

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Wednesday, November 16, 2005
6:00 P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Absent: None

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

APPROVAL OF THE MINUTES OF THE REGULAR SESSION NOVEMBER 2, 2005

**MOVED by Alderman Rizzo SECONDED by Alderman Soos
That the minutes of the regular session held November 2, 2005 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

AUDIENCE PARTICIPATION

Gordon Fritz, 1727 Eddy Drive – Inquired about the Bond Resolution.

Debbie Gondek, 257 Brentwood Drive – Inquired about the Bond Resolution.

David Andrees, 260 Brentwood Drive – Inquired about the Abstract of Claims.

Keith Craigie, 347 Brentwood Drive – Asked when Briarwood Project would be completed.

Sonia Dusza, 123 Miller Street – Inquired about the Bond Resolution.

COMMUNICATIONS FROM CITY OFFICIALS

VII.1 Accountant

November 8, 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 November 16, 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 Soos

SECONDED by Alderman Schwandt

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated November 16, 2005 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$327,710.83
02	Water Fund	19,912.07
04	Sewer Fund	49,389.78
06	Capital Projects Fund	153,184.92
07	Trust & Agency Fund	4,890.14
08	Community Development	141.95
16	Action Grant Urban Dev	7,746.20
	Final Total	<u>\$562,975.89</u>

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

VII.2 Accountant

November 8, 2005

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

Dear Honorable Body:

In accordance with the adopted City of North Tonawanda 2005 Capital Improvements Budget, please find a serial bond resolution in the aggregate amount of \$1,314,000, from our Bond Counsel, Harris Beach LLP.

The original adopted 2005 Capital Budget provided for the bonding of \$1,922,000 for capital projects. The adopted budget was reduced to \$1,314,000, as follows:

- NYS Retirement minus \$600,000, amortizing through the NYS Comptroller's Office.
- Tremont Street minus \$70,000, utilizing excess funds from another completed project.
- Fire Command Car plus \$7,000, additional funding requested for bigger engine and lights.
- Water Dump Truck plus \$55,000, needed dump truck after capital budget was adopted.

Further, this bond resolution is an amendment and restatement of a prior bond resolution that was originally passed on July 20, 2005. This Bond Resolution deletes the authorization to issue serial bonds for the Briarwood Subdivision Project.

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

MOVED by Alderman Soos

SECONDED by Alderman Schwandt

At a Meeting of the Common Council of the City of North Tonawanda, in the County of Niagara, New York, held at City Hall, 216 Payne Avenue, North Tonawanda, New York on November 16, 2005

PRESENT: Brett M. Sommer, President
 Sue Hempel, Alderman
 Phillip Russell Rizzo, Alderman
 Lawrence V. Soos, Alderman-at-Large
 Catherine G. Schwandt, Alderman-at-Large

ABSENT: None

The following resolution was offered by Alderman Soos, who moved its adoption, seconded by Alderman Schwandt, to-wit:

AMENDED AND RESTATED BOND RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NORTH TONAWANDA, NIAGARA COUNTY, NEW YORK (THE "CITY") AUTHORIZING THE ISSUANCE OF \$1,314,000 IN SERIAL BONDS OF THE CITY TO FINANCE VARIOUS PUBLIC IMPROVEMENTS

WHEREAS, the Common Council of the City of North Tonawanda (the "City") on July 20, 2005 adopted a Bond Resolution (the "Prior Bond Resolution") authorizing the issuance of \$2,109,000 in serial bonds of the City and bond anticipation notes in anticipation thereof to finance various public improvements;

WHEREAS, one of the objects or purposes for which serial bonds were authorized by the Prior Bond Resolution, the Briarwood subdivision infrastructure improvement project, has been temporarily postponed by the City and the Common Council now wishes to amend the Prior Bond Resolution to delete the authorization to issue serial bonds for such purposes;

WHEREAS, the Common Council now wishes to amend and restate the Prior Bond Resolution in its entirety in accordance with the terms hereof:

THE COMMON COUNCIL OF THE CITY OF NORTH TONAWANDA, NIAGARA COUNTY, NEW YORK (the "CITY") HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), THAT THE PRIOR BOND RESOLUTION DATED JULY 20, 2005 IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:

SECTION 1. The City is hereby authorized to issue \$20,000 principal amount of serial bonds pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of installing street lights for the City's Historic Erie Canal District along Sweeney Street between Oliver and Main Streets, including poles, bases, signage and all related equipment, machinery, apparatus, appurtenances and incidental improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$144,000 said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$20,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds, the expenditure of \$72,000 grant monies expected to be received by the City from New York State for such improvements and \$52,000 of current funds of the City. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is thirty (30) years, pursuant to subdivision a.5. of Section 11.00 of the Law.

SECTION 2. The City is hereby authorized to issue \$83,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of acquiring three replacement police patrol vehicles. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$83,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$83,000 in serial bonds of the City authorized to be issued pursuant to this section, or bond anticipation notes issued in anticipation of such serial bonds. It is hereby

determined that the period of probable usefulness for the aforementioned specific object or purpose is three (3) years, pursuant to subdivision a.77. of Section 11.00 of the Law.

SECTION 3. The City is hereby authorized to issue \$60,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of purchasing data processing equipment for general municipal use, including computers, servers, printers, monitors and other related and appurtenant accessories and ancillary equipment and improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$60,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$60,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such serial bonds. It is hereby determined that the period of probable usefulness of the aforementioned specific object or purpose is five (5) years, pursuant to subdivision a.32. of Section 11.00 of the Law.

SECTION 4. The City is hereby authorized to issue \$39,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the cost of acquiring one replacement command car for use by the City's Fire Department, including emergency lights, siren and other related and appurtenant accessories. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$39,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$39,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is three (3) years, pursuant to subdivision a.77. of Section 11.00. of the Law.

SECTION 5. The City is hereby authorized to issue \$462,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of acquiring one dump truck, one plow truck, one loader and one sweeper for use by the City's Public Works Department, and in each case including related and ancillary equipment. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$462,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$462,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is fifteen (15) years, pursuant to subdivision a.28. of Section 11.00 of the Law.

SECTION 6. The City is hereby authorized to issue \$80,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of constructing and installing improvements to the Memorial Pool, consisting of a replacement vinyl pool liner, wall reinforcements, exterior repairs, a new water slide and related and ancillary improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$80,000 said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$80,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is fifteen (15) years, pursuant to subdivision a.61. of Section 11.00 of the Law.

SECTION 7. The City is hereby authorized to issue \$150,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of constructing and installing upgrades to the Archer Street Pump Station, consisting of the replacement of one high service pump and one raw water pump and related equipment, machinery, apparatus, appurtenances and incidental improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$150,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$150,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision a.1. of Section 11.00 of the Law.

SECTION 8. The City is hereby authorized to issue \$100,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of improvement to the City's water treatment system, consisting of the installation of two variable speed drivers at the Tollner Tank site and one altitude valve at the Erie Avenue Storage Tank site, and in each case including related equipment, machinery, apparatus, appurtenances and incidental improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$100,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$100,000 in serial bonds of the City authorized to be issued pursuant to this section, or bond anticipation notes issued in anticipation of such serial bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision a.1. of Section 11.00 of the Law.

SECTION 9. The City is hereby authorized to issue \$55,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of purchasing one dump truck for use by the City's Water Department. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$55,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$55,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such serial bonds. It is hereby determined that the period of probable usefulness of the aforementioned specific object or purpose is fifteen (15) years, pursuant to subdivision a.28. of Section 11.00 of the Law.

SECTION 10. The City is hereby authorized to issue \$100,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the cost of certain improvements to the wastewater treatment plant located at 830 River Road, consisting of the replacement of activated carbon and including related equipment, machinery, apparatus, appurtenances and incidental improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$100,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$100,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is thirty (30) years, pursuant to subdivision a.4. of Section 11.00. of the Law.

SECTION 11. The City is hereby authorized to issue \$165,000 principal amount of serial bonds pursuant to the provisions of the Law to finance the estimated cost of certain additional improvements to the wastewater treatment plant located at 830 River Road, consisting of the replacement of two existing sand filters with installation of new flooring media and controls, including related equipment, machinery, apparatus, appurtenances and incidental improvements. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$165,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$165,000 in serial bonds of the City authorized to be issued pursuant to this section or bond anticipation notes issued in anticipation of such bonds. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is thirty (30) years, pursuant to subdivision a.4. of Section 11.00 of the Law.

SECTION 12. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof, pursuant to subdivisions d.3(a) (in the case of bonds issued for the objects or purposes described in Sections 7 and 8 hereof), d.3(d) (in the case of bonds issued for the object or purpose described in Section 1 hereof), d.3(l) (in the case of bonds issued for the objects or purposes described in Section 10 and 11 hereof), d.5 (in the case of bonds issued for the objects or purposes described in Sections 2, 3 and 4 hereof), and d.9 (with respect to all bonds issued hereunder) of Section 107.00 of the Law.

SECTION 13. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures as part of the projects described herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 14. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by a general tax upon all the real property within the City without legal or constitutional limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 15. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said obligations, and of Section 21.00, Section 50.00, Section 54.90, Sections 56.00 through 60.00, Section 62.10 and Section 63.00 of the Law, the powers and duties of the Common Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation, the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the City Treasurer, the chief fiscal officer of the City.

SECTION 16. The City Treasurer is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 17. The intent of this resolution is to give the City Treasurer sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of this Common Council.

SECTION 18. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money; or
- (b) the provisions of law which should be complied with at the date of the publication of such 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
- (c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 19. This bond resolution shall take effect immediately and the City Clerk is hereby authorized and directed to publish the foregoing resolution in full, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the City (a) for such publication, and (b) for the publication of the notice of sale in connection with any bonds issued pursuant to this resolution.

The following vote was taken and recorded in the public or open session of said meeting:

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

Nays: None (0)

CARRIED.

BE IT RESOLVED, this 16th day of November, 2005, by the Common Council of the City of North Tonawanda, Niagara County, New York (the "City"):

SECTION 1. The power to authorize, from time to time and year to year, the issuance and sale of tax anticipation notes (the "Notes") of the City of North Tonawanda, Niagara County, New York, including renewals thereof, in anticipation of the collection of taxes or assessments levied, or to be levied, for a fiscal year is hereby delegated to the City Treasurer of the City, as the chief fiscal officer. Such Notes shall be of such terms, and have such form and content as may be determined by said City Treasurer in accordance with the Local Finance Law of the State of New York.

SECTION 2. It is hereby determined that any Notes which may be issued by the City pursuant to this resolution in anticipation of the collection of taxes or assessments to be levied by the City for any given fiscal year shall be issued in accordance with Section 24.00 of the Local Finance Law of the State of New York.

SECTION 3. Subject to the provisions of this resolution and, pursuant to the provisions of Sections 30.00 and 50.00 of the Law, the powers and duties of the Common Council of the City relative to the issuance and sale of the Notes, including any renewals thereof, and the authorization of the terms, form and content thereof, are hereby delegated to the City Treasurer, as the chief fiscal officer of the City. The City Treasurer of the City is authorized and directed to execute and deliver the Notes to the purchaser thereof and the City Clerk of the City is authorized and directed to attest the Notes.

SECTION 4. The full faith and credit of the City are and shall be pledged to the punctual payment of principal of and interest on any Notes issued in accordance with the authority of this resolution.

SECTION 5. The City Treasurer of the City is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Notes as excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and to designate the Notes, if applicable, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i)(I) of the Code.

SECTION 6. It is hereby determined and declared that it is the intent of this Common Council that the delegation of authority to the City Treasurer set forth in this resolution shall remain in effect until such time as this resolution is modified, amended, rescinded, revoked or repealed by this body.

SECTION 7. This resolution shall take effect immediately upon its adoption.

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

AND FURTHER:

At a Meeting of the Common Council of the City of North Tonawanda, in the County of Niagara, New York, held at City Hall, 216 Payne Avenue, North Tonawanda, New York on November 16, 2005

PRESENT: Brett M. Sommer, President
Sue Hempel, Alderman
Phillip Russell Rizzo, Alderman
Lawrence V. Soos, Alderman-at-Large
Catherine G. Schwandt, Alderman-at-Large

ABSENT: None

The following resolution was offered by Alderman Hempel, who moved its adoption, seconded by Alderman Rizzo, to-wit:

**REVENUE ANTICIPATION NOTE RESOLUTION DATED
NOVEMBER 16, 2005 DELEGATING POWER TO THE
CITY TREASURER TO AUTHORIZE, FROM TIME TO
TIME AND YEAR TO YEAR, THE ISSUANCE AND SALE
OF REVENUE ANTICIPATION NOTES OF THE CITY OF
NORTH TONAWANDA, NIAGARA COUNTY, NEW YORK,
IN ANTICIPATION OF THE COLLECTION OF
REVENUES TO BE RECEIVED**

BE IT RESOLVED, this 16th day of November, 2005, by the Common Council of the City of North Tonawanda, Niagara County, New York (the "City"):

SECTION 1. The power to authorize, from time to time and year to year, the issuance and sale of revenue anticipation notes (the "Notes") of the City of North Tonawanda, Niagara County, New York, including renewals thereof, in anticipation of the collection of revenues to include taxes (other than real estate taxes), rents, rates, charges, moneys and other income to be received by the City (collectively, "Revenue"), the receipt of which shall become due and payable within the fiscal year that the Notes are to be issued, is hereby delegated to the City Treasurer of the City, as the chief fiscal officer. Such Notes shall be of such terms, and have such form and content as may be determined by said City Treasurer in accordance with the Local Finance Law of the State of New York.

SECTION 2. It is hereby determined that any Notes which may be issued by the City pursuant to this resolution in anticipation of the collection of Revenues to be received by the City for any given fiscal year shall be issued during such fiscal year and otherwise in accordance with Section 25.00 of the Local Finance Law of the State of New York.

SECTION 3. Subject to the provisions of this resolution and, pursuant to the provisions of Sections 30.00 and 50.00 of the Law, the powers and duties of the Common Council of the City relative to the issuance and sale of the Notes, including any renewals thereof, and the authorization of the terms, form and content thereof, are hereby delegated to the City Treasurer, as the chief fiscal officer of the City. The City Treasurer of the City is authorized and directed to execute and deliver the Notes to the purchaser thereof and the City Clerk of the City is authorized and directed to attest the Notes.

SECTION 4. The full faith and credit of the City are and shall be pledged to the punctual payment of principal of and interest on any Notes issued in accordance with the authority of this resolution.

SECTION 5. The City Treasurer of the City is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Notes as excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and to designate the Notes, if applicable, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i)(I) of the Code.

SECTION 6. It is hereby determined and declared that it is the intent of this Common Council that the delegation of authority to the City Treasurer set forth in this resolution shall remain in effect until such time as this resolution is modified, amended, rescinded, revoked or repealed by this body.

SECTION 7. This resolution shall take effect immediately upon its adoption.

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

