

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Wednesday, April 5, 2006
7:00 P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

ROLL CALL

**Present: President Sommer
 Aldermen Brick, Rizzo, Schwandt, Donovan**

Absent: None

**Also Present: Mayor Lawrence V. Soos
 Attorney Shawn P. Nickerson**

APPROVAL OF THE MINUTES OF THE REGULAR SESSION MARCH 15, 2006

**MOVED by Alderman Rizzo SECONDED by Alderman Brick
That the minutes of the regular session held March 15, 2006 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

AUDIENCE PARTICIPATION –

**Laurie Calamita, 260 Oliver Street – Questioned the residency waiver for the
Administrative Assistant position in Mayor’s office and also questioned the part time status
and asked if the position was advertised.**

**Sue Hempel, 234 Falconer Street – Questioned the residency waiver for the Administrative
Assistant position in Mayor’s office and also questioned why only one interview was held.**

**Jerry DiVirgilio, 1760 Payne Avenue – Wants Sam Iraci put into Administrative Assistant
position in the Mayor’s Office.**

**Bill Paton, 55 7th Avenue – Asked if candidates for Administrative Assistant in Mayor’s
office submitted applications and resumes.**

**Gordon Fritz, 1727 Eddy Drive – Complained about Terrace Parking and parking on front
lawns.**

Linda Pierce, 700 Niagara Parkway – Questioned the surcharge on the water bills.

**Marge Andrey, 861 Sweeney Street – Stated that she called Alderman Sommer and that
her call was not returned.**

**Re: Memorandum of Agreement between the City and
Firefighters Union Local 1333**

Dear Honorable Body:

Pursuant to an arbitrator's decision, the city was ordered to negotiate the impact of moving the fire dispatcher's duties to Niagara County. The city and union met several times and also met with the NYS Public Employment Relations Board over this matter.

As a result of these negotiations, the city and union have tentatively agreed to increase each employees wage by seven hundred fifty dollars (\$750.00) retroactive to January 1, 2006. This is the same tentative agreement that was discussed in a prior Common Council workshop.

If you concur, please authorize the mayor to sign a memorandum of agreement to that effect. Thank you.

Very truly yours,
Robert Sondel
Assistant City Attorney

MOVED by Alderman Brick **SECONDED** by Alderman Donovan
That the Common Council authorizes the Mayor to sign a memorandum of agreement with Firefighters Union Local 1333 to increase each employees wage by seven hundred fifty dollars (\$750.00) retroactive to January 1, 2006.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

IV.1 Engineer

March 28, 2006

Lawrence V. Soos, Mayor
and Common Council Members
City Hall North Tonawanda
216 Payne Avenue
North Tonawanda, New York

**Re: Project No. 2005-12 (Fmr. Project No. 94-05) Daigler Drive Subdivision
Phase I, Wayne Avenue Extension and Western Cul-De-Sac
Dedication of Public Improvements**

Honorable Body:

Your acceptance of Project 2005-12, Daigler Drive Subdivision, Phase I is hereby requested.

The developer's contractor, Milherst Construction Co., Inc., has provided the city with the four (4) necessary maintenance bonds for the storm sewers, sanitary sewers, water main and asphalt pavement with concrete curbing in accordance with the provisions set forth under Chapter 72 of the city's Public Improvement Permit Ordinance. In addition, the developer's engineer, Metzger Engineering (Bissell Stone Surveying), has provided the city the required as-built maps and construction certification.

The developer, Michael Wachowicz, MCW, Inc., has agreed to post a letter of credit or cash deposit in the amount of \$7,000 estimated by the engineering department to be the value of the punch list item work for sidewalk installation and terrace area restoration identified in my March 20, 2006 letter to him.

Therefore, I respectfully request that the Common Council approve Project No. 2005-12, Daigler Drive Subdivision, Phase I, accepting dedication of the roadway pavement and curbs, storm sewer system, sanitary sewer system, and water main with appurtenances.

Also your acceptance of the deed to the property for the lot containing the storm water sedimentation basin required under the project's SPEDES Permit is requested.

Further, that your acceptance of the project be contingent on the city receiving a deposit in the amount of \$7,000 in a form acceptable and approved by the City Attorney for the remaining punch list item work that is to be completed by no later than June 30, 2006.

Please do not hesitate to call me at 695-8565 if you have any questions.

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

MOVED by Alderman Sommer

SECONDED by Alderman Donovan

That the Common Council hereby approves Project No. 2005-12, Daigler Drive Subdivision, Phase I, accepting dedication of the roadway pavement and curbs, storm sewer system, sanitary sewer system, and water main with appurtenances and also accepts the deed to the property for the lot containing the storm water sedimentation basin required under the project's SPEDES Permit, contingent upon the city receiving a deposit in the amount of \$7,000 in a form acceptable and approved by the City Attorney for the remaining punch list item work that is to be completed by no later than June 30, 2006.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

IV.2 Engineer

March 28, 2006

Lawrence V. Soos, Mayor and Common Council Members
City Hall North Tonawanda
216 Payne Avenue
North Tonawanda, New York

**Re: Old Falls Boulevard Sanitary Sewer Replacement and Road Reconstruction
Engineering Services Agreement
Project No. 2006-01**

Honorable Body:

Superintendent of Public Works, Gary J. Franklin and I met recently with Wendel Duscherer Architects and Engineers to negotiate professional services agreement for the engineering, design, plans and specifications for the Old Falls Boulevard Sanitary Sewer and Road Reconstruction Project. Wendel Duscherer is currently providing the city with the survey and mapping of Old Falls Boulevard, from Niagara Falls Boulevard to Louisa Street.

The replacement of the sanitary sewer and road reconstruction of Old Falls Boulevard will take several months to complete due to the project's length and scope. It is important that the engineering design of the project be completed within the next 30 to 45 days in order that construction of the project begins no later than June 2006.

Gary Franklin has informed me that he is dedicating a portion of the State's CHIPs funds allocated for the project towards the funding the engineering fees. The City Engineering Department will be providing in-kind project management, inspection, as-built mapping, and project closeout.

Accordingly, I respectfully request that the Common Council authorize the Mayor to sign the enclosed engineering agreement with Wendel Duchscherer Architects and Engineers, 140 John James Audubon Parkway, Suite 206, Amherst, NY 14228, to provide engineering design for the Old Falls Boulevard Sanitary Sewer Replacement and Road Reconstruction Project, in an amount not to exceed \$67,600, subject to review by the City Attorney.

If you have any questions, please do not hesitate to call me at 695-8565.

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

MOVED by Alderman Donovan **SECONDED** by Alderman Sommer
That the Common Council hereby authorizes the Mayor to sign the engineering agreement with Wendel Duchscherer Architects and Engineers, 140 John James Audubon Parkway, Suite 206, Amherst, NY 14228, to provide engineering design for the Old Falls Boulevard Sanitary Sewer Replacement and Road Reconstruction Project, in an amount not to exceed \$67,600, subject to review by the City Attorney.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

IV.3 Engineer

March 29, 2006

Honorable Lawrence Soos, Mayor
and Common Council Members
City Hall
North Tonawanda, New York 14120

Re: Erie Canal Dredging
Project 2005-16
Award of Contract

Dear Honorable Body:

On March 28, 2006 the Engineering Department received one (1) bid from a qualified contractor for the dredging of sediment from the Erie Canal near the dock wall at Gateway Harbor in the City of North Tonawanda. The result is as follows:

- BIBCO Marine Group \$64,500.00

Funds in the amount of \$90,000 have been earmarked for the project from the State of New York through a grant from Senator George D. Maziarz for the permitting, design, dredging, and disposal of the of the canal sediments at the U.S. Army Corps of Engineers site.

