely,  
David J. Burgio

MOVED by Alderman Rizzo                      SECONDED by Alderman Sommer  
That the Common Council hereby receives and files the aforementioned communication.  
CARRIED.

**II.1**  
**Attorney**

March 28, 2002

Hon. Mayor and Common Council  
 City Hall, 216 Payne Avenue  
 North Tonawanda, New York 14120

**RE: Renewal of Agreement with 627 Erie Avenue, Inc.**  
**(Dr. Hugg's Car Wash) for Washing City Vehicles**

Dear Honorable Body:

Attached, for your review, is a proposed renewal agreement between 627 Erie Avenue, Inc. (Dr. Hugg's Car Wash) and the City of North Tonawanda, for washing police and fire automobiles and passenger vehicles for the term March 7, 2002 through March 6, 2003. You will note that the cost for this service remains at last year's rate of \$4,000/year.

Please review, and if you concur, please pass a resolution authorizing the Mayor to execute the renewal agreement, subject to final review by the City Attorney. Thank you for your consideration in this matter.

Very truly yours,  
 Henry F. Wojtaszek  
 City Attorney

**MOVED by Alderman Rizzo**

**SECONDED by Alderman Soos**

That the Common Council hereby authorizes the Mayor to execute the renewal agreement with 627 Erie Avenue, Inc., (Dr. Hugg's Car Wash) for washing police and fire vehicles, for the term March 7, 2002 through March 6, 2003, at last year's rate of \$4,000/year, subject to final review by the City Attorney.

**Ayes: Soos, Rizzo, Sommer, Schwandt**

**(4)**

**Nays: None**

**(0)**

**CARRIED.**

**II.2**  
**Attorney**

March 28, 2002

Hon. Mayor and Common Council  
 City Hall, 216 Payne Avenue  
 North Tonawanda, New York 14120

**RE: Proposed Ordinance – Chapter 17**  
**Automobile Dealers**

Dear Honorable Body:

Attached for your review and approval is a proposed ordinance dealing with the licensing of automobile dealers engaged in the buying and selling of new or used automobiles within the City of North Tonawanda. This ordinance has been suggested to provide a method of regulating and addressing the problems arising from the operation of the many used car lots with the City of North Tonawanda.

Should you Honorable Body concur with the proposed ordinance, kindly pass a resolution for adoption at this time.

Should you need more information, or have any questions, please contact this office.

Very truly yours,  
 Shawn P. Nickerson  
 Assistant City Attorney

**MOVED by Alderman Soos**

**SECONDED by Alderman Rizzo**

**That the Common Council hereby adopts Chapter 17 of the City Code of the City of North Tonawanda entitled Automobile Dealers as follows:**

**City of North Tonawanda**

**Chapter 17**

**AUTOMOBILE DEALERS**

**§17-1. License required.**

**It shall be unlawful for any person, co-partnership, corporation or association to engage in or continue in the business of buying or selling any new or used automobiles, which business is herein designated as an automobile dealer and which person, unless such automobile dealer shall have complied with the provisions of this ordinance and obtained a license so to do from the Mayor of the City of North Tonawanda.**

**§17-2. Automobile dealer.**

**For the purposes of this section, any person, co-partnership, corporation or association who engages in the sale of three (3) or more automobiles at one time and stores said automobiles on his property for the purpose of selling them, is deemed an automobile dealer.**

**§17-3. Issuance of licenses.**

**The power and authority to grant or refuse the license provided for herein is hereby vested in the Mayor of the City of North Tonawanda, and in considering the same he shall take into account the character and nature of the neighborhood and surrounding property of the premises upon which it is proposed to conduct such business; the health, safety and general welfare of the public; and the character and reputation of the applicant in connection with the maintenance and operation of a business of this character. All licenses issued hereunder shall expire on the 31<sup>st</sup> day of December following the date of their issuance, unless sooner revoked for cause or by passage of an ordinance by the City of North Tonawanda further restricting the business for which such licenses shall have been issued.**

**§17-4. License fees.**

**All applications for said license shall be made to the City Clerk of the City of North Tonawanda. The fee for said license shall be one hundred dollars (\$100.00) per calendar year or a fractional part of such year for which a license hereunder shall be issued, which fee shall be payable to the City of North Tonawanda.**

**§17-5. Non-eligibility for license.**

**No person, association, co-partnership or corporation shall be entitled to or receive such license who or which, in case or a corporation or association any member of which has been, since January 1, 1940, or who or which shall hereafter be, convicted of larceny or knowingly receiving stolen property or violation of this act.**

**§17-6. Manner of Operation**

- (a) All dealerships must have valid legal title to vehicles appearing of the lot for sale.**
- (b) All automobile dealerships must comply with the existing zoning regulations.**
- (c) Hours of operation are subject to approval of the Zoning Board of Appeals.**
- (d) All vehicles sold shall not require additional repairs prior to their registration with the Department of Motor Vehicles.**
- (e) All facilities must conform with the New York State Uniform Fire Prevention and Building Code, environmental regulations as well as sewer use regulations and ordinances.**

- (f) All on-site lighting is subject to approval of the City Engineer and Building Inspector.
- (g) Property use shall be screened from all abutting residences and residential districts, in compliance with all existing zoning regulations.

#### §17-7. Vehicle Storage

- (a) No vehicle storage or repair shall be on public property, including but not limited to public streets.
- (b) Dealership property must be maintained in a neat and orderly manner. There shall be no accumulation of junk vehicles, tires, parts, garbage, refuse or debris on the property.
- (c) All surfaces for vehicle travel and storage are subject to approval of the City Engineer and Building Inspector.
- (d) All parking, vehicle storage areas and driveways must be in compliance with all existing zoning regulations.

#### §17-8. Violations and Penalties.

Any violation of any of the sections of this ordinance shall be deemed a city ordinance violation and shall be punishable by a fine not exceeding one hundred dollars (\$100.00) per day for each offense or imprisonment of up to fifteen (15) days in jail or both. Offenses shall continue to accrue daily until such time as the automobile dealer is no longer in violation.

#### §17-9. When effective.

This ordinance shall take effect immediately.

**CARRIED.**

### II.3

Attorney

March 28, 2002

Hon. Mayor and Common Council  
City Hall, 216 Payne Avenue  
North Tonawanda, New York 14120

RE: Proposed Ordinance – Chapter 28-A  
Contractors

Dear Honorable Body:

Attached for your review and approval is a proposed ordinance dealing with the licensing of building contractors within the City of North Tonawanda. Please note that this ordinance provides for a \$100.00 license fee and an annual renewal under §50 of the General Cities Law of the State of New York.

Should your Honorable Body concur with the proposed ordinance, kindly pass a resolution for adoption at this time.

Should you need more information, or have any questions, please contact this office.

Very truly yours,  
Shawn P. Nickerson  
Assistant City Attorney

MOVED by Alderman Schwandt                      SECONDED by Alderman Soos  
That the Common Council hereby adopts Chapter 28-A of the City Code of the City of  
North Tonawanda entitled Contractors as follows:

## City of North Tonawanda

## Chapter 28-A

## Contractors

**§28-A-1. License required.**

Each person duly licensed and engaging in business as a contractor for a fee, within the City of North Tonawanda, New York shall register annually with the City Clerk. Such registration shall run from January 1<sup>st</sup> to December 31<sup>st</sup> in each successive year, as provided in Sec. 50 of the General Cities Law of the State of New York.

**§28-A-2. Contractor.**

For the purposes of this section, any person, co-partnership, corporation or association engaged in the business of cement, blacktop or concrete contracting, either flat, form or wall work, or as a masonry contractor, or as a carpenter contractor, or as a tree trimmer, or as a general contractor, or as a commercial sign installer, electrical contractor, HVAC contractor, swimming pool installer, fence installer, and any person engaged in the construction, alteration or repair of buildings or other structures or pavement or demolition of buildings is deemed to be a contractor.

**§28-A-3. Issuance of licenses.**

The Building Inspector is hereby authorized to approve or deny applications for a contractor's license. Any application so approved shall be issued by the building inspector upon payment to the building inspector of the fee required by this section.

**§28-A-4. License fees.**

All applications for said license shall be made to the City Clerk of the City of North Tonawanda. The fee for said license shall be one hundred dollars (\$100.00) per calendar year or a fractional part of such year for which a license hereunder shall be issued, which fee shall be payable to the City of North Tonawanda.

**§28-A-5. Non-eligibility for license.**

No person, association, co-partnership or corporation shall be entitled to or receive such license who or which, in case of a corporation or association any member of which, has been, since January 1, 1940, or who or which shall hereafter, convicted of larceny or knowingly receiving stolen property or violation of this Act.

**§28-A-6. Application.**

The application shall contain the following information:

- (a) If a person, the name, date of birth, social security number, residence and business address of the applicant.
- (b) If a partnership, the name, date of birth, social security number, residence and business address of each partner.
- (c) If a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of the corporation; and if a foreign corporation, the date it was authorized to do business in the state, together with the names of the particular officers and local agents and their residence and business addresses as well as the corporation's taxpayer I. D. number,.
- (d) The number of years the applicant has engaged in the contracting business.
- (e) The specific type of business or work to be performed by the applicant.
- (f) The approximate number of persons to be employed by the applicant.
- (g) Whether or not there are any outstanding liens or judgments against the applicant.
- (h) Satisfactory evidence that employees of the applicant are covered by workers' compensation and disability insurance.

- (i) Satisfactory evidence that the applicant is covered by General Liability, Personal Injury and Property Damage Insurance.
- (j) Such other information as the building inspector may require.

**§28-A-7. Insurance.**

No permit shall be issued for the construction of a building or structure in the City or for the repair or alteration of the interior or exterior of any building or structure unless a certificate or other proof is filed showing that the contractor carried Workmen's Compensation Insurance, Disability Insurance and Public Liability Insurance with limits of at least \$100,000.00 for each person, \$300,000.00 for each accident or bodily injury liability and \$10,000.00 on property damage liability.

**§28-A-8. Licenses.**

- (a) All licenses shall expire each year on the 31<sup>st</sup> day of December.
- (b) Each license issued shall be posted in a conspicuous place on the contracting establishment.
- (c) Any license which has not been suspended or revoked may, upon the payment of a fee prescribed by this article, be renewed for additional period of one (1) year from its expiration upon the filing of an application for renewal on a form to be prescribed by the Building Inspector upon payment of the fee prescribed therefore by this section.
- (d) A duplicate contractor's license may be issued for a lost, destroyed or mutilated license upon application therefore to the building inspector and upon payment of a \$100.00 license replacement fee.
- (e) No license shall be assignable or transferable.

**§28-A-9. Revocation.**

It shall be the duty of all building contractors to comply with all ordinances relating to the construction of buildings or other structures, to the construction of streets or sidewalk pavement, and all laws or ordinances pertaining to or regulating the activities engaged in.

Any Contractor's license may be revoked by the Building Inspector for repeated violations of any ordinance relating to the construction of buildings, building permits, the use of streets, or the replacing of streets, sidewalks, or parkways or any other ordinance relating to the work performed by such contractor.

The Building Inspector shall also revoke any license upon the Contractor's failure to keep insurance coverage in force.

Such revocation may be in addition to any fine imposed for violating this ordinance.

**§28-A-10. Violations and Penalties.**

Any person, firm or corporation violating any provision of this ordinance shall be guilty of a violation and subject to a fine not exceeding \$250.00 or imprisonment of up to fifteen (15) days in jail or both. Offenses shall continue to accrue daily until such time as the contractor is no longer in violation.

**§28-A-11. Review Board**

- (a) **Formation and Composition**
  - (i) There is hereby established in and for the City of North Tonawanda a Contractor Registration Review Board. (hereinafter referred to as the "Board")
  - (ii) The Board shall be appointed by the Code Enforcement Officer annually, for a term of one (1) year.
  - (iii) The Board shall consist of five (5) members.
  - (iv) The Board shall designate one (1) member to serve as Chairman each year, thereof.
  - (v) A majority of the members shall constitute a quorum.

- (vi) At least one (1) member of the Board shall be a Home Improvement Contractor who resides and his place of business in the City of North Tonawanda.
- (vii) At least three (3) members of the Board shall be experienced in the field of home improvements.
- (viii) All members of the Board shall be residents of the City of North Tonawanda and shall serve without compensation.

**(b) Function**

It is the function of this Board to hear and determine any complaints or grievances that may be the basis for suspension, revocation or denial of a contractor's license upon a finding that the applicant has been guilty of any one of the following:

- (i) Fraud, misrepresentation, bribery in securing a contractor's license;
- (ii) The making of any false statement as to a material matter in any application for a contractor's license;
- (iii) The contractor or any of its employees has engaged in fraudulent business practices;
- (iv) Failure to display the contractor's license as provided in this chapter;
- (v) Failure to comply with any lawful demand or requirement made by the building inspector or code enforcer;
- (vi) Violation of any provision of this chapter;
- (vii) Willful or deliberate disregard and violation of the building, sanitary, fire and health laws of the City, County or State;
- (viii) Failure to notify the Building Inspector of any change of control in ownership, management or in the business name or location;
- (ix) Conducting a Home Improvement business in any name other than the one in which the Home Improvement Contractor is registered;
- (x) Failure to obtain any required building permit;
- (xi) Poor or faulty workmanship of any Home Improvement Contractor;
- (xii) Conviction of a State or Federal Crime; or
- (xiii) Complaints by a resident of the City of North Tonawanda who have entered a Home Improvement Contract with a licensed contractor.

**(c) Procedure**

- (i) If the Board upon reasonable cause should believe that any contractor has violated any of the provisions of this ordinance, such Board shall have the power to make such investigation as it shall deem necessary or advisable.
- (ii) There shall be no suspension or revocation of a contractor's license until a hearing is held by the Board.
- (iii) The Board shall notify the license holder of said hearing. The notice shall be in writing, specifying the time, date and place of said hearing as well as its purpose.
- (iv) The license holder and any other interested party shall be given a reasonable opportunity to be heard.
- (v) The determination or recommendation of the Board shall be in writing and shall specify the grounds upon which it is based.

**(d) Powers**

- (i) To revoke or suspend a contractor's license if it determines the license holder has been guilty of any act or circumstances set forth in this chapter.
- (ii) After such suspension or revocation, the Board shall direct the Building Inspector to notify the license holder that his contractor's license is suspended or revoked.
- (iii) Once a license is suspended or revoked, the contractor shall immediately surrender his license to the Building Inspector.
- (iv) In lieu of a suspension or recommendation to the Building Inspector, the Board may accept a written assurance of a compromise between the parties.

§28-A-12. When effective.

This ordinance shall become effective immediately upon publication.

**CARRIED.**

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**II.4**

Attorney

March 28, 2002

Hon. Mayor and Common Council  
City Hall, 216 Payne Avenue  
North Tonawanda, New York 14120

**RE: Creation of New North Tonawanda Fire Department**

Dear Honorable Body:

In accordance with the new City Charter of North Tonawanda, New York, Sections 3.002(a)(2) and 3.002(c), which took effect on January 1, 2002, and consistent with Civil Service Law, please be advised that the Mayor of the City of North Tonawanda hereby wishes to create a new North Tonawanda Fire Department, effective immediately.

If your Honorable Body concurs, please pass a resolution to abolish the current North Tonawanda Fire and Police Departments and to create a new North Tonawanda Fire and Police Department, consistent with the new City Charter and Civil Service law, effective immediately.

Very truly yours,  
Henry F. Wojtaszek  
City Attorney

**MOVED by Alderman Rizzo**

**SECONDED by Alderman Soos**

That the Common Council hereby abolishes the current North Tonawanda Fire and Police Departments and creates new North Tonawanda Fire and Police Departments, consistent with the new City Charter and Civil Service law, effective immediately.

Ayes: Soos, Rizzo, Sommer

(3)

Nays: Schwandt

(1)

**CARRIED.**

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**II.5**

Attorney

March 28, 2002

Hon. Mayor and Common Council  
City Hall, 216 Payne Avenue  
North Tonawanda, New York 14120

**Re: 2002 Grant Agreement with Niagara County  
Park Benches – Gateway Park**

Dear Honorable Body:

We have been notified that \$2,250 has been made available to the City of North Tonawanda from Niagara County toward the park benches at Gateway Park.

To accept the funds and allow the project to continue, please authorize the Mayor to execute the agreement with Niagara County.

Very truly yours,  
Henry F. Wojtaszek  
City Attorney

**MOVED by Alderman Schwandt                      SECONDED by Alderman Soos**  
**That the Common Council hereby authorizes Mayor David J. Burgio to execute the 2002 Grant Agreement with Niagara County in the amount of \$2,250 for park benches for Gateway Park.**  
**CARRIED.**

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**II.6**  
**Attorney**

**March 28, 2002**

**Hon. Mayor and Common Council**  
**City Hall, 216 Payne Avenue**  
**North Tonawanda, New York 14120**

**Re:    Niagara County Cornell Co-Operative Extension Master Gardeners' Program**  
**Use of City Market for PH Soil Testing Program**

**Dear Honorable Body:**

**The Niagara County Cornell Co-Operative Extension Mast Gardeners' Program has asked permission to use the City Market for a PH soil testing program.. They have proposed to offer this community service on Saturday, May 18 and June 8, 2002, from 8:00 AM until 11:00 AM and would publicize the dates in our local newspapers.**

**In addition, they ask, at this time, if the daily space rental fee could be waived on the above two dates.**

**If you Honorable Body concurs, please pass a resolution to allow the Niagara County Cornell Co-Operative Extension Master Gardeners' Program to use the City Market on May 18 and June 8, 2002, and that the daily space rental fee be waived for the PH soil testing program on those dates.**

Very truly yours,  
Henry F. Wojtaszek  
City Attorney

**MOVED by Alderman Sommer                      SECONDED by Alderman Rizzo**  
**That the Common Council hereby grants the Niagara County Cornell Co-Operative Extension Master Gardeners' Program permission to use the City Market on May 18 and June 8, 2002 for the PH soil testing program, and further waives the daily space rental fee on those dates.**  
**CARRIED.**

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**VII.1**  
**Accountant**

**March 28, 2002**

**Honorable David J. Burgio, Mayor**  
**and Common Council**  
**North Tonawanda, NY 14120**

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the new City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council Audit dated April 3, 2002, and further authorize the Mayor and City Clerk respectively sign and countersign said Warrant.

Very truly yours,  
David R. Jakubaszek  
City Accountant

MOVED by Alderman Schwandt

SECONDED by Alderman Rizzo

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated April 3, 2002, and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$430,053.56
02	Water Fund	39,279.00
04	Sewer Fund	83,367.59
06	Capital Projects Fund	38,289.70
07	Trust & Agency Fund	400.35
08	Community Development	24.11
11	General Fund Encumbered	17,266.02
14	Sewer Fund Encumbered	8,941.52
17	Home Rehab Program	<u>10,409.00</u>
	FINAL TOTAL	<u>\$628,030.85</u>

Ayes: Soos, Rizzo, Sommer, Schwandt

(4)

Nays: None

(0)

CARRIED.

VII.2

Accountant

March 28, 2002

Honorable David J. Burgio, Mayor  
and Common Council  
North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with a clause in our 1992 Serial Bond Issue, which provides that option for the city to call serial bonds after ten years (2002), and the excellent market conditions available to refinance debt with lower interest rates, I am recommending that the Common Council adopt a refunding bond resolution. The projected savings of this refunding is over \$62,000. The Mayor and City Treasurer are in concurrence with this opportunity.

Accordingly, please find a communication and a serial bond resolution from our Bond Counsel, Fitzpatrick & Waterman. The referenced serial bond resolution is in the aggregate amount not to exceed of \$1,900,000, and will be used to finance the refunding of the remainder of the 1992 Serial Bond Issue.

Please have this resolution adopted by a two-thirds vote and have it published in the official newspaper of the City, together with the legal notice of estoppel.

Very truly yours,  
David R. Jakubaszek  
City Accountant

4-3-02

Alderman Schwandt moved the adoption of the following refunding bond resolution. The motion was seconded by Alderman Sommer. The Common Council was polled. The motion was adopted by a vote of four affirmative votes (being at least two-thirds of the voting strength of the Common Council) and no negative votes.

**REFUNDING BOND RESOLUTION, DATED APRIL 3, 2002, OF THE CITY OF NORTH TONAWANDA, NEW YORK, PROVIDING FOR THE REFINANCING OF CERTAIN GENERAL OBLIGATION REFUNDING BONDS OF THE CITY ISSUED IN 1992 BY MEANS OF THE ISSUANCE OF NOT TO EXCEED \$1,900,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2002, MAKING CERTAIN FINDINGS PRESCRIBED BY THE NEW YORK STATE LOCAL FINANCE LAW AND AUTHORIZING THE CITY'S CHIEF FISCAL OFFICER TO TAKE FURTHER ACTION IN THIS REGARD.**

WHEREAS, the Common Council of the City of North Tonawanda, (the "Common Council" and the "City", respectively), located in the County of Niagara, State of New York (the "State"), has previously authorized and issued certain indebtedness, referred to as the "City of North Tonawanda, New York, General Obligation Refunding Bonds, Series A 1992" (hereinafter, the "Series 1992 Bonds") issued in the form of current interest serial bonds to refinance certain outstanding obligations originally issued to fund various capital projects authorized by the Common Council pursuant to the New York State Local Finance Law (hereinafter, the "Local Finance Law");

WHEREAS, certain maturities of the Series 1992 Bonds that were issued at interest rates significantly higher than rates of interest currently, are now eligible for redemption from the proceeds of new indebtedness to be issued by the City to refinance said existing indebtedness without extending the overall maturity thereof; and

WHEREAS, the City hereby intends to authorize refunding bonds at lower rates of interest than that portion of the Series 1992 Bonds eligible for redemption and bearing rates of interest above current market rates, in order to reduce the City's overall debt burden and achieve savings for the benefit of the City and its inhabitants.

NOW THEREFORE, BE IT RESOLVED, by the Common Council of the City, as follows:

**Section 1.** There is hereby authorized to be issued general obligation refunding bonds of the City of North Tonawanda, New York (hereinafter, the "Refunding Bonds"), in the aggregate principal amount not to exceed \$1,900,000 pursuant to Section 90.00 of the Local Finance Law, in order to redeem on June 1, 2002 that portion of the Series 1992 Bonds maturing on December 1 in each of the years 2003 through, and including, 2007 and currently outstanding in the aggregate principal amount of \$1,660,000.

**Section 2.** The aggregate principal amount of the Refunding Bonds authorized hereby to be finally approved by the Chief Fiscal Officer of the City following the sale

thereof, shall be issued and dated June 1, 2002 and shall be issued by the City in an amount not exceed an amount sufficient to pay the sum of (a) the aggregate principal amount of the Series 1992 Bonds to be refunded, (b) the amount of the interest due and payable on the Series 1992 Bonds redeemed through the date of their redemption, (c) the amount of the redemption premium due and payable on the Series 1992 Bonds to be redeemed and (d) the costs of issuance of the Refunding Bonds, including the cost of municipal bond insurance, if any, payable by the City.

**Section 3.** The Refunding Bonds hereby authorized (i) shall be sold at competitive sale, (ii) each annual installment of the Refunding Bonds may be determined without reference to the stated annual maturities of the Series 1992 Bonds to be refunded, provided however, the overall maturity of the Series 1992 Bonds shall not be extended and the periods of probable usefulness applicable to the Series 1992 Bonds and the original indebtedness refinanced thereby, shall not be exceeded, and (iii) the Chief Fiscal Officer shall be authorized to approve the sale and the issuance of the Refunding Bonds with substantially level debt service or any form of declining annual debt service, either necessary or prudent, in order to maximize the savings from the issuance of the Refunding Bonds to the City.

**Section 4.** The City Treasurer, as chief fiscal officer of the City, is hereby authorized to approve the final form, content, sale, execution and details pertaining to the offering, sale, issuance and delivery of the Refunding Bonds, provided however, that the total payments of both principal and interest to become due on the Refunding Bonds, after deducting all of the costs related to the issuance and delivery of the Refunding Bonds and the costs of the redeeming the Series 1992 Bonds, including the redemption premium payable upon redemption thereof, shall be less than the total amount of principal and interest otherwise due and payable with respect to the Series 1992 Bonds to be redeemed throughout their remaining term to maturity. The Mayor and the City Treasurer are hereby authorized to execute on behalf of the City all Refunding Bonds issued pursuant to this bond resolution and the City Clerk is hereby authorized to affix the seal of the City to all such Refunding Bonds. Such Refunding Bonds, if, as and when issued shall be authenticated by the countersignature of a fiscal agent of the City or by the appropriate designated officer of the City pursuant to Section 60.00, as amended, of the Local Finance Law.

**Section 5.** When this refunding bond resolution takes effect, (i) the City Clerk of the City shall be authorized to cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the Metro Community News, a newspaper having a general circulation in the City and published in North Tonawanda, New York, and (ii) the Fiscal Agent with respect to the

Refunding Bonds shall be authorized to publish and to distribute, as appropriate, all notices to bondholders in order to effect the redemption of the Series 1992 Bonds. The validity of the Refunding Bonds authorized by this refunding bond resolution may be contested only if such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or the provisions of law which should be complied with at the date of the publication of this refunding bond resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of principal and interest on all obligations authorized and issued pursuant to this refunding bond resolution as the same shall become due.

Section 7. The City covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the alternative minimum tax imposed on corporations by Section 55 of the Code and except for the environmental tax imposed on corporations by Section 59A of the Code) or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by Section 55 of the Code and except for the environmental tax imposed on corporations by Section 59A of the Code) or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the bonds or any other provision hereof until the date which is 60 days after the final maturity date or earlier prior redemption date thereof.

Section 8. This refunding bond resolution shall become effective immediately upon its adoption by the Common Council of the City.

**CARRIED.**

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**VII.3  
Accountant**

March 28, 2002

Honorable David J. Burgio, Mayor  
and Common Council  
North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with the adopted fiscal year 2002 Capital Improvements Budget, please find a communication and a serial bond resolution from our Bond Counsel, Fitzpatrick & Waterman. The referenced serial bond resolution is in the aggregate amount of \$1,849,000, and will be used to finance various capital projects and equipment acquisitions approved in the Capital Budget.

Please have this resolution adopted by a two-thirds vote and have it published in the official newspaper of the City, together with the legal notice of estoppel.

Very truly yours,  
David R. Jakubaszek  
City Accountant

Alderman Sommer moved the adoption of the following serial bond resolution. The motion was seconded by Alderman Rizzo. The Common Council was polled. The motion was adopted by a vote of four affirmative votes (being at least two-thirds of the voting strength of the Common Council) and no negative votes.

**SERIAL BOND RESOLUTION, DATED APRIL 3, 2002, AUTHORIZING THE ISSUANCE OF \$1,849,000 AGGREGATE PRINCIPAL AMOUNT OF SERIAL BONDS OF THE CITY OF NORTH TONAWANDA, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE: (1) CONSTRUCTION OF A NEW SHERWOOD PUMP STATION; (2) IMPROVEMENTS TO THE CITY'S GOLF COURSE FACILITIES; (3) IMPROVEMENTS TO THE ENGINE FOUR FIRE HALL ROOF; (4) THE COSTS OF A CITY HALL ENERGY AUDIT AND RELATED EXPENDITURES; (5) IMPROVEMENTS TO THE CITY'S CANAL WALL FLOATING DOCKS; (6) THE COSTS RELATED TO CLEANUP OF STORAGE TANKS AT 815 RIVER ROAD; (7) CERTAIN VEHICLES AND EQUIPMENT FOR THE CITY'S DEPARTMENT OF PUBLIC WORKS; (8) A SALT STORAGE FACILITY AND REFUSE COLLECTION SYSTEM FOR THE CITY'S DEPARTMENT OF PUBLIC WORKS; (9) EQUIPMENT FOR THE CITY'S RECREATION DEPARTMENT; AND (10) CERTAIN IMPROVEMENTS TO THE CITY'S WASTEWATER TREATMENT PLANT, TOGETHER WITH ALL OF THE COSTS OF ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND INSTALLATION FUNCTIONALLY RELATED AND SUBORDINATE TO EACH OF THE FOREGOING.**

WHEREAS, the Common Council of the City of North Tonawanda, (the "Common Council" and the "City", respectively), located in the County of Niagara, State of New York (the "State"), desires to provide certain expenditures related to construction of a new Sherwood Pump Station, improvements to the City's golf course facilities, the cost of improvements to the Engine Four Fire Hall roof, the costs of a City Hall energy audit and related expenditures, the cost of improvements City's canal wall floating docks, the cleanup costs related to the storage tanks at 815 River Road, certain vehicles and equipment for the City's Department of Public Works, a salt storage facility and refuse collection system for the City's Department of Public Works,

equipment for the City's Recreation Department, and certain improvements to the City's wastewater treatment plant, including all of the costs and expenses of acquisition, construction, equipment, furnishings and appurtenances functionally related and subordinate to each of the foregoing.

NOW THEREFORE, BE IT RESOLVED, by the Common Council of the City as follows:

**Section 1.** There is hereby authorized to be issued serial bonds of the City of North Tonawanda, New York, in the aggregate principal amount of \$1,849,000 pursuant to the Local Finance Law, in order to finance the class of objects or purposes, or specific objects or purposes, hereinafter described.

**Section 2.** The specific classes of objects or purposes, or specific objects or purposes, to be financed pursuant to this serial bond resolution, the estimated maximum cost of each object or purpose, the principal amount of serial bonds authorized herein for each object or purpose and the period of probable usefulness of each object or purpose pursuant to the applicable subdivision of paragraph a. of Section 11.00 of the State of New York Local Finance Law (the "Local Finance Law"), are set forth hereinbelow as follows:

(a) provide for the construction, acquisition, reconstruction, renovation and To provide for the cost of construction, acquisition, reconstruction, renovation and installation of the Sherwood Pump Station, including all of the costs and expenses functionally related and subordinate thereto, at an estimated maximum cost of \$375,000.00, for which \$375,000.00 aggregate principal amount of serial bonds are authorized herein, having a period of probable usefulness of twelve years (12) years pursuant to subdivision 34 of paragraph a. of Section 11.00 of the Local Finance Law;

(b) To installation of improvements to the City's golf course, consisting of repairs to the golf course maintenance building roof at an estimated maximum cost of \$35,000.00, improvements to the golf course pump station at an estimated maximum cost of \$50,000.00 and renovation to the golf course clubhouse at an estimated maximum cost of \$50,000.00, including all costs functionally related and subordinate to each of the foregoing, at an estimated maximum cost of \$135,000.00, for which \$135,000.00 principal amount of serial bonds are authorized herein, having a period of probable usefulness of fifteen (15) years pursuant to subdivision 54 of paragraph a. of Section 11.00 of the Local Finance Law;

(c) To provide for the cost of improvements to the Engine Four Fire Hall roof, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$35,000.00, for which \$35,000.00 principal amount of serial

bonds are authorized herein, having a period of probable usefulness of ten (10) years pursuant to subdivision 12 of paragraph a. of Section 11.00 of the Local Finance Law;

(d) To provide for the cost of a City Hall energy audit, including lighting, heating, ventilation and air conditioning, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$50,000, for which \$50,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of ten (10) years pursuant to subdivision 13 of paragraph a. of Section 11.00 of the Local Finance Law;

(e) To provide for the cost of repairs to the canal wall floating docks, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$100,000, for which \$100,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of fifteen (15) years pursuant to subdivision 19-c of paragraph a. of Section 11.00 of the Local Finance Law;

(f) To provide for the cost of cleanup relating to the 815 River Road storage tanks, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$25,000, for which \$25,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of five (5) years pursuant to subdivision 88 of paragraph a. of Section 11.00 of the Local Finance Law;

(g) To provide for the cost of three recycling trucks and certain equipment, including a stump cutter, milling machine, soil shredder and paint stripper, for the Department of Public Works, together with all of the costs and expenses functionally related and subordinate thereto, at an estimated maximum cost of \$310,000, for which \$310,000 aggregate principal amount of serial bonds are authorized herein, having a period of probable usefulness of five years (5) years pursuant to subdivisions 29 and 32 of paragraph a. of Section 11.00 of the Local Finance Law;

(h) To provide for the cost of construction, acquisition, reconstruction, renovation and installation of a salt storage facility for the City's Department of Public Works, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$143,000, for which \$143,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of fifteen (15) years pursuant to subdivision 12 of paragraph a. of Section 11.00 of the Local Finance Law;

(i) To provide for the cost of construction, acquisition, reconstruction, renovation and installation of a refuse collection system for the City's Department of Public Works, including all of the costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$171,000, for which \$171,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of

five (5) years pursuant to subdivision 35 of paragraph a. of Section 11.00 of the Local Finance Law;

(j) To provide for the cost of acquisition of two rotary style lawn mowers for the City's Recreation Department, including all costs functionally related and subordinate to the foregoing, at an estimated maximum cost of \$25,000, for which \$25,000 principal amount of serial bonds are authorized herein, having a period of probable usefulness of five (5) years pursuant to subdivision 28 of paragraph a. of Section 11.00 of the Local Finance Law;;

(k) To provide for the cost of construction, acquisition, reconstruction, renovation and installation of improvements to the City's wastewater treatment plant, including improvements to the carbon regeneration furnace at an estimated maximum cost of \$35,000, the rebuilding of the cogeneration engine at an estimated maximum cost of \$30,000.00, maintenance to the switch gear drive at an estimated maximum cost of \$40,000.00, repairs to the building, roof and basin at an estimated maximum cost of \$140,000.00, computerization of the MCP/basin at an estimated maximum cost of \$35,000.00 and replacement of the activated carbon at an estimated maximum cost of \$200,000.00, including all of the costs functionally related and subordinate to the foregoing, for which \$480,000 aggregate principal amount of serial bonds are authorized herein, having a period of probable usefulness of thirty (30) years pursuant to subdivision 4 of paragraph a. of Section 11.00 of the Local Finance Law.

Section 3. The Common Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the class of objects or purposes or specific objects or purposes listed in Section 2 above is \$1,849,000 (b) no money has heretofore been authorized to be applied to the payment of the costs of such objects or purposes and (c) the Common Council of the City plans to finance the costs of such objects or purposes from funds raised by the issuance of obligations authorized herein.

Section 4. Subject to the terms and conditions of this serial bond resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 62.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this serial bond resolution and the renewal of such bond anticipation notes and the power to prescribe the terms, form and contents of such serial bonds (including the amortization thereof with substantially level or declining debt service) and such bond anticipation notes, including renewals thereof, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, including renewals thereof, is hereby delegated to the City Treasurer, as chief fiscal officer of the City. The Mayor and the City Treasurer are hereby authorized to execute on behalf of the City all serial bonds issued

pursuant to this bond resolution and all bond anticipation notes, including renewals thereof, issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to affix the seal of the City to all such serial bonds and all such bond anticipation notes, including renewals thereof, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the facsimile signature of the City Treasurer and the City Mayor. Such serial bonds, if, as and when issued shall be authenticated by the countersignature of a fiscal agent of the City or by the appropriate designated officer of the City pursuant to Section 60.00, as amended, of the Local Finance Law.

**Section 5.** When this serial bond resolution takes effect, the City Clerk of the City shall cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the Metro Community News, a newspaper having a general circulation in the City and published in North Tonawanda, New York. The validity of the serial bonds authorized by this serial bond resolution and of bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or the provisions of law which should be complied with at the date of the publication of this serial bond resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

**Section 6.** The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of principal and interest on all obligations authorized and issued pursuant to this serial bond resolution as the same shall become due.

**Section 7.** Prior to the issuance of obligations authorized to be issued by this serial bond resolution, the Common Council of the City shall comply with all relevant provisions prescribed in Article 8 of the Environmental Conservation Law and the regulations promulgated thereunder by the New York Department of Environmental Conservation, if any, relating to any objects or purposes authorized herein to be financed through the issuance of general obligations of the City.

**Section 8.** The City covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue

Code of 1986, as amended (the "Code") (except for the alternative minimum tax imposed on corporations by Section 55 of the Code and except for the environmental tax imposed on corporations by Section 59A of the Code) or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by Section 55 of the Code and except for the environmental tax imposed on corporations by Section 59A of the Code) or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the bonds or any other provision hereof until the date which is 60 days after the final maturity date or earlier prior redemption date thereof.

**Section 9.** This serial bond resolution shall become effective immediately upon its adoption by the Common Council of the City.

**CARRIED.**

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X.  
Police Dept.

March 28<sup>th</sup>, 2002

Honorable David J. Burgio, Mayor  
City of North Tonawanda  
216 Payne Avenue  
North Tonawanda, NY 14120

Re: Military Leave

Dear Mayor Burgio:

As I'm sure you are aware, Police Officer James Daugherty, our DARE Officer, is also a Sergeant in the 914<sup>th</sup> Mission Support of the United States Air Force Reserve. His unit was activated after the September 11<sup>th</sup> incident.

On November 20<sup>th</sup>, 2001 the Common Council passed a resolution extending his military leave for an additional ninety (90) days; thereby continuing his full pay and benefits, with the City only paying the difference between his military pay and his normal police officer pay.

These additional 90 days of military leave will expire on or about April 9<sup>th</sup>. I respectfully ask that you petition the Common Council to extend that resolution for an additional 90 days.

Respectfully,  
Carl W. Stiles  
Chief of Police

