

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Wednesday, September 7, 2005
5:00 P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Absent: None

**Also Present: Mayor David J. Burgio
City Attorney Shawn P. Nickerson**

APPROVAL OF THE MINUTES OF THE REGULAR SESSION AUGUST 17, 2005

**MOVED by Alderman Schwandt SECONDED by Alderman Hempel
That the minutes of the regular session held August 17, 2005 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

APPROVAL OF THE MINUTES OF THE SPECIAL SESSION AUGUST 24, 2005

**MOVED by Alderman Rizzo SECONDED by Alderman Soos
That the minutes of the special session held August 24, 2005 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

PROOF OF PUBLICATION PUBLISHED JULY 6 & JULY 13, 2005

- 1) Legal Notice – Local Law #1 for 2005 – Wireless Telecommunications Facility- Mayor

PROOF OF PUBLICATION PUBLISHED JULY 13, 2005

- 1) Legal Notice – Small Cities Economic Development Grant – Community Development

PROOF OF PUBLICATION PUBLISHED JULY 19, 2005

- 1) Bid – Natural Gas – WWTP & Colonel Payne Community Center

PROOF OF PUBLICATION PUBLISHED JULY 29, 2005

- 1) Bid – One New and Unused Latest Model Tandem Axle Dump Truck – DPW

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

AUDIENCE PARTICIPATION – None

COMMUNICATIONS FROM CITY OFFICIALS

II.1 Attorney

August 12, 2005

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

Re: Encroachment of 165 Goundry Street into
Portion of Vandervoort Street

Dear Honorable Body:

The parcel at 165 Goundry Street has been sold. However, the new owners are objecting to title because a portion of the garage and concrete slab encroach into a portion of Vandervoort Street (see attached survey). The portion of the encroachment is in the grassy area of the right-of-way that is located across the street from Live Hose. This has been a long-standing encroachment. I would recommend that we permit said encroachment to continue as long as the improvements continue to exist. If they should be removed, the encroachment would no longer be permitted.

If you concur, please pass the following resolution:

“The Common Council hereby resolves to permit the following encroachment of the parcel known as 165 Goundry Street into the Vandervoort Street right-of-way: the frame garage up to 5.15 feet and the patio up to 2.22 feet. Said encroachment shall be permitted to remain for so long as the structures remain and, upon the removal of the structures, no further encroachment shall be permitted.”

Very truly yours,
Robert Sondel
Assistant City Attorney

MOVED by Alderman Soos

SECONDED by Alderman Rizzo

That the Common Council hereby resolves to permit the following encroachment of the parcel known as 165 Goundry Street into the Vandervoort Street right-of-way: the frame garage up to 5.15 feet and the patio up to 2.22 feet. Said encroachment shall be permitted to remain for so long as the structures remain and, upon the removal of the structures, no further encroachment shall be permitted.

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)

Nays: None (0)

CARRIED.

II.2 Attorney

September 1, 2005

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

Re: Proposed Settlement of 5 OPEIU Arbitrations

Dear Honorable Body:

At the Common Council workshop of August 10, 2005, the following proposals were discussed to settle five OPEIU grievances that are scheduled to go to arbitration:

1. A new position shall be inserted into the collective bargaining agreement, that of Water/Wastewater Superintendent, to replace the present positions of Water Superintendent and Wastewater Superintendent and the position shall be placed in the same pay schedule as the Public Works Superintendent. Furthermore, Paul Drof shall receive retroactive pay for serving in said position from September 30, 2002.
2. The Fire Chief will advance one step in the salary schedule retroactive to April 13, 2005.
3. Section 6.1.2 of the Collective Bargaining Unit will be amended to state that a new employee appointed hereafter will be placed at the minimum step of the applicable salary schedule (instead of at Step 1).
4. The Building Inspector will advance one step in the salary schedule retroactive to April 13, 2005.
5. If the city hires a part-time assessor, the union will agree to exclude said position from the bargaining unit and would negotiate the maximum number of hours that said assessor could work within the city. Should said part-time position cease, the position would be placed back into the bargaining unit.
6. The union would drop its proposal seeking full payment of health insurance for new members of the bargaining unit coming from other positions within the City of North Tonawanda where they were eligible for 100% of paid health insurance.
7. The position of Community Development Director would be added to the bargaining unit.

If you concur, please authorize the Mayor to sign the Memorandum of Agreement memorializing these proposals.

Very truly yours,
Robert Sondel
Assistant City Attorney

MOVED by Alderman Hempel

SECONDED by Alderman Schwandt

That the Common Council hereby approves the settlement of five OPEIU grievances as follows and further authorizes the Mayor to sign the Memorandum of Agreement:

1. A new position shall be inserted into the collective bargaining agreement, that of Water/Wastewater Superintendent, to replace the present positions of Water Superintendent and Wastewater Superintendent and the position shall be placed in the same pay schedule as the Public Works Superintendent. Furthermore, Paul Drof shall receive retroactive pay for serving in said position from September 30, 2002.
2. The Fire Chief will advance one step in the salary schedule retroactive to April 13, 2005.
3. Section 6.1.2 of the Collective Bargaining Unit will be amended to state that a new employee appointed hereafter will be placed at the minimum step of the applicable salary schedule (instead of at Step 1).
4. The Building Inspector will advance one step in the salary schedule retroactive to April 13, 2005.
5. If the city hires a part-time assessor, the union will agree to exclude said

position from the bargaining unit and would negotiate the maximum number of hours that said assessor could work within the city. Should said part-time position cease, the position would be placed back into the bargaining unit.

6. The union would drop its proposal seeking full payment of health insurance for new members of the bargaining unit coming from other positions within the City of North Tonawanda where they were eligible for 100% of paid health insurance.
7. The position of Community Development Director would be added to the bargaining unit.

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)
 Nays: None (0)
CARRIED.

IV.1 Engineer

September 1, 2005

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

Re: Project 2002-01, Niagara Riverwalk,
 Contract A (Fishermans Park to Gratwick-Riverside Park)
 Award of Contract

Dear Honorable Body:

On August 30, 2005, seven (7) bids were received and publicly opened by the City Clerk for the Niagara Riverwalk, Contract A. The bid results of are as follows:

• Yarussi Construction, Inc.	\$109,100.00
• Milherst Construction, Inc.	\$138,947.50
• Northeast Diversification, Inc.	\$144,955.00
• American Paving	\$158,968.00
• Donald Braasch Construction, Inc.	\$166,850.00
• Mark Cerrone, Inc.	\$177,639.00
• Paul J. Gallo Contracting, Inc.	\$184,990.00

The project is funded in part by a grant from New York State Parks, Recreation and Historic Preservation and by the City of North Tonawanda.

Accordingly, I respectfully request that the Common Council award Project 2002-01, Sweeney Street Reconstruction, to Yarussi Construction, Inc., 5660 Simmons Ave., Niagara Falls, New York 14068, at their low bid amount of \$109,100.00; authorizing the Mayor to sign said contract, subject to review by the City Attorney.

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

MOVED by Alderman Rizzo **SECONDED** by Alderman Soos
 That the Common Council hereby awards Project 2002-01, Sweeney Street Reconstruction, to Yarussi Construction, Inc., 5660 Simmons Ave., Niagara Falls, New York 14068, at their low bid amount of \$109,100.00 and further authorizes the Mayor to sign said contract, subject to review by the City Attorney.

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)
 Nays: None (0)
CARRIED.

IV.2 Engineer

September 1, 2005

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

Re: Project 2005-07, Sweeney Street Reconstruction (Oliver to Payne)
Award of Contract

Dear Honorable Body:

On August 30, 2005, five (5) bids were received and publicly opened by the City Clerk for the Sweeney Street Reconstruction Project. The bid results of are as follows:

- | | |
|-------------------------------------|--------------|
| • Yarussi Construction, Inc. | \$387,474.00 |
| • Mark Cerrone, Inc. | \$459,820.75 |
| • American Paving | \$473,768.35 |
| • Milherst Construction, Inc. | \$477,182.00 |
| • Donald Braasch Construction, Inc. | \$588,056.00 |

This project is funded in full with New York State Department of Transportation Consolidated Highway Improvement Program (CHIP) funds, managed by the Superintendent of Public Works.

Accordingly, I respectfully request that the Common Council award Project 2005-07, Sweeney Street Reconstruction, to Yarussi Construction, Inc., 5660 Simmons Ave., Niagara Falls, New York 14068, at their low bid amount of \$387,474.00; authorizing the Mayor to sign said contract, subject to review by the City Attorney.

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

MOVED by Alderman Schwandt SECONDED by Alderman Hempel
That the Common Council hereby awards Project 2005-07, Sweeney Street Reconstruction, to Yarussi Construction, Inc., 5660 Simmons Ave., Niagara Falls, New York 14068, at their low bid amount of \$387,474.00 and further authorizes the Mayor to sign said contract, subject to review by the City Attorney.

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)

Nays: None (0)

CARRIED.