Accordingly, I respectfully request that the Common Council award Project 2005-16, Erie Canal Dredging to BIDCO Marine Group, 201 Ganson Street, Buffalo, NY 14203 at their low bid amount of \$64,500.00; 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 Brick **SECONDED** by Alderman Sommer
That the Common Council hereby awards Project 2005-16, Erie Canal Dredging to BIDCO Marine Group, 201 Ganson Street, Buffalo, NY 14203 at their low bid amount of \$64,500.00 and further authorizes the Mayor to sign said contract, subject to review by the City Attorney.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

MOVED by Alderman Rizzo

SECONDED by Alderman Donovan

That the Common Council hereby approves Change Order No.1, increasing the contract amount by the amount of \$19,838.65; from \$63,395, to the revised final contract amount of \$83,233.65 with Paterson-Stevens, Inc., and further authorizes the Mayor to sign said change order subject to review by the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

V. Water

February 6, 2006

**Honorable Lawrence Soos, Mayor
and the Common Council
216 Payne Avenue
N Tonawanda NY 14120**

Re: Award of Bid for Uniforms for Water/Wastewater

Honorable Body:

The city has received quotations from vendors to supply uniforms to the Water/Wastewater Departments.

The following quotes were received:

Cintas #782, 570 Genesee Street	\$90.91/wk
Unifirst Corp, 3990 Jeffrey Blvd	\$91.03/wk
Doritex, 11075 Walden Avenue	\$105.78/wk

I recommend that Cintas be awarded the contract at their low bid of \$90.91/wk which reflects a 15% decrease over the previous contract prices. The bid should be awarded for three (3) years.

Thank you for your consideration in addressing this matter.

**Sincerely,
Paul J. Drof,
Superintendent NT Water Works**

MOVED by Alderman Schwandt

SECONDED by Alderman Donovan

That the Common Council hereby awards the contract to supply uniforms to the Water/Wastewater Departments to Cintas at their low bid of \$90.91/wk for three (3) years, subject to review by the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

VII. Accountant

March 9, 2006

**Honorable Lawrence V. Soos, 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 April 5, 2006, 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 Brick
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated April 5, 2006 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$398,109.87
02	Water Fund	50,800.62
04	Sewer Fund	111,074.57
06	Capital Project Fund	563,561.55
07	Trust & Agency Fund	476.00
08	Community Development	60.00
11	General Fund Encumbered	9,803.45
14	Sewer Fund Encumbered	1,144.68
	Final Total	<u>\$1,135,030.74</u>

The Treasurer is requested to hold payment of voucher #955 until receipt of a memo from the Fire Chief explaining expenditure.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

IX.1 Public Works

March 30, 2006

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

Re: Award of Bid
New & Unused Street Lighting Poles,
Luminaires and Accessories

Honorable Body:

On Wednesday, March 8, 2006 bids for New and Unused Street Lighting Poles, Luminaires and Accessories were received and publicly opened in the City Clerk's Office. We have reviewed the bids and tabulate them as follows:

<u>BIDDER</u>	<u>AMOUNT</u>
Graybar Electric	\$46,120.00

I am recommending to the Council that all bids be rejected and bid sureties be returned.

Very truly yours,
Gary J. Franklin
Superintendent Public Works

MOVED by Alderman Sommer SECONDED by Alderman Brick
That the Common Council hereby rejects the bid for New and Unused Street Lighting Poles, Luminaires and Accessories and authorizes all bid sureties be returned to bidders.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

IX.2 Public Works

March 30, 2006

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

Re: Bid Award
 One New & Unused Truck Cab & Chassis w/Dump Body

Honorable Body:

On Monday, March 27, 2006 bids were received and publicly opened in the City Clerk's Office. We have reviewed the bids and tabulated them as follows:

<u>BIDDER</u>	<u>AMOUNT</u>
Regional International of WNY	
With Valley Fab Body	\$74,732.00
With Gorman Ent. Body	\$76,535.00
With STS Body	\$85,485.00

I recommend the Common Council award the bid for, one (1) New and Unused Truck Cab and chassis with Dump Body to Regional International of WNY at the low bid with Valley Fab Body of \$74,732.00, subject to the approval of the City Attorney.

Very truly yours,
 Gary J. Franklin
 Superintendent Public Works

MOVED by Alderman Rizzo

SECONDED by Alderman Brick

That the Common Council hereby awards the bid for, one (1) New and Unused Truck Cab and chassis with Dump Body to Regional International of WNY at the low bid with Valley Fab Body of \$74,732.00, subject to the approval of the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

IX.3 Public Works

March 30, 2006

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

Re: Bid Award Tire Disposal

Dear Honorable Body:

On Monday, March 20, 2006, bids were received and publicly opened in the City Clerk's Office for Tire Disposal. My office has reviewed the bids submitted and tabulates them as follows:

<u>BIDDERS</u>	<u>AMOUNT</u>
High Tread International, LTD.	\$ 50.00/ton Drop Off \$100.00/ton Pick Up
Modern Recycling Inc.	\$ 80.00/ton Drop Off \$110.00/ton Pick Up

I therefore respectfully request that the Mayor and Common Council approve the application as submitted, which obligates the City regarding funding sources as follows:

- 1) **Main St. Streetscape Project:**
The City will provide \$185,000 by issuing a municipal bond.
- 2) **Canal-Related Public Improvements:**
The City will provide \$125,000 by issuing a municipal bond.
- 3) **Oliver St. Rehabilitation Program:**
The City will approve utilization of \$140,000 from the City's Housing Rehabilitation Fund (Program Income).

Further, since the actual work on these projects will not commence until late Spring of 2007, the Community Development Department will be diligently seeking other funding sources to offset or possibly eliminate the above noted bonding obligations.

Thank you for your anticipated cooperation.

Sincerely,
James. B. Sullivan
Director of Community Development

MOVED by Alderman Sommer SECONDED by Alderman Schwandt
That the Common Council hereby approves the 2006 Comprehensive Grant Application as submitted to the New York State Governor's Office for Small Cities which obligates the City regarding funding sources as follows:

- 1) **Main St. Streetscape Project:**
The City will provide \$185,000 by issuing a municipal bond.
- 2) **Canal-Related Public Improvements:**
The City will provide \$125,000 by issuing a municipal bond.
- 3) **Oliver St. Rehabilitation Program:**
The City will approve utilization of \$140,000 from the City's Housing Rehabilitation Fund (Program Income).

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Columbia Hook & Ladder - Re: Removal from Fire Rolls

Conal L. Martin

MOVED by Alderman Donovan SECONDED by Alderman Schwandt
To remove Conal L. Martin from the City Fire Rolls.
CARRIED.

**B.
Historic Preservation Commission**

March 13, 2006

**Hon. Larry Soos
Mayor, City of North Tonawanda
and Common Council**

**Attn: Brett M. Sommer
President, Common Council**

The minutes of the March 7, 2006, meeting of the Historic Preservation Commission, with an attached contact list, are hereby submitted for the approval of the Mayor and Common Council of the changes authorized at the meeting of the Commission.

At the March 7, 2006, meeting of the Historic Preservation Commission, in accordance with the revised Historic Preservation Ordinance, the Commission took the following actions. Your official approval is hereby requested.

- 1. Kathy Manno and Timothy Contangelo were appointed full Commission members, bringing the Commission to a total of nine members, as authorized under the revised ordinance.**
- 2. As a result of changes required by New York State and incorporated into the revised ordinance, the terms of the existing Commission members were changed as follows:**
 - a. Because the revised ordinance limits the terms of the three present Commission members who are City employees to one year terms, the terms of Charles Bell, A. Daniel Bille, and Dale Marshall have been revised to expire on July 31, 2006. They will each be asked to continue in an advisory status beginning August 1, 2006.**
 - b. A revision of expiration dates, following as closely as possible the original timeline, was made. A copy of the revised contact list including the new term expiration dates will be attached to these minutes as the official record. Notice will be submitted by the secretary to the Mayor and Common Council for their approval.**

We would appreciate a written assent from both the Mayor's office and the Common Council for our Commission records.

**Sincerely,
Donna Zellner Neal
Commission Secretary**

MOVED by Alderman Sommer

SECONDED by Alderman Donovan

That the Common Council hereby approves the appointment of Kathy Manno and Timothy Contangelo as full Commission members, bringing the Commission to a total of nine members, as authorized under the revised ordinance, and further, because the revised ordinance limits the terms of the three present Commission members who are City employees to one year terms, the terms of Charles Bell, A. Daniel Bille, and Dale Marshall will expire on July 31, 2006 and they will continue in an advisory status beginning August 1, 2006.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

C.
NT History Museum

March 22, 2006

Hon. Lawrence Soos
Mayor, City of North Tonawanda
216 Payne Avenue
North Tonawanda, NY 14120

Dear Mayor Soos:

The North Tonawanda History Museum has requested authorization from Canal Fest to host a History Weekend in Gratwick-Riverside Park as part of Canal Fest. Should they not approve it as part of their programming for the week, we will do it as a separate event.

We have discussed the use of the park with Jerry Whitehead and other Parks Department employees and I made a visit there today with them to review logistics. It appears it will be an ideal site for what we have planned.

We are prepared to present a History Weekend in Gratwick-Riverside Park on Saturday, July 22 and 23, which will include a Civil War re-enactment group that also has a mobile classroom with a collection of over 20 displays. We are working with Echoes Through Time Historical Tours and Presentations. They are actively involved in the Sons of Confederate Veterans and the Sons of Union Veterans. They teach, talk, and demonstrate.

They have three 10x20 tents that they use to house their displays, and that gives them over 100 feet of display room under the tents. They will have dozens of costumed/uniformed participants demonstrating and providing living history. They have a tremendous educational program and we hope to develop a long-term relationship with them. They would be available to set up their tents on Friday, July 21st and could set up their equipment and displays and stay overnight. They need power for lighting which is no problem at the park. They would take down on Sunday afternoon.

We will also be in a position to offer barbecued (charcoal) dinners at the park for those two days, a barbecued ribs dinner and a barbecued shrimp dinner and possibly a barbecued filet mignon tips dinner. The dinners would include ½ lb. of meat, and macaroni salad, potato salad, baked beans, or cole slaw (we'll choose two for each meal offered), a roll and butter, plates, forks, knives, and wipes. They can be sold to eat there or for take out. We plan to work with Krolick's Barbecues, an established provider of these meals.

We will also offer Anderson's frozen yogurt in yogurt cups or cones and Pepsi products and water.

In addition to these fellows, there is the possibility that the Tugboat Urger will be available that week. They need 100 ft. of docking and power. They permit people to board the boat and ask questions of the crew. We are working with the Canal Corporation on a possible date and would like advice from the City on an appropriate location. We assume the River current is too swift to consider the limited docking area at Gratwick-Riverside. We would love to be able to do it at the Adam Gondek Botanical Gardens rather than in the crowded downtown area during Canal Fest.

We will also be presenting three Canal Fest week Seaway Trail Walks. The walks this year are hosted by the North Tonawanda History Museum and sponsored by Seaway Trail Corporation and the Landmark Society of the Niagara Frontier. We will present the 90-minute walks on Tuesday, July 18 at 2 p.m., on Wednesday, July 19 at 6 p.m., and on Thursday, July 20 at 4 p.m. Walks will begin at Project Pride Way on Webster Street. Fees apply. We host the walks every Wednesday June through the end of September. They will be officially part of Canal Fest that week.

Our objective is to get people to see more of North Tonawanda. Canal Fest brings them in—we want them to see more than just the Canal Fest campus while they are here. In the past, the Nor-Ton Red Jacket Club was allowed to host their canoe clinics at Donald F. Miller Memorial Park as part of Canal Fest and the Historical Society of the Tonawandas uses Clinton Park for their flea market the same weekend we wish to do the history

In conjunction with the Carnival, we will be holding our 10th annual Jamie LaBarbera, 5K Run for Education and Fun Walk. The race was renamed last year in honor of Jamie who died in a tragic car accident in 2003. The Race and Fun Walk will begin at 11:00am on the 18th. It will start at the corner of Lyric and Majestic Lane, proceed to Erie Avenue to Wurlitzer Dr. to Vanderbilt Avenue to Deerfield Drive to Ohio Street to Niagara Falls Blvd. and back to the Church.

We are also planning a Classic Car Show on Saturday June 17th between the hours of Noon and 4:00pm.

We are asking the city for help so that we can make the weekend a huge success. These are as follows:

- Permission to use the city streets for the race and fun walk on Sunday, June 18th.
- Permission to close off Majestic Lane and a small portion of Lyric for the Car Show.
- Permission to hold the parade on June 16th which will form in the street by the Coach USA building and proceed out onto Wurlitzer Dr. to Erie Avenue to Lyric and into the parking lot of the church.
- A trash packer and approximately 12 trash cans that can be used to move the trash to the packer.
- Portable stage for the outdoor entertainment.
- Some snow fencing and stakes.
- Picnic tables if possible.
- Permission and assistance to place a banner over Payne Avenue and/or Erie Avenue.
- Street cones to protect the runners and kids in the parade.
- Police assistance for traffic control for the parade that begins at 6:00pm on June 16th and assistance for the 5K Run and Fun Walk that begins at 11:00am on June 18th.
- No parking signs and road barricades.

We would like to take this opportunity to again thank the City of North Tonawanda for its great support in the past years, as we know we can count on you again for your support this year. If you should have any questions, please contact Lawrence J. Pfalzer, Jr. at 692-6906 or Russ Trippe (Race Director) at 731-3078.

Sincerely,
Lawrence J. Pfalzer, Jr.
Chairperson

MOVED by Alderman Schwandt SECONDED by Alderman Sommer
That the Common Council hereby grants the requests of the North Tonawanda Catholic School for its 12th annual Carnival on the grounds of St. Albert the Great Church, Niagara Falls Blvd. June 16th, 17th and 18th, 2006 as follows:

- Permission to use the city streets for the race and fun walk on Sunday, June 18th.
- Permission to close off Majestic Lane and a small portion of Lyric for the Car Show.
- Permission to hold the parade on June 16th which will form in the street by the Coach USA building and proceed out onto Wurlitzer Dr. to Erie Avenue to Lyric and into the parking lot of the church.
- A trash packer and approximately 12 trash cans that can be used to move the trash to the packer.
- Portable stage for the outdoor entertainment.
- Some snow fencing and stakes.
- Picnic tables if possible.
- Permission and assistance to place a banner over Payne Avenue and/or Erie Avenue.
- Street cones to protect the runners and kids in the parade.

- Police assistance for traffic control for the parade that begins at 6:00pm on June 16th and assistance for the 5K Run and Fun Walk that begins at 11:00am on June 18th.
- No parking signs and road barricades.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
 Nays: None (0)
CARRIED.

LATE COMMUNICATION

MOVED by Alderman Brick **SECONDED** by Alderman Donovan
 To bring the following communication to the floor.
 Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
 Nays: None (0)
CARRIED.

#1 Attorney

April 4, 2006

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

Re: New York State Cyber Security Policy/Information Security Policy

Dear Honorable Body:

We have been informed that the State of New York has adopted the New York State Information Security Breach Act to protect the citizens of New York State from unauthorized access to their private information stored in electronic format(s). The state has also required that every local government must also individually adopt its own notification policy consistent with the state statute by April 6, 2006.

Attached is a copy of the model policy provided by the State of New York for use and adoption by local governments in order to comply with state requirements.

If your Honorable Body concurs, please pass a resolution to adopt the attached model policy, subject to further review by the City Attorney. Should you have any questions, please do not hesitate to contact me.

Very truly yours,
 Shawn P. Nickerson
 City Attorney

MOVED by Alderman Sommer **SECONDED** by Alderman Brick
 That the Common Council hereby adopts the New York State Cyber Security Policy/Information Security Policy and definitions as follows:

CYBER SECURITY CITIZENS' NOTIFICATION POLICY

THIS policy is consistent with the State Technology Law §208 as added by Chapters 442 and 491 of the Laws of 2005. This policy requires notification to affected New York residents and non-residents. The City of North Tonawanda is required to notify an individual when data, which is maintained by the city and contains the individual's private information, has been, or is reasonably believed to have been, compromised.

The City, after consulting with the state's Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) to determine the scope of the breach and restoration measures of its compromised data, must notify an individual when it has been determined that there has been, or is reasonably believed to have been a compromise of the individual's private information through unauthorized disclosure.

A compromise of private information means the unauthorized acquisition of unencrypted computerized data with private information.

If encrypted data is compromised along with the corresponding encryption key, the data is considered unencrypted and thus falls under the notification requirements.

Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.

The city will notify the affected individual directly by one of the following methods:

- 1). Written notice
- 2). Electronic notice, provided that the person to whom notice is required has expressly consented to receiving notice in electronic form and a log of each notification is kept by the city that notifies affected persons in such form;
- 3). Telephone notification, provided that a log of each notification is kept by the city that notifies affected persons; or
- 4). Substitute notice, if the city demonstrates to the State Attorney General that the cost of providing notice would exceed \$250,000, that the affected class of persons to be notified exceeds 500,000, or that the municipality does not have sufficient contact information. The following constitute sufficient substitute notice:
 - a. E-mail notice when the city has an e-mail address for the subject persons;
 - b. Conspicuous posting of the notice on the city's web page, if the city maintains one;
 - c. Notification to major statewide media.

The City must notify CSCIC as to the timing, content and distribution of the notices and approximate number of affected persons.

The City must notify the Attorney General and the Consumer Protection Board, whenever notification to a New York resident is necessary, as to the timing, content and distribution of the notices and approximate number of affected persons.

Regardless of the method by which notice is provided, the notice must include contact information for the City making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

This policy applies not only to information maintained by the City itself, but also to information maintained on behalf of the City by a third party.

When more than 5,000 New York residents must be notified at one time, then the City must notify the consumer reporting agencies as to the timing, content and distribution of the notices and the approximate number of affected individuals. This notice, however, will be made without delaying notice to the individuals.

DEFINITIONS

Consumer Reporting Agency: Any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluation consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. The state attorney general is responsible for compiling a list of consumer reporting agencies and furnishing the list upon request to the municipality.

Data: Any *information* created, stored (in temporary or permanent form), filed, produced or reproduced, regardless of the form or media. *Data* may include, but is not limited to personally identifying *information*, reports files, folders, memoranda, statements, examinations, transcripts, images, communications, electronic or hard copy.

Information: The representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by human or automated means.

Personal Information: Any *information* concerning a natural person which, because of name, number, personal mark or other identifier, can be used to identify such natural person.

Private Information: *Personal information* in combination with any one or more of the following *data* elements, when either the *personal information* or the *data* element is not encrypted or encrypted with an encryption key has also been acquired:

1. social security number; or
2. driver’s license number or non-driver identification card number; or
3. account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual’s financial account.

“Private information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

Third Party: Any non-municipal employee such as a contractor, vendor, consultant, intern other municipality, etc.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer	(5)
Nays: None	(0)
CARRIED.	

There being no further business the meeting adjourned.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk