

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, January 16, 2007
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 REORGANIZATION MEETING JANUARY 2, 2007

MOVED by Alderman Rizzo **SECONDED by Alderman Brick**
That the minutes of the reorganization meeting held January 2, 2007 be approved as
circulated and filed in the Office of the City Clerk.
CARRIED.

APPROVAL OF THE MINUTES OF THE REGULAR SESSION JANUARY 2, 2007

MOVED by Alderman Brick **SECONDED by Alderman Rizzo**
That the minutes of the regular session held January 2, 2007 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.

PROOF OF PUBLICATION PUBLISHED
NOVEMBER 20, 200, 27, 29, 2006 & DECEMBER 4, 6, 2006

1) Legal Notice – Notice of Sale – City Treasurer

PROOF OF PUBLICATION PUBLISHED DECEMBER 5 & 12, 2006

1) Legal Notice – Sale of Unpaid Taxes and/or Assessments- City Treasurer

MOVED by Alderman Rizzo **SECONDED by Alderman Donovan**
That the Common Council hereby receives and files the aforementioned Proofs of
Publication.
CARRIED.

AUDIENCE PARTICIPATION

Daniel Rivera, 65 6th Avenue – Asked the Common Council to audit the Treasurers Office.

Jerry DiVirgilio, 767 Payne Avenue – Asked about the Abstract of Claims.

Sonia Dusza, 123 Miller Street – Asked why the City decided to auction the property at 408
Oliver Street instead of demolishing it and stated that the property should be
sold/auctioned to a responsible landowner.

Arthur Pappas, 1417 Forbes Street – Asked why the City decided to auction the property at
408 Oliver Street instead of demolishing it.

COMMUNICATIONS FROM CITY OFFICIALS

I.1 Mayor

January 3, 2007

**North Tonawanda Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120**

Re: NT City Charter Review Committee

Dear Honorable Body:

Please be advised that former Mayor Mary Kabasakalian has informed this office that she can no longer serve on the Charter Review Committee. I truly thank her for the time and effort she has put forward up to this point and she will be missed.

Accordingly, in her place, I hereby appoint Mr. Lou DalPorto of 416 Fairmont Avenue, North Tonawanda, NY 14120, effective immediately.

Thank you for your attention to this matter.

**Very truly yours,
Lawrence V. Soos
Mayor**

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

I.2 Mayor

January 12, 2007

**North Tonawanda Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120**

Re: Enabling Legislation for the Niagara River Yacht Club Property Sale

Dear Honorable Body:

As you are aware, it has been the intent of the City of North Tonawanda to sell the city-owned waterfront property located at 1000 River Road. This property is more commonly known as the Niagara River Yacht Club.

Subsequent to a court proceeding, City Attorney Shawn P. Nickerson has advised this office and the Common Council that sale of such municipal waterfront property requires prior approval of both bodies of the New York State legislature. This mandate is pursuant to General City Law 20 (2) and the April 6, 2006 court order signed by Judge Richard C. Kloch, Sr.

Accordingly, I respectfully request you pass the following resolution:

North Tonawanda Mayor Lawrence V. Soos and the North Tonawanda Common Council both support the completion of the sale of the Niagara River Yacht Club property. This waterfront property is owned by the City of North Tonawanda and is located at 1000 River Road, North Tonawanda, New York.

North Tonawanda Mayor Lawrence V. Soos and the North Tonawanda Common Council have been made aware that General City Law 20(2) requires approval of the New York State Legislature prior to alienating this property. Accordingly, both the Mayor and

Common Council respectfully request our duly elected state officials, Senator George D. Maziarz and Assemblyman Robin Schimminger to carry forth the necessary enabling legislation and support its passage, authorizing the City of North Tonawanda to sell the waterfront property commonly known as the Niagara River Yacht Club, so that the sale of said property may be finalized.

Thank you for your kind consideration and support. If you have any questions please feel free to contact my office.

Yours truly yours,
Lawrence V. Soos
North Tonawanda Mayor

MOVED by Alderman Donovan **SECONDED** by Alderman Schwandt
North Tonawanda Mayor Lawrence V. Soos and the North Tonawanda Common Council both support the completion of the sale of the Niagara River Yacht Club property. This waterfront property is owned by the City of North Tonawanda and is located at 1000 River Road, North Tonawanda, New York.

North Tonawanda Mayor Lawrence V. Soos and the North Tonawanda Common Council have been made aware that General City Law 20(2) requires approval of the New York State Legislature prior to alienating this property. Accordingly, both the Mayor and Common Council respectfully request our duly elected state officials, Senator George D. Maziarz and Assemblyman Robin Schimminger to carry forth the necessary enabling legislation and support its passage, authorizing the City of North Tonawanda to sell the waterfront property commonly known as the Niagara River Yacht Club, so that the sale of said property may be finalized.

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

II. Attorney

January 9, 2007

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

Re: Renewal Agreement between Niagara County Office of the Aging and the City of North Tonawanda for Senior Center Nutrition Program

Dear Honorable Body:

I have reviewed the attached renewal agreement (which was somehow forwarded to the Mayor for signature before approval by the Common Council), and approve for signature by the Mayor (if the Common Council also approves). The renewal term for the program is January 1, 2007 through December 31, 2007.

In order to move this forward in the proper way, please put the agreement on the Common Council agenda for their formal approval. Once that happens, the fully-executed agreement can be returned to the Niagara County Office for the Aging.

Shawn P. Nickerson
City Attorney

MOVED by Alderman Schwandt **SECONDED** by Alderman Brick
That the Common Council hereby authorizes the Mayor to sign the agreement between Niagara County Office of the Aging and the City of North Tonawanda for the Senior Center Nutrition Program subject to review by the City Attorney.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

As you are aware, the Common Council adopted the project in the 2007 Capital Budget that commits the City to ultimately fund twenty percent (20%) of the Non-Federal share of costs at \$400,000 of the overall project cost of \$2,000,000. In addition, the City will be receiving Marcheselli Aid from the State on our Non-Federal share of the project cost as indicated in the enclosed letter from the NYSDOT.

The City must first administer the Preliminary Engineering and Right-of-Way Incidental phases of the project. The City must commit to pay one hundred percent (100%) of the Federal and Non-Federal shares of the cost of these phases calculated to be \$500,000. The NYSDOT will reimburse the City for the eighty percent (80%) Federal share of the project costs via the procedures for Locally Administered Federal Aid Projects as the project progresses.

The Meadow Drive Extension Project has been included in the State's Budget for Marchiselli Aid funding for the Preliminary Engineering and Right-of-Way phases of the work for the State Fiscal Year (SFY) 2006-07. Under the Marchiselli Aid Agreement, the State will reimburse the City as follows:

- 15%, the maximum reimbursement of the current \$400,000 cost of the Preliminary Engineering phase of the project which equals \$60,000.
- 15%, the maximum reimbursement of the current \$100,000 cost of the Right-of-Way Incidentals phase of the project which equals \$15,000.

Accordingly, please approve the attached Resolution, authorizing the Mayor to sign the enclosed Marchiselli Aid Agreement with the State of New York and also to commit the City to provide \$500,000 in funds for Preliminary Engineering and Right-of-Way Incidental phases of the Meadow Drive Extension Project, all 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 Sommer

SECONDED by Alderman Donovan

WHEREAS, a project for the Extension of Meadow Drive from its current terminus approximately 0.22 miles east of Nash Road to NY Route 425, Erie Avenue, a distance of approximately 0.63 miles, in the City of North Tonawanda, Niagara County, PIN 5757.52, the Meadow Drive Extension is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal Funds and 20% Non-Federal funds; and

WHEREAS, the City of North Tonawanda desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs the Preliminary Engineering and Right-of-Way Incidentals phases of the project PIN 5757.52.

NOW THEREFORE, the Common Council of the City of North Tonawanda, duly convened does hereby

RESOLVE, that the Common Council of the City of North Tonawanda hereby approves the above-subject project; and it is hereby further

Resolved, that the Common Council of the City of North Tonawanda hereby authorizes the City of North Tonawanda to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering and Right-of-Way Incidentals phases of the Project or the portions thereof; and its further

RESOLVED, that the sum of \$500,000 is hereby appropriated in the Capital Projects Fund and made available to cover the cost of participation in the above phases of the project; and it is further

RESOLVED, that in the event the amount required to pay the full Federal on Non-Federal shares of the cost of the project's Preliminary Engineering and Right-of-Way incidentals phases exceed the amount appropriated above, the City of North Tonawanda shall convene its Common Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED that the Mayor of the City of North Tonawanda be and hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for the Federal Aid and/or State Marchiselli Aid on behalf of the City of North Tonawanda with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing that the administration of the Project and the Municipality's first instance funding the Project costs and permanent funding of the local share of the Federal-Aid and State-Aid eligible project costs and all project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

Ayes: Rizzo, Schwandt, Donovan, Sommer

(4)

Nays: Brick

(1)

CARRIED.

IV.3 Engineer

January 3, 2007

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

Re: Frederick B. Durkee Memorial Bridge
Taylor Drive Over Little River, BIN 2260960
Non-Marchiselli Agreement

Honorable Body:

In order to progress the Frederick B. Durkee Memorial Bridge Rehabilitation Project with Federal Aid, the City will need to pass resolutions and sign agreements with the New York State Department of Transportation that indicate the City's commitment to participate in the administration and funding of the various phases of the project.

As you are aware, the Common Council adopted the project in the 2007 Capital Budget that commits the City to ultimately fund twenty percent (20%) of the Non-Federal share of costs at \$300,000 of the overall project cost of \$1,500,000.

The City must first administer the Preliminary Engineering (Design I-VI) phase of the project. The City must commit to pay one hundred percent (100%) of the Federal and Non-Federal shares of the cost of this phases calculated to be \$200,000. The NYSDOT will reimburse the City for the eighty percent (80%) Federal share of the project costs via the procedures for Locally Administered Federal Aid Projects as the project progresses.

Please be aware that State Marchiselli Aid is currently unavailable for the bridge project. If the State Marchiselli Aid funding legislation is contained in this year's (SFY 2007-08) Budget for the Preliminary Engineering phase of the project, the State will require the City to execute a Supplemental Agreement for that phase based on the legislated amount. The State would then reimburse the City a maximum of fifteen percent (15%) of the cost's of the Agreement's phases which would equal \$30,000 for the Preliminary Engineering phase of the project.

Accordingly, please approve the attached Resolution, authorizing the Mayor to sign the enclosed Agreement with the State of New York and also to commit the City to provide \$200,000 in funds for the Preliminary Engineering phase of the Frederick B. Durkee Memorial Bridge Rehabilitation Project, all 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 Brick
WHEREAS, a project for the Rehabilitation of the Frederick B. Durkee Memorial Bridge, Taylor Drive over the Little River, BIN 2260960, in the City of North Tonawanda, Niagara County, PIN 5757.27, the Rehabilitation of the Frederick B. Durkee Memorial Bridge is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal Funds and 20% Non-Federal funds; and

WHEREAS, the City of North Tonawanda desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs the Preliminary Engineering phase of the project PIN 5757.52.

NOW THEREFORE, the Common Council of the City of North Tonawanda, duly convened does hereby

RESOLVE, that the Common Council of the City of North Tonawanda hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council of the City of North Tonawanda hereby authorizes the City of North Tonawanda to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering phase of the Project or the portions thereof; and it is further

RESOLVED, that the sum of \$200,000 is hereby appropriated in the Capital Projects Fund and made available to cover the cost of participation in the above phases of the project; and its further

RESOLVED, that in the event the amount required to pay the full Federal on Non-Federal shares of the cost of the project's Preliminary Engineering phase exceeds the amount appropriated above, the City of North Tonawanda shall convene its Common Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED that the Mayor of the City of North Tonawanda be and hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for the Federal Aid and/or State Marchiselli Aid on behalf of the City of North Tonawanda with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing that the administration of the Project and the Municipality's first instance funding the Project costs and permanent funding of the local share of the Federal-Aid and State-Aid eligible project costs and all project costs within appropriations therefore that are not so eligible, and its further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching any necessary Agreement in connection with the Project. And it is further

RESOLVED, this Resolution shall take effect immediately.

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

Nays: None (0)

CARRIED.

01	General Fund	\$608,538.63
02	Water Fund	49,434.14
04	Sewer Fund	55,411.51
06	Capital Project Fund	154,607.13
07	Trust & Agency Fund	2,936.50
17	Home Rehab Program	<u>2,225.00</u>
	Final Total	<u>\$873,152.91</u>

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

VII.2 Accountant

January 11, 2007

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

Dear Honorable Body:

In accordance with Article V, Division 2, Section 5.023 and Section 2.2 of the Budgetary Transfer Policy, please authorize the City Accountant to make the following transfers of fiscal year 2007 appropriations, based on the request of Department Heads, copy attached:

<u>Control Number</u>	<u>Dollar Amount</u>	<u>From Appropriation Account</u>	<u>Into Appropriation Account</u>
2	15,000.00	2-1990.410 Contingent Account	2-8330.440 Water Building & Grounds

Very truly yours,
 David R. Jakubaszek
 City Accountant

MOVED by Alderman Brick **SECONDED** by Alderman Donovan
 That the Common Council hereby authorizes the City Accountant to make the following budget amendment of fiscal year 2007 revenues and appropriations, based on the requests of Department Heads:

<u>Control Number</u>	<u>Dollar Amount</u>	<u>From Appropriation Account</u>	<u>Into Appropriation Account</u>
2	15,000.00	2-1990.410 Contingent Account	2-8330.440 Water Building & Grounds

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

X. Police

January 11, 2007

North Tonawanda Common Council

Honorable Body:

I respectfully request that you authorize the Mayor to sign the agreement with the New York State Office for Technology to become a partner in the Statewide Wireless Network.

This system will enhance emergency communications for the City of North Tonawanda allowing the best possible service to our residents.

Respectfully submitted,
Randy D. Szukala
Chief of Police

MOVED by Alderman Brick

SECONDED by Alderman Rizzo

That the Common Council hereby authorizes the Mayor to sign the agreement with the New York State Office for Technology to become a partner in the Statewide Wireless Network, subject to review by the City Attorney.

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

Nays: None (0)

CARRIED.

XVI. City Clerk

January 12, 2007

North Tonawanda Common Council
216 Payne Avenue
North Tonawanda, NY 14120

Dear Honorable Body:

Would you please reappoint the following for a two year term as Commissioners of Deeds for the City of North Tonawanda beginning January 18, 2007 and ending January 17, 2009:

Catherine P. Gambino- 1381 Vanderbilt Avenue, North Tonawanda, NY 14120
Suzann C. Chank – 1616 Sweeney Street, North Tonawanda, NY 14120

Very truly yours,
Thomas M. Jaccarino
City Clerk

MOVED by Alderman Brick

SECONDED by Alderman Donovan

That the Common Council appoints Catherine P. Gambino- 1381 Vanderbilt Avenue, North Tonawanda, NY 14120 and Suzann C. Chank – 1616 Sweeney Street, North Tonawanda, NY 14120 for a term beginning January 18, 2007 and expiring January 17, 2009.

CARRIED.

XVI.2 City Clerk

January 11, 2007

Common Council
216 Payne Avenue
North Tonawanda, NY 14120

Dear Honorable Body:

At the January 10, 2007 Common Council workshop you directed my office to begin the process of auctioning city owned property at 408 Oliver Street. It would be appropriate at this time to instruct the City Treasurer to authorize the auction of said property.

Very truly yours,
Thomas M. Jaccarino
City Clerk

AUDIENCE PARTICIPATION

Peter Labushesky, 28 Ransom Street – Thanked Kevin Brick for his help in getting neighbor to remove shed in back yard of the house next to his.

Sandra Wiech, 99 Pinewoods – Asked that the Common Council become lead agency for Wal-Mart.

David Seeger, Attorney for NT First – Asked that the Common Council become lead agency for Wal-Mart, stated that the area that Wal-Mart wants to build in is ideal for light manufacturing and that two streets will have to be abandoned or discontinued.

Ernest White, 246 East Avenue – Asked about agenda item regarding licensed plumber and wanted to know who pays plumber and asked if the Common Council has any influence regarding the sale of Lowry School.

Sonia Dusza, 123 Miller Street – Inquired about Metzger’s property at Thompson Street and River Road; wants to know if they are going to be operating in two locations.

Sue Wilke, 329 Miller Street – Stated that Wal-Mart will degenerate traffic flow and will isolate Martinsville and Wurlitzer Park and asked if detention pond will retain water.

Cathy Kern, 1248 Greenbrier Lane – Asked if the Common Council made any progress with National Grid regarding power outages in Wurlitzer Park.

Arthur Pappas, 1417 Forbes Street – Stated that the Common Council changing meeting nights conflicted with other meetings.

ADJOURNMENT

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

Time of Adjournment: 8:05P.M.

Respectfully submitted,

**Thomas M. Jaccarino
City Clerk**