

**THE HONORABLE BODY**  
**Council Chambers**  
**Municipal Building**  
**North Tonawanda, New York 14120**  
**Wednesday, June 5, 2002**  
**6:10 P.M.**

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

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

**Absent:**                    **Alderman Rizzo**

**Also Present:**            **Mayor David J. Burgio**  
                                      **Assistant City Attorney Shaun Nickerson**

**APPROVAL OF THE MINUTES OF THE REGULAR SESSION HELD MAY 15, 2002**

**MOVED** by Alderman Schwandt                    **SECONDED** by Alderman Sommer  
**That the minutes of the regular session held on May 15, 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 MAY 8, 2002**

**MOVED** by Alderman Sommer                    **SECONDED** by Alderman Hogan  
**That the minutes of the special session held on May 8, 2002 be approved as circulated and filed in the Office of the City Clerk.**  
**CARRIED.**

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**PROOF OF PUBLICATION PUBLISHED FEBRUARY 1 & 8, 2002**

- 1) **Treasurer's Notice for Collection of Niagara County Tax**

**PROOF OF PUBLICATION PUBLISHED APRIL 12, 2002**

- 1) **Bid – Road Building Materials – DPW**

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

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**AUDIENCE PARTICIPATION**

**Sonia Dusza, 123 Miller St., asked about Community Development, and stated that she would like to see a bike path from Buffalo to North Tonawanda.**

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**COMMUNICATIONS FROM CITY OFFICIALS**

**II.**  
**Attorney**

**May 31, 2002**

**Honorable Mayor and Common Council  
216 Payne Avenue  
North Tonawanda, New York 14120**

**Re: Proposed Alley Abandonment –  
Between Christiana & E. Goundry Streets**

**Dear Honorable Body:**

**Mr. Paul Hojnowski has requested that an alley that runs easterly from Division Street and between Christiana and East Goundry Streets be abandoned to abutting property owners. Said alley would be abandoned from Division Street to a point 302 feet easterly of Division Street. The portion of the alley from said point to Spruce Street was abandoned earlier.**

**The city does have a 20-inch interceptor sewer that runs within the alley leading to pump station number 2. If the city decides to abandon the alley to the abutting property owners, it should retain an easement over the alley so that future repairs can be made to said sewer, if required.**

**If you concur, please pass a motion abandoning said alley and direct this office to prepare deeds to the abutting landowners retaining an easement over said alley for access to repair or replace said interceptor sewer.**

**Very truly yours,  
Robert Sondel  
Assistant City Attorney**

**MOVED by Alderman Hogan                      SECONDED by Alderman Soos  
That the Common Council hereby decided to discontinue an alleyway that is located easterly from Division Street and between Christiana and East Goundry Streets, and**

**BE IT FURTHER RESOLVED, that a copy of this notice is to be published once a week for two consecutive weeks, said Notice to state that final action for said discontinuance shall take place at the regular session of the Common Council to be held on June 19, 2002.**

**CARRIED.**

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**IV.1**  
**Engineer**

**May 30, 2002**

**Honorable David J. Burgio, Mayor  
And Common Council Members  
City Hall  
North Tonawanda, New York 14120**

**Re: Roblin Steel Brownfield Project 98-5  
Contract Agreement – Amendment No. 3**

**Honorable Body:**

**As you are aware, the Record of Decision was issued on February 2002 for the Roblin Steel Site, and was based upon a two-year effort by the City’s Consultant, Stearns and Wheler, performing the Site Investigation and Remedial Alternatives Report, under Phase I of the NYSDEC’s Brownfield Program.**

In order to proceed with Phase II, the Remediation and Demolition for reuse of the site, it will be necessary for the City to retain a consultant, to develop the work plan, technical plans, specifications, cost estimates, and to perform monitoring and inspection. Once the work plan is completed, it will be submitted for review and approval by NYSDEC, and the State Assistance Contract between the City and State will be forthcoming.

Currently, the State Assistance Contract will reimburse the City seventy five (75) percent of the remedial costs and fifty (50) percent of the demolition costs. It is anticipated that remedial cost reimbursement will increase to ninety (90) percent when the State Budget is adopted.

I have requested a proposal and negotiated an agreement with Stearns and Wheler, which was reviewed with NYSDEC representatives, and in accordance with their Consultant Review Checklist for Environmental Restoration (Brownfield) Programs.

Accordingly, I respectfully request that the Common Council approve the agreement with Stearns and Wheler, L.L.C., to provide engineering consulting services for Phase II of the Roblin Steel Brownfield Site Project in the amount of \$294,650; authorizing the Mayor to sign said agreement, subject to review by the City Attorney.

Very truly yours,  
Dale W. Marshall, P.E.  
City Engineer

**MOVED** by Alderman Hogan                      **SECONDED** by Alderman Schwandt  
That the Common Council hereby approves the agreement with Stearns and Wheler, L.L.C., to provide engineering consulting services for Phase II of the Roblin Steel Brownfield Site, Project 98-5 in the amount of \$294,650; authorizes the Mayor to sign said agreement, subject to review by the City Attorney.

Ayes: Soos, Hogan, Sommer, Schwandt (4)

Nays: None (0)

**CARRIED.**

**VI.2**  
**Engineer**

May 30, 2002

Honorable David J. Burgio, Mayor  
And Common Council Members  
City Hall  
North Tonawanda, New York 14120

Re: Gratwick- Riverside Park Remediation, Project 87-16  
Contract Amendment

Dear Honorable Body:

This letter is a request to amend the original agreement with Conestga-Rovers and Associates (CRA) for additional expenses incurred by the Participating Parties for the Gratwick-Riverside Park Site Remediation Project. The additional expenses were for extra services provided during the course of construction. Also, expenses are being incurred for on going site operations and maintenance, while delays involving legal issues are being resolved with Haseley Construction Company and their Bonding Company, and with the transfer of the property to the City. Attached is a letter from CRA, which details the additional scope of work.

Currently the funds are available in the existing project budget, where the City's share is reimbursable under the State Assistance Contract. The City's share of additional expenses is approximately nine (9) percent once reimbursement is received.





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 June 5, 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 Hogan**  
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated June 5, 2002, and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$325,518.50
02	Water Fund	29,921.84
04	Sewer Fund	69,452.82
06	Capital Projects Fund	78,446.78
07	Trust & Agency Fund	3,178.00
08	Community Development	6,115.95
11	General Fund Encumbered	<u>1,033.75</u>
	<b>FINAL TOTAL</b>	<b><u>\$513,667.64</u></b>

Ayes: Soos, Hogan, Sommer, Schwandt (4)  
Nays: None (0)  
CARRIED.

VII.2  
Accountant

May 15, 2002

Honorable David J. Burgio, Mayor  
And Common Council  
City Hall  
North Tonawanda, NY 14120

Dear Honorable Body:

In accordance with the adopted 2002 General Fund Budget, funds were appropriated to provide a 35 cent increase in the hourly rate for the position of Deputy Registrar. The Registrar recommended this increase due to the confidential nature and responsibility associated with the office of Vital Statistics. The deputy works only when the Registrar is not in the office and the project maximum cost to the city is a total of \$294.00. The Mayor has reviewed and approved said increase.

Accordingly, please authorize the Deputy Registrar to receive a 35 cent increase to her hourly rate, from \$8.65 to \$9.00 per hour, effective June 1, 2002.

Very truly yours,  
David R. Jakubaszek  
City Accountant





Division of Coastal Resources, New York State Department of State, for matching resources under the Environmental Protection Fund, Local Waterfront Revitalization Program (LWRP), to certify the information in the application, and to act on behalf of the City of North Tonawanda on all matters related to financial assistance under the LWRP.

Thank you for your cooperation.

Sincerely,  
Michele A. Tow  
Community Development Director

MOVED by Alderman Soos

SECONDED by Alderman Hogan

That the Common Council hereby authorizes Mayor David J. Burgio to sign and submit the application to the Division of Coastal Resources, New York State Department of State, for matching resources under the Environmental Protection Fund, Local Waterfront Revitalization Program (LWRP), to certify the information in the application, and to act on behalf of the City of North Tonawanda on all matters related to financial assistance under the LWRP.

CARRIED.

### COMMUNICATIONS FROM OTHERS

A.

The Stringed Edition Guitar  
Ensemble, Inc.

May 28, 2002

Mr. Michael Cox  
North Tonawanda City Clerk  
216 Payne Avenue  
North Tonawanda, NY 14120

Dear Mr. Cox:

We are pleased to inform you that "The Stringed Edition Guitar Ensemble, Inc." is hosting the 2<sup>nd</sup> Annual, "Gateway Cities Jazz and Blues Festival", which is scheduled to take place on Saturday and Sunday, August 17 and 18, 2002 at "The Gateway Harbor Park". All performances are free and open to the public. The sole purpose of this two days event is to attract visitors to the Tonawandas and promote tourism.

We are requesting permission from you and the North Tonawanda Common Council to hold this event. If permission is granted, we request trash pick up & removal (both days), police presence (both days), and that Sweeney Street between Webster and Main Streets be cordoned off from 12:00 pm to 11:00 pm on both days.

Please circulate a copy of this letter to the council members.

This event will generate interest in our area for many years to come. Thank you.

Sincerely yours,  
Pete Hankinson  
Artistic Director

MOVED by Alderman Schwandt

SECONDED by Alderman Hogan

That the Common Council hereby receives and files the Mayor's approval of the request of The Stringed Edition Guitar Ensemble, Inc. to hold the Gateway Cities Jazz and Blues Festival on August 17-18, 2002 at Gateway Harbor Park, the use of city equipment and personnel, and cordon off Sweeney Street between Webster and Main Streets from 12:00 p.m. to 11:00 p.m. on both days.

CARRIED.

**B.  
Sweeney Hose Co.**

**May 21, 2002**

**City Council  
City of North Tonawanda  
216 Payne Avenue  
North Tonawanda, NY 14120**

**Honorable Council Members,**

**Once again Sweeney Hose Company requests the use of Gateway Park for the 20<sup>th</sup> Annual Canal Fest.**

**Specifically we request the use of the area adjacent to the Delaware Street Bridge at the corner of Main and Sweeney Streets. The use would be for our beer tent.**

**As in the past we would set up the tent late in the week prior to the Canal Fest and would be in operation during the entire Canal Fest.**

**If you have any questions, you can contact President Karl Osterman at 692-4911.**

**Thank you in advance for your consideration.**

**Sincerely yours,  
David C. Krieman  
Interim Secretary**

**MOVED by Alderman Soos                      SECONDED by Alderman Hogan  
That the Common Council hereby receives and files the Mayor's approval for Sweeney Hose Co. to use the area near Delaware Bridge in Gateway Park for their beer tent for the 20<sup>th</sup> Annual Canal Fest July 14-21, 2002.  
CARRIED.**

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**C.  
Ascension Parish**

**85 Dale Drive  
North Tonawanda, NY 14120**

**North Tonawanda City Hall  
216 Payne Avenue  
North Tonawanda, NY 14120**

**To the North Tonawanda Common Council:**

**Ascension Parish is having their summer festival for one day only, Saturday, August 10<sup>th</sup>. We are requesting the following for that date:**

**A noise ordinance until 11:00 PM.**

**Permission to block off Vandervoort Street between Keil Street and Robinson Street.**

**Permission to hang a banner on Payne Avenue or Oliver Street from Saturday, July 27<sup>th</sup> until Sunday, August 11<sup>th</sup>.**

**Picnic benches/tables and two sawhorses to be dropped off on Friday, August 9<sup>th</sup>.  
Thank you.**

**Sincerely,  
Patricia Faulhaber**

**MOVED by Alderman Schwandt                      SECONDED by Alderman Hogan**  
**That the Common Council hereby receives and files the Mayor's approval of the**  
**request of Ascension Parish to hold their summer festival on Saturday, August 10<sup>th</sup>,**  
**2002 only, with permission for the following:**

1.     **A noise ordinance permit until 11:00 PM.**
2.     **To block off Vandervoort St. between Keil and Robinson Sts. on July 27 until**  
**August 11, 2002.**
3.     **To hang a banner on Payne Avenue or Oliver Street**
4.     **The use of city equipment.**

**CARRIED.**

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**ALDERMAN RIZZO**

**MOVED by Alderman Schwandt                      SECONDED by Alderman Soos**  
**That the Common Council hereby authorizes the Department of Public Works to install**  
**a "Deaf Child" sign in front of 506 Ward Road.**  
**CARRIED.**

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**LATE COMMUNICATION**

**#1**  
**Wastewater Treatment Plant**  
**Richard Conklin Jr.**  
**Mark Wurl**

**April 25, 2002**

**Honorable David J. Burgio, Mayor**  
**And the Common Council**  
**216 Payne Avenue**  
**North Tonawanda, NY 14120**

**Re:   Appointments**

**Honorable Mayor Burgio:**

**I recommend that the following appointments be made in accordance with the CSEA**  
**Contract, Section 6:**

**Mark D. Wurl, 280 Rumbold Avenue, to the position of Provisional Wastewater**  
**Treatment Plant Mechanic, effective April 25, 2002.**

**Richard Conklin, 3201 – 9<sup>th</sup> Street, Niagara Falls, NY to the position of Plant**  
**Attendant, Contingent, effective May 13, 2002.**

**Thank you for your time and consideration in addressing this matter.**

**Sincerely,**  
**Paul J. Drof**  
**Superintendent**

**May 15, 2002**

**Honorable David J. Burgio, Mayor**  
**And the Common Council**  
**216 Payne Avenue**  
**North Tonawanda, NY 14120**

Re: Leave of Absence

Honorable Body:

I am requesting a leave of absence from my position as Groundskeeper in the Department of Youth, Recreation and Parks, until my current position as Plant Attendant at the Wastewater Treatment Plant becomes permanent.

Thank you in advance for your consideration.

Respectfully yours,  
Richard Conklin Jr.

April 25, 2002

Honorable David J. Burgio, Mayor  
And Common Council  
City Hall  
North Tonawanda, NY 14120

Re: Leave of Absence

Honorable Body:

I request that I be granted a leave of absence from the position of Plant Attendant until my position as Wastewater Treatment Plant Mechanic becomes permanent.

I would like to thank the City for this opportunity and will do my best to repay the City's faith in me.

Thank you for honoring this request.

Sincerely,  
Mark Wurl

**MOVED by Alderman Hogan                      SECONDED by Alderman Sommer**  
That the Common Council hereby receives and files the appointment of Mark D. Wurl as WWTP Mechanic effective April 25, 2002, and Richard Conklin Jr. as WWTP Plant Attendant effective May 13, 2002, and further grants leave of absences to Mark D. Wurl from his position as WWTP Plant Attendant and Richard Conklin Jr. from his position as Groundskeeper in the Dept. of Youth, Recreation and Parks until their new positions become permanent.  
**CARRIED.**

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#2  
Linda B. Hayes

**MOVED by Alderman Hogan                      SECONDED by Alderman Sommer**  
That the Common Council hereby appoints Linda B. Hayes of 376 Stanley Street as a Commissioner of Deeds for the City of North Tonawanda effective June 6, 2002 and expiring June 5, 2004.  
**CARRIED.**

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#3  
Lucy Curley & Co.                      -                      Re: Parks Development Grant for Deerwood Golf Course Maintenance Building Roof Repair.

**MOVED by Alderman Sommer                      SECONDED by Alderman Hogan**  
**RESOLVED**, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount not to exceed

\$16,800, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda for the replacement of the roof on the maintenance building of the Deerwood Golf Course. The City of North Tonawanda will contribute \$24,380 in cash and in-kind goods and services, or 59%, of the total project cost of \$41,180.

Ayes: Soos, Hogan, Sommer, Schwandt (4)

Nays: None (0)

**CARRIED.**

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#4

Lucy Curley & Co. - Re: Parks Development Grant for Canal Wall and Floating Docks.

MOVED by Alderman Schwandt

SECONDED by Alderman Hogan

RESOLVED, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 3 of the Clean Water/Clean Air Bond Act of 1996, in an amount not to exceed \$137,375, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda for the installation of approximately 600 feet of handicapped-accessible floating docks with boater service pedestals along the Sweeney Street canal wall, adjacent to Gateway Harbor Park. The City of North Tonawanda will contribute \$137,375 in cash and in-kind goods and services, or 50% of the total project cost of \$274,750.

Ayes: Soos, Hogan, Sommer, Schwandt (4)

Nays: None (0)

**CARRIED.**

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#5

Lucy Curley & Co. - Re: NYSDEC Grant for "Municipal Recycling & Recycling Equipment Reimbursement Project.

MOVED by Alderman Hogan

SECONDED by Alderman Soos

The Common Council hereby adopts the following resolution:

**Resolution Authorizing the Filing of an Application for a State Grant-In-Aid for a Municipal Waste Reduction and/or Recycling Project and Signing of the Associated State Contract, Under the Appropriate Laws of New York State.**

**WHEREAS, the State of New York provides financial aid for municipal waste reduction and municipal recycling projects; and**

**WHEREAS, the City of North Tonawanda,**

**Herein called the Municipality, has examined and duly considered the applicable laws of the State of New York and the Municipality deems it to be in the public interest and benefit to file an application under these laws; and**

**WHEREAS, it is necessary that the Contract by and between THE PEOPLE OF THE STATE OF NEW YORK, herein called the STATE, and the MUNICIPALITY be executed for such STATE Aid.;**

**NOW, THEREFORE, BE IT RESOLVED BY the Council of the City of North Tonawanda,**

**1. That the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized.**

**2. That David J. Burgio, Mayor of the City of North Tonawanda, is directed and authorized as the official representative of the MUNICIPALITY to act in connection with the application and to provide such additional information as**

may be required and to sign the resulting contract if said application is approved by the STATE;

3. That the MUNICIPALITY agrees that it will fund its portion of the cost of said municipal Waste Reduction and/or Recycling Project.

4. That the MUNICIPALITY or MUNICIPALITIES set forth their respective responsibilities by attached joint resolution relative to a joint Municipal Waste Reduction and/or Recycling Project.

5. That this resolution shall take effect immediately.

Ayes: Soos, Hogan, Sommer, Schwandt (4)  
Nays: None (0)  
CARRIED.

#6

Lucy Curley & Co. - Re: NYSOPRHP, Parks Development, Niagara Riverwalk and Bicycle Trail.

MOVED by Alderman Schwandt                      SECONDED by Alderman Hogan  
RESOLVED, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of, in an amount not to exceed \$87,751, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda for the establishment of a riverwalk and bicycle trail along the Niagara River linking the Tonawandas' Gateway Harbor Park and the downtown business district with North Tonawanda's two riverfront parks: Fisherman's Park and Gratwick-Riverside Park. The proposed riverwalk (running approximately parallel to the Seaway Trail/Route 265-River Road) is one section of a 5,000 foot long riverwalk which, when completed, will allow users to walk or bike safely from Gateway Park in North Tonawanda to Fort Niagara on Lake Ontario. The City of North Tonawanda agrees to contribute \$95,415 in cash and in-kind goods and services, or 52%, of the total project cost of \$183,166.

Ayes: Soos, Hogan, Sommer, Schwandt (4)  
Nays: None (0)  
CARRIED.

#7

Lucy Curley & Co. - Re: NYSOPRHP, Parks Development, Payne Park Playground Equipment and Trail.

MOVED by Alderman Schwandt                      SECONDED by Alderman Sommer  
RESOLVED, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Environmental Protection Act of 1993, in an amount not to exceed \$122,357 and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda for purchase and installation of the following in the city's Payne Park; a playground system; a water park; a swing set; a pedestrian/bicycle trail featuring Heart Health stations and shelter. The City of North Tonawanda will contribute \$199,735 in cash and in-kind goods and services, or 62% of the total project cost of \$322,092.

Ayes: Soos, Hogan, Sommer, Schwandt (4)  
Nays: None (0)  
CARRIED.

#8

Lucy Curley & Co. - Re: NYSOPRHP, Parks Development, "Barge Into the Tonawandas" Program.

MOVED by Alderman Soos

SECONDED by Alderman Hogan

RESOLVED, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 3 of the Clean Water/Clean Air Bond Act, in an amount not to exceed \$98,000, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda to support, in part: the construction of a 25' x 50' moveable barge with a 20' x 40' performance stage; the installation of a moveable protective canopy, frame and railings; the establishment of electrical connections and secure land-to-barge ramp; and the purchase of a generator and trailer for winter dry docking. While mobile, the barge will be sited at Gateway Park.

The City of North Tonawanda will match grants funds with \$99,500 in cash and in-kind goods and services.

Ayes: Soos, Hogan, Sommer, Schwandt (4)

Nays: None (0)

CARRIED.

#9

Lucy Curley & Co. - Re: NYSOPRHP, Parks Development, Deerwood Golf Course Clubhouse Modifications.

MOVED by Alderman Sommer

SECONDED by Alderman Hogan

RESOLVED, David J. Burgio, as Mayor of the City of North Tonawanda, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Environmental Protection Act of 1993, in an amount not to exceed \$290,000, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of North Tonawanda for the modification of Deerwood Golf Course Clubhouse so that the facility is handicapped accessible and energy efficient. The City of North Tonawanda will contribute \$290,000 in cash and in-kind services, or 50% of the total project cost of \$580,000.

Ayes: Soos, Hogan, Sommer, Schwandt (4)

Nays: None (0)

CARRIED.

#10

City Attorney - Re: Taxicab Ordinance

MOVED by Alderman Sommer

SECONDED by Alderman Soos

That the Common Council hereby rescinds the old Taxicab Ordinance.

CARRIED.

MOVED by Alderman Sommer

SECONDED by Alderman Soos

That the Common Council hereby adopts Chapter 86 of the City Code entitled "Taxicabs" as follows:

Chapter 86  
TAXICABS

ARTICLE I  
General Provisions

**86-1. Legislative Findings and Declaration.**

- A. It is hereby determined that the taxicab business is an integral and vital element which is necessary to assure adequate and safe public transportation for our residents and visitors.

- B. It is found that a spirit of mutual cooperation and public pride exists between these industries and other governmental and civic organizations and that it is essential that goodwill be maintained amongst all.
- C. It is also found that reasonable standards and regulations relating to the number of taxicabs, the number and location of taxicab stands and the condition and appearance of the vehicles and drivers are needed to assure fairness and to promote the public health, safety and welfare.
- D. A study and survey of the business points to the conclusion that the public cannot properly be served and the business itself cannot operate in an orderly and appropriate manner without regulation of the business and the limitation by the city of the number of taxicabs using the streets.
- E. Taxicabs now in use and licensed are operated principally by fleet owners and by owners of single or comparatively few taxicabs. To preserve an equitable ratio of taxicabs operated by the two (2) classes of owners and to prevent a monopoly of the business by a limited number of owners, the number of taxicab licenses which may be issued is hereby fixed as follows:
  - 1. To fleet operators: ten (10) or more.
  - 2. To individual operators: five (5)
- F. If a fleet operator sells any of his licensed taxicabs to an individual operator, the number of licensed taxicabs assigned hereinbefore to fleet operators shall be deemed reduced accordingly and the number of licensed taxicabs hereinbefore assigned to individual operators shall be increased accordingly. However, no such sale shall be permitted unless such sale is recommended by the City Clerk and approved by the Common Council.

#### 86-2. Definitions.

Unless otherwise expressly stated, the following words, whenever used in this chapter, shall have the meanings given to them by this section:

**DRIVER** – Any person who drives a taxicab whether such person is the owner of such taxicab or employed by a taxicab owner or operator.

**FLEET OPERATOR** – A person, firm or corporation owning and operating five (5) or more taxicabs.

**INDIVIDUAL OPERATOR** – A person, firm or corporation owning and operating fewer than five (5) taxicabs.

**OWNER** – Includes any person, firm, corporation or association owning and operating one (1) or more taxicabs.

**OWNER DRIVER** – A person who owns a taxicab and drives his own vehicle exclusively.

**PERSON** – Includes one (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities or any kind capable of being sued.

**STREET** – Shall mean and include any street, alley, avenue, court, bridge or public thoroughfare in the City of North Tonawanda.

**TAXICAB** – Includes any motor vehicle engaged in the business of carrying persons for hire, whether the same is operated from a street stand or subject to calls from a garage or otherwise operated for hire, except vehicles subject to the provisions of the Transportation Corporations Law or used by undertakers in carrying on their business.

**TAXICAB LICENSE** – Shall mean and include permission granted by the City of North Tonawanda to the person holding such license to operate and drive upon the streets of such city any licensed taxicab.

**TAXICAB STAND** - Includes any place in any public street which is designated and exclusively reserved for the use of taxicabs.

**TAXIMETER** – A mechanical instrument or device by which the charge for hire of a taxicab may be mechanically calculated either for the distance traveled or waiting time, or both and upon which such charge is indicated by means of figures.

**WAITING TIME** – Such time as may be consumed or lost for any reason whatsoever unless it is occasioned by the mechanical breakdown of the taxicab.

## **ARTICLE II**

### **Taxicab License: Application and Procedure**

#### **86 -3. License required.**

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the limits of the City of North Tonawanda without such driver or owner having first obtained and paid for and having in force and effect a taxicab license under the provisions of this chapter.

#### **86-4. Exemptions.**

Vehicles operated as part of the bus transportation system or operating with permission of the Interstate Commerce Commission, ambulances, vehicles used by undertakers in the conduct of their business and vehicles rented for the purpose of being driven by the person renting the same shall be exempt from the provisions of this chapter.

#### **86-5. Application.**

Each applicant for a taxicab license must comply with the following, to the satisfaction of the City Clerk. The applicant must:

- A. First have obtained a New York State chauffeur's license.**
- B. Provide the following information on an application to be provided by the City Clerk:**
  - (i) The name, residence and age of the owner of the taxicab.**
  - (ii) The manufacturer and type of vehicle to be used, the serial number, the New York State license number, the year of manufacture and the seating capacity of the vehicle.**
  - (iii) Provide a photocopy of the applicant's New York State chauffeur's license.**
  - (iv) The date, location and expiration of the taxicab's most recent inspection pursuant to Sec. 306(b) of the New York State Vehicle and Traffic Law.**
  - (v) Whether the vehicle has been previously licensed to operate as a taxicab and, if so, for what year or years and in what municipality. If an inspection exemption is being sought, the applicant must provide a copy of any other valid taxicab license he may hold.**
  - (vi) Whether the applicant has previously held an owner's license and if said license has ever been revoked, and, if so, for what cause.**
  - (vii) Number of taxicab licenses desired by the applicant.**
  - (viii) Whether or not the applicant has ever been convicted of a felony or misdemeanor.**
- C. The application shall be signed and sworn to by the applicant and filed with the City Clerk as a permanent record.**
- D. Any false statements contained in such application for a taxicab license shall be cause for refusing the license or revoking the license after it is issued.**

- E. Any person, including but not limited to city officials, who is aware or becomes aware of any false statement made by an applicant shall promptly report the alleged false statement made by an applicant to the Chief of Police who shall take the appropriate action.
- F. The City Clerk is hereby authorized and empowered to require such additional information as he may deem necessary.

**86-6. Inspections.**

- A. The City Clerk shall cause the motor vehicle described in the application to be inspected and the taximeter attached thereto to be tested. The motor vehicle must be found to be clean and in proper condition for the safe transportation of passengers and the taximeter attached thereto, upon test, must be found to register correctly.
- B. Inspection waiver: No motor vehicle inspection shall be required where the applicant can provide sufficient proof to the satisfaction of the City Clerk that said vehicle is properly licensed and said taxi as well as its taximeter have been subject to inspection in one of the following municipalities:
  1. City of Buffalo
  2. City of Niagara Falls
  3. City of Tonawanda
- C. If a vehicle has been involved in an accident causing physical damage so as to violate the above vehicle standards, it shall not be automatically excluded from service, if the vehicle can still be operated safely. The taxicab owner shall have 24 hours to have the vehicle evaluated by the Police Department, in order to determine if the vehicle should be taken out of service or to determine the exact date repairs will be made. If a vehicle is taken out of service on account of the police inspection of damage, the taxicab owner shall be notified in writing.

**86-7. License issuance.**

- A. Once an applicant's motor vehicle has passed inspection the taximeter attached thereto shall be sealed. No sealing is required where a taximeter bears a valid seal from the City of Niagara Falls, City of Buffalo or City of Tonawanda certifying that it is in proper working order. The City Clerk shall securely affix to such licensed taxicab on the outside thereof at the rear of the vehicle, in a conspicuous place, a metal plate, showing the number assigned to such taxicab.
- B. Taxicab Driver's License: The taxicab driver's license shall be in such form as to contain the photograph, the signature and a description of the driver. Each driver's license shall be stamped by the Seal of the city upon at least a portion of the photograph. All driver's licenses shall be numbered in the order in which they are issued and shall contain the name and place of residence of the licensee and the date of issuance and the expiration of the license. Any licensee who defaces, removes or obliterates any official entry made upon his license shall be subject to the revocation of his license. The taxicab license shall be displayed by the licensee at all times when driving or operating or while in charge of any taxicab.
- C. The licensing of such vehicle should be subject, however, to the following conditions:
  1. An owner who drives his own cab may place the words "owner driver" on the outside of the front doors thereof immediately below the windows in letters contrasting strongly with the color of the vehicle, not less than two inches high. However, taxicabs so

marked must be operated by no one other than the licensed owner under penalty of having the license suspended or revoked.

2. No person shall drive or operate upon the streets of the city any passenger automobile with a seating capacity in the interior thereof for seven or fewer passengers and registered as an omnibus by the State of New York, while such vehicle has a taximeter or unusual or distinctive equipment, device, design, color, numbers or lettering liable to deceive the public that such vehicle is a licensed taxicab as above provided, unless such vehicle is duly licensed under this section.
3. The mileage rates fixed by this chapter shall be displayed on each taxicab so as to be readily visible to passengers entering the vehicle. The rates shall be painted in a contrasting color on both rear doors of all licensed taxicabs in letters and figures which shall be not less than 3/8 of an inch in height.
4. A taxicab may have illuminated advertising billboards, placards or similar devices, no larger than 18 inches high by four feet six inches long, attached securely to the roof or trunk of the vehicle, not to exceed the length or width of such roof or trunk.

#### **86-8. Taxicab Driver Photograph.**

Each applicant for a taxicab driver's license must file with his application two (2) unmounted, unretouched photographs of himself in such position as the City Clerk may direct, taken within thirty (30) days preceding the filing of his application. Photographs shall be two by two (2 x 2) inches in size. One (1) photograph shall be attached to the license when issued, and the others shall be filed with the application. The photograph shall be so attached to the license so that it cannot be removed and another photograph substituted without detection. Each licensed driver shall, upon demand, exhibit his license and photograph for inspection. When the application for a taxicab driver's license is denied, the photographs shall be returned to the applicant by the City Clerk.

#### **86-9. Fees.**

- A. **Driver's Licenses:** The fee for a taxicab driver's license shall be the sum of twenty dollars (\$20.00) per annum, and no license fee shall be prorated. For replacing a lost license or damaged license, the fee shall be ten dollars (\$10.00).
- B. **Vehicle Fees:** The fee to operate a vehicle as a taxicab in the City of North Tonawanda shall be the sum of fifty dollars (\$50.00) per annum, and no license fee shall be prorated. The above vehicle fee shall apply to all taxicabs operating in the City of North Tonawanda unless the taxicab is part of a fleet. If a taxicab is operating as part of a fleet, the Fleet Operation Fees shall apply.
- C. **Fleet Operation Fees:**
  1. The fee to operate a fleet of taxicabs (5 or more) in the City of North Tonawanda shall be the sum of five hundred dollars (\$500.00) per annum, and no fleet fee shall be prorated.
  2. An additional ten dollar (\$10.00) fee per car shall be assessed on fleets operating eleven (11) or more taxicabs. The (\$10.00) fee shall be assessed to each taxicab, starting with the eleventh (11<sup>th</sup>) vehicle of the fleet, per annum, and no fee shall be prorated.
- D. **Late fees:** Failure to renew a driver's license or fleet fee within 30 days of its expiration shall double the cost of the original fee.

**86-10. License period.**

Taxicab licenses shall be issued as of January 1 of each year, and all of said licenses shall expire on the last day of December of such year, unless sooner suspended or revoked. Any owner to whom a license is issued during the license year shall pay the full amount of the annual license.

**ARTICLE III**  
**Taximeters and Rates of Fare**

**86-11. Taximeter required.**

- A. No person shall use or permit to be used on any taxicab a taximeter which shall be in such condition as to be more than five percent (5%) incorrect to the prejudice of a passenger. No taximeter affixed to any taxicab or livery shall be operated from either rear wheel of such vehicle. Between sunset and sunrise, the face of every taximeter shall be illuminated by a suitable light so arranged so as to throw a continuous steady light thereon and render the figures on such taximeter readily discernible by any passenger. No person shall use or permit to be used a taximeter which has been broken nor unless its cover and gears are intact.
- B. It shall be unlawful to change the size of the front wheels or tires of a taxicab or the gears operating the taximeter or to change said instrument from one vehicle to another without approval of the City Clerk.

**86-12. Rates and charges.**

- A. No person shall charge a greater sum for the use of a taxicab than in accordance with the following rates:
  - 1. Hourly rates: eighteen dollars (\$18.) per hour for (1) or more passengers.
  - 2. Mileage rates: two dollars and thirty cents (\$2.30) for the first one-sixth (1/6) mile or less; thirty cents (\$0.30) for each one (1) minute of waiting time, including time lost in traffic delays. Upon producing certification issued by the Mayor's office as to senior citizen status, persons shall be entitled to a ten-percent reduction in the amount of the fare.
  - 3. Hand baggage: free
  - 4. Trunks: free
  - 5. Large boxes: free
- B. No additional or extra charge shall be made for carrying more than one (1) passenger, but all passengers up to the seating capacity of the vehicle shall be carried for the same fare as that above prescribed for one (1) passenger.
- C. Upon demand, the driver of a taxicab or livery shall furnish to the passenger a receipt for the fare paid, showing the name and license number of the driver.
- D. All disputes as to the lawful rate of fare shall be determined by the City Council and a failure to comply with such determination, provided that it be in accordance with the rate herein fixed, shall be a violation of this chapter.
- E. The rate charged in the City of North Tonawanda may be subject to review and renewal by the Common Council. Any request for rate review shall be made in writing to the Common Council thirty days prior to the date scheduled for such review.

**86-13. Reduced rates.**

Any person desiring to charge rates less than the rates stated in Paragraph 86-12. shall be permitted to do so; but before charging such lesser rates, the schedule to be charged shall be filed with the City Clerk and Chief of Police fifteen (15) days before such rates are put into effect, and a copy of such rates shall be prominently displayed in each vehicle in which such rates are to be charged.

**86-14. Excess rates prohibited.**

No person shall charge for taxicab service rates higher than the rates permitted by paragraph 86-12; and in case lesser rates are filed with the City Clerk and the Chief of Police, any person who charges greater rates than the rates so filed for taxicab service in vehicles to which such advertised rates apply shall be guilty of a violation of this chapter.

**86-15. Rates to be displayed.**

- A. The maximum rates allowed to be charged by this chapter, printed in English, shall be displayed prominently on the outside of each taxicab. Where a lower schedule of rates is filed by the owner of any taxicab, such owner shall display at all times on the outside of the vehicle to which such rates apply in the above-mentioned language such lower rates. Such displays, before being used, shall be approved as to design and size of type used by the City Clerk.
- B. No taxicab or livery shall be operated without the rates of fare applicable thereto being prominently displayed therein. Any false, misleading or incomplete statement or sign relating to the rate of fare charged, displayed either on the inside or the outside of any taxicab shall be a violation of this chapter.

**86-16. Prepayment of fares.**

Every driver of a taxicab shall have the right to demand payment of the regular fare in advance and may refuse employment unless so prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey an orderly person or persons upon request anywhere in the city unless previously engaged. No driver of a licensed taxicab shall carry any other person than the passengers first employing the taxicab without the consent of such passengers.

**86-17. Receipt for fares.**

Whenever a passenger requests a receipt, such a receipt shall be furnished by the driver of a taxicab. The receipt shall include the name of the driver, the name of the licensed owner and the amount of the fare collected.

**86-18. Overcharge.**

No taxicab driver or operator shall charge or attempt to charge a higher rate of fare than is provided for by this ordinance, nor shall any passenger refuse to pay the proper and legal fare.

**ARTICLE IV**  
**Manner of Operation**

**86-19. Cruising and soliciting.**

- A. It shall be the duty of each driver to keep a record of the point of origin and point of destination of all trips made and the charge made therefore and to file the same with the owner of the taxicab. Such records shall be preserved for at least six (6) months and shall be made available for inspection by the Police Department during said period.

- B. No taxicab driver shall permit more persons to be carried in his taxicab than the number for which he has seating facilities.

**86-20. Taxicab stands.**

The Common Council is hereby authorized to locate and designate stands and regulate fees for use of same. They shall further designate the number of such vehicles that shall be allowed to stand at any such stands and shall provide a metal sign which shall be attached to a post or stanchion adjacent to the stand and on which sign shall be placed the number of vehicles and whether taxicabs which shall be allowed on the particular stand.

**86-21. Fraudulent misrepresentation by driver.**

No person owning or driving a taxicab shall deceive any passenger who may ride or who may desire to ride in any such vehicle as to his destination by the shortest route or the lawful price to be charged for such ride or shall convey such passengers to a place other than that directed by them or in any other way than by the shortest route.

**86-22. Equipment on vehicle.**

- A. All motor vehicles licensed for use as taxicabs shall be at least sedan type automobiles with four (4) doors. No two-door sedans shall be licensed for such purposes. This section shall not prohibit the use of larger vehicles when properly licensed under the terms of this ordinance.
- B. No owner or driver of a taxicab shall at any time so fasten or lock the doors of the vehicle so that it is impossible for a passenger to open the same from the inside. Every owner shall provide each vehicle with means for unfastening the doors so that such doors may be readily opened from the inside by a passenger.

**ARTICLE V  
Violations**

**86-23. Register.**

There shall be kept in the office of the Chief of Police a complete record of each driver's license issued, with the original application of the driver for such license.

**86-24. Transfer.**

No taxicab license shall be transferred, sold or assigned.

**86-25. Violations and penalties.**

- A. Any owner, operator or driver of a taxicab as herein defined who operates or permits the operation of a taxicab which is not licensed or equipped in accordance with the provisions of this ordinance or who operates or permits the operation of such a vehicle, the license of which has been suspended or revoked, or who otherwise violates any provision or requirement of this ordinance shall, upon conviction be guilty of a City Ordinance violation.
- B. Such convictions shall be punishable by a fine or not more than one hundred dollars (\$100.00) or by imprisonment for not more than thirty (30) days or both.

**86-26. Suspension and Revocation**

- A. In addition to the fine and imprisonment or both provided for in this ordinance, any licensee shall be subject to the suspension or revocation of his license upon conviction for a violation.

- B. The City Council may, at his discretion, suspend a license granted under the provisions of this ordinance pending the determination of a charge for violation against any holder of such a license.
- C. Any such suspension or revocation shall be noted on the license together with a statement of the reasons therefore. When the license is suspended or revoked, a note of the revocation or suspension shall be forthwith sent to the Police Department and the City Clerk by the North Tonawanda City Court Clerk in charge of the Criminal Division.
- D. A second suspension for the same reason, or in any case, a third suspension of a taxicab license, shall revoke the license.
- E. No driver whose license or permit has been revoked shall be again licensed as a taxicab driver in the city, unless upon the presentation of reasons satisfactory to the Court with the advise of the Chief of Police.

**ARTICLE VI**  
**Miscellaneous Provisions**

**86-27. Repealer; effect of repeal.**

All ordinances and parts or ordinances in conflict herewith are hereby repealed, provided that such repeal shall not affect any action or proceeding had or commenced in any criminal or civil cause before this chapter or its respective provisions take effect, but such action or proceedings may be prosecuted and continued with the same effect and under the provisions of law effective at the time the action or proceeding was commenced.

**86-28. Validity.**

If any section or provision or part thereof in this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**86-29. When effective.**

This ordinance shall take effect immediately.

**CARRIED.**

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**MOVED by Alderman Schwandt                      SECONDED by Alderman Sommer**  
That the Common Council hereby requests the Traffic Safety Committee to investigate the need of a stop sign at the intersection of Thomas Fox Drive East and Wayleave Lane.

**CARRIED.**

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**ADJOURNMENT**

**MOVED by Alderman Schwandt                      SECONDED by Alderman Soos**  
That this regular session of the Common Council be and hereby is adjourned.

**CARRIED.**

**Time of Adjournment:              6:45 P.M.**

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Respectfully submitted,

Michael D. Cox  
City Clerk