VII. Accountant

September 1, 2005

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

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the 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 September 7, 2005, and further authorize the Mayor and City Clerk to respectively sign and countersign said Warrant.

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Schwandt SECONDED by Alderman Hempel
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated September 7, 2005 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$539,378.10
02	Water Fund	37,751.87
04	Sewer Fund	94,742.73
06	Capital Projects Fund	99,741.32
07	Trust & Agency Fund	12,888.41
08	Community Development	<u>318.50</u>
	Final Total	<u>\$784,820.93</u>

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)
Nays: None (0)
CARRIED.

IX. Public Works

August 31, 2005

Honorable Mayor & Common Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120

Re: Award of Bid for One New & Unused Latest Model
Tandem Axle Dump Truck w/Dump Body

Honorable Body:

On Thursday, August 11, 2005 bids for one (1) New and Unused Latest Model Tandem Axle Dump Truck with Dump Body were received and publicly opened in the City Clerk's Office. We have tabulated the results of these bids as follows:

<u>BIDDER</u>	<u>AMOUNT</u>
Buffalo Truck Center	\$111,128.00

I recommend the Common Council award the bid for one (1) New and Unused Latest Model Tandem Axle Dump Truck with Dump Body to Buffalo Truck Center, Inc., 271 Dingens Street, Buffalo, New York 14206 at their low bid of \$111, 128.00, subject to the approval of the City Attorney.

Very truly yours,
Gary J. Franklin
Superintendent Public Works

MOVED by Alderman Rizzo SECONDED by Alderman Soos
That the Common Council hereby awards the bid for one (1) New and Unused Latest Model Tandem Axle Dump Truck with Dump Body to Buffalo Truck Center, Inc., 271 Dingens Street, Buffalo, New York 14206 at their low bid of \$111, 128.00, subject to the approval of the City Attorney.

Ayes: Soos, Rizzo, Schwandt, Hempel, Sommer (5)
Nays: None (0)
CARRIED.

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the street during the show so people can walk up and down the street to look at the artwork. I am planning on having around one hundred artists so I think it may attract some people. At least I hope so. The only problem I can see with closing off the street is if Wattengal Funeral Home has a showing. I would then just move the barricades down to the end of his parking lot. In fact I may do that anyway if he will allow people to park there. As for any costs to the city there is none unless of course you want to buy a nice painting to hang in the Common Council chambers. My insurance (I thought this issue might come up) will cover any mishaps if they should occur so the city is covered that way. All I need is your permission and a couple of barricades.

I am hoping that this art show works out well because I would like to have one every year. Please give me a call at 432-1294 with your response.

Best regards,
Paul Brown

MOVED by Alderman Hempel SECONDED by Alderman Soos
That the Common Council hereby gives permission to Paul Brown to hold an Art Show on September 25th from 10:00am to 5:00pm on Oliver Street between Robinson and Schenk.
CARRIED.

B.
Robert A. Liebeck

July 13, 2005

North Tonawanda Council
216 Payne Avenue
North Tonawanda, NY 14120

To Whom It May Concern:

Subject: Block Party on Westbrook Dr.

We are requesting permission to have a block party on the 27th of August 2005. Please let us know what we have to do for this event. I can be reached at 622-2246.

Sincerely,
Robert a Liebeck
Resident on Westbrook Dr.

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

C.
St. Peters Lutheran Brethren Church

August 29, 2005

David Burgio, Mayor &
The North Tonawanda Common Council
216 Payne Avenue
North Tonawanda, NY 14120

Dear Mayor Burgio:

I am writing to request permission to place advertising for our church event (see attached flier) on September 17th. We are having a Fall Family Festival at Pinewoods Park on that date which runs from 12 noon until 5:00 P.M. The event features an Evangelist, Christian Concert and bounce House. Nickel City Reptile, Hawk Creek and a Gospel Magic show are also featured.

09-07-05

We would like to hang a banner over Payne Ave. as soon as possible in front of the old middle school, a location used for many other events. The banner could be removed any time after the 17th.

In addition we would like to place sandwich type signs measuring 2' X 5' at the intersections of Erie Ave. and Nash Rd. & Schenck and Twin City Hwy; also as soon as possible and removed after the 17th.

Please consider this. This is a free event and hopefully we may impact lives and families for the better.

Sincerely,
Rev. Bob Lawson
Pastor

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

ADJOURNMENT

MOVED by Alderman Sommer SECONDED by Alderman Rizzo
That this regular session of the Common Council be and hereby is adjourned.
CARRIED.

Time of Adjournment: 5:16P.M.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk