

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, October 16, 2007
7:00P.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
City Attorney Shawn P. Nickerson**

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

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

AUDIENCE PARTICIPATION – None

COMMUNICATIONS FROM CITY OFFICIALS

II.1 Attorney

October 11, 2007

**Honorable Mayor and Common Council
City Hall, 216 Payne Ave
N Tonawanda, New York 14120**

Re: Renewal of Insurance Consulting Services – City of North Tonawanda

Dear Honorable Body:

Attached is the proposed renewal agreement between the City of North Tonawanda and Municipal Insurance Consultants, Inc. for the period October 1, 2007 through October 1, 2008. Municipal Insurance Consultants, Inc. has provided exemplary service to the City as insurance advisor, risk management analysis, loss control support and analysis and providing marketing strategy for our recent renewal, and has worked with us since we withdrew from the Niagara County Risk Management Pool several years ago.

Should your Honorable Body concur, please pass a resolution authorizing us to renew the City's insurance consulting services agreement with Municipal Insurance Consultants, Inc., subject to any further review by the City Attorney. If 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 Donovan
That the Common Council hereby authorizes the City Attorney to renew the City's insurance consulting services agreement with Municipal Insurance Consultants, Inc., subject to any further review by the City Attorney.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

II.2 Attorney

October 9, 2007

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

Re: Tentative Agreement between the City and CSEA

Dear Honorable Body:

The City bargaining committee and CSEA negotiators met on ten occasions from February 28, 2007 through August 10, 2007 and have reached a tentative agreement which would require ratification by the Common Council. I have attached a copy of the proposed Memorandum of Agreement for you. I will also list the sections that were amended and explain what the changes in these sections are. The changes are as follows:

1. Amends the cover sheet to reflect the new dates of the agreement. This is merely housekeeping.
2. Amends the recognition clause. This is just a housekeeping measure meant to clarify the personnel that are covered by the agreement.
3. Amends section 1.21 which is the term of the agreement. The new agreement would be for four years, from 2007 through 2010.
4. Amends sections 7.1 and 7.21 to include a 2.5% pay increase in each of the 4 years.
5. Amends sections 7.12 and 7.22 to remove classifications that are no longer in use in the City. This is just a housekeeping action.
6. Amends section 10.35 to require a medical excuse after 4 day's absence instead of 5 day's absence.
7. Adds section 10.39 to the agreement which permits the use of sick time for members in the immediate household but limits the number of days that can be used for this annually.
8. Renumbers and amends section 10.57 to 10.45 from permitting the use of two hours sick time once each month to permitting the use of two hours sick time up to 12 times per year.
9. Amends section 12.12 (a). This is the health insurance section. It makes our current plan the main plan, but permits the employee to choose a cheaper plan with half of the savings to the city to be applied to a Health Reimbursement Account for the employee's benefit.

10. Adds section 12.12(h) by which the City will provide a hearing aid plan through the CSEA Employees Benefit Fund.
11. Adds section 12.17 which would pay a retiring employee up to five day's pay if he has accumulated 175 days of sick time credit at the time of his retirement.
12. Amends section 16.12 to include vacation days in the definition of time worked for the purposes of defining when overtime would be paid.
13. Amends section 17.11 to guarantee a minimum of 3 hour's pay at the time and one-half rate each time an employee is called in to work after his shift has ended or on a holiday or Saturday or Sunday.
14. Amends section 19.11 set up quarterly labor/management meetings to discuss issues of mutual concern.
15. Adds section 19.12 to set up a committee to meet each month for the first 3 month of each year of the agreement to review the upgrading of positions for the next fiscal year.
16. Adds section 20.01 to provide up to \$75.00 per year to any employee required to wear safety shoes/work boots. The employee must provide a receipt in order to collect.

If you concur, please authorize the Mayor to sign said Memorandum of Agreement and the final collective bargaining agreement when it is prepared.

Very truly yours,
Robert Sondel
 Assistant City Attorney

MOVED by Alderman Donovan **SECONDED** by Alderman Brick
 That the Common Council hereby authorizes Mayor Soos to sign the Memorandum of Agreement and the final collective bargaining agreement between the City of North Tonawanda and CSEA.

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

Nays: **None** (0)

CARRIED.

III. Treasurer

October 11, 2007

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

Re: City-Owned Property Auction

Dear Honorable Body:

On Wednesday, October 10, 2007, at 6:30PM, I held an auction of city-owned parcels in the Common Council Chambers. The results of the sale of the three parcels follows, totaling \$55,000, should they be approved:

<u>Tax Map ID#</u>	<u>Street Address</u>	<u>Successful Bidder</u>	
182.30-1-11	32 Oakwood Ave.	Bluepoint Properties, LLC (Paul Hutchins)	\$23,500

182.53-3-5	15 Sixth Ave.	333 LLC (Michael Wachowicz)	\$14,500
182.53-3-9	29 Sixth Ave.	Bluepoint Properties, LLC (Paul Hutchins)	\$17,000

Please take the necessary action to either accept or reject each bid as reported and, if approved, direct the City Attorney to prepare the quit-claim deeds.

Very truly yours,
Robert G. Ortt
City Treasurer

MOVED by Alderman Rizzo **SECONDED by Alderman Sommer**
That the Common Council hereby approves the sale of the aforementioned properties and directs the City Attorney to prepare the quit-claim deeds.

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

VII.1 Accountant

October 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 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 October 16, 2007, 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 Donovan**
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated October 16, 2007 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$387,820.61
02	Water Fund	26,460.64
04	Sewer Fund	70,925.64
06	Capital Project Fund	263,109.37
07	Trust & Agency Fund	3,927.69
11	General Fund Encumbered	1,499.69
19	Bishop Gibbons	150.00
	Final Total	\$753,893.64

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

IX. Public Works

September 17, 2007

Honorable Mayor & Common Council
 City Hall
 216 Payne Avenue
 No. Tonawanda, NY 14120

Re: Urban and Community Forestry Grant

Honorable Body:

The New York State Department of Environmental Conservation has advised the City that a grant through the October 2006 Storm Grant Program is available to the City in the amount of \$4,200.00.

I have met with the City's Environmental Committee and prepared and submitted a Grant Application for a Tree Inventory Project under this grant program. This inventory is for a portion of the City, as this grant amount is limited. This is a 100% grant program with no requirement for a matching City share of costs. A copy of the grant application is enclosed.

I request that the Council ratify my actions by authorizing the Superintendent of Public Works to act as authorized representative on behalf of the City in applying for an Urban and Community Forestry Grant in the amount of \$4,200.00.

Very truly yours,
 Gary J. Franklin
 Superintendent of Public Works

MOVED by Alderman Donovan **SECONDED** by Alderman Sommer
 That the Common Council hereby authorizes the Superintendent of Public Works to act as authorized representative on behalf of the City in applying for an Urban and Community Forestry Grant in the amount of \$4,200.00, subject to review by the City Attorney.
 Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
 Nays: None (0)
CARRIED.

XIV. Recreation

October 10, 2007

The Honorable Mayor, Lawrence V. Soos
 216 Payne Avenue
 North Tonawanda, New York 14120

Dear Mayor Soos and Common Council,

I respectfully request that the 2008 State Aid Appropriation as recommended by the North Tonawanda Youth Board be accepted and approved. Funding is provided by the New York State Office of Children and Family Services and administered by the Niagara County Youth Bureau.

The 2008 appropriations are:

- | | |
|---|-------------|
| • Department of Youth, Recreation & Parks Youth Court | \$5,660.00 |
| • Department of Youth, Recreation & Parks First Offender Program | \$2,700.00 |
| • Department of Youth, Recreation & Parks Youth Center Program | \$9,377.00 |
| • Youth Bureau Grant for Administrative Costs in the Department of Youth, Recreation & Parks | \$31,124.00 |
| • North Tonawanda Department of Youth, Recreation & Parks Youth Court *Niagara County Funding | \$7,158.00 |

The total State Aid for Youth Program allocation for 2008 will be Fifty-Five Thousand, Nine Hundred and Fifty Nine Dollars (\$55,959.00).

Sincerely,
Jerry Whitehead
Director of Youth, Recreation & Parks

MOVED by Alderman Schwandt **SECONDED** by Alderman Donovan
That the Common Council hereby approves the aforementioned 2008 State Aid allocations as recommended by the North Tonawanda Youth Board funded by the New York State Office of Children and Family Services through the Niagara County Youth Bureau.
Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)
Nays: None (0)
CARRIED.

XXV. Monthly Reports

- .1 Police
- .2 Registrar of Vital Statistics
- .3 Senior Citizens
- .4 Treasurer

MOVED by Alderman Rizzo **SECONDED** by Alderman Schwandt
That the Common Council hereby receives and files the aforementioned Monthly Reports.
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Linda Cumming Nadbrzuch

October 9, 2007

Mr. Thomas Jaccarino
City Clerk
City of North Tonawanda
216 Payne Avenue
North Tonawanda, NY 14120

Re: Parking on Sandra Lane
Safety Issue for Fire Response

Dear Mr. Jaccarino:

Thank you for taking my call this morning. I am concerned about the parking situation along Sandra Lane. There are a number of automobiles that are parking on both sides of Sandra Lane on the west end of the street near the intersection of Sandra Lane and Service Drive. This parking situation could have dangerous consequences. There is very little room to pass between parked automobiles when they are parked along both sides of Sandra Lane and a fire engine would not be able to turn on to Sandra Lane in an emergency.

If you would consider putting "No Parking Here to Corner" signs from the "paper" street to the corner of Service or putting "No Parking" signs on the woods side of Sandra Lane, I would greatly appreciate it. Thank you for your pending support in this matter.

Sincerely,
Linda Cumming Nadbrzuch
Property Manager

MOVED by Alderman Sommer SECONDED by Alderman Schwandt
That the Common Council hereby directs the Department of Public Works to install “No Parking” signs on one side of Sandra Lane as per the signal department and the North Tonawanda Fire Chief.
CARRIED.

LATE COMMUNICATIONS

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

#1. Engineer

September 27, 2007

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

**Re: Project 2002-03, Deerwood Golf Course Pump Station
Change Order No. 1**

Dear Honorable Body:

Your approval of Change Order No.1 for the Deerwood Golf Course Pump Station Replacement Project is hereby requested. As you are aware, this project was bid in June 2006 and was delayed over one year by Federal and State Agencies not responding to the City’s permit applications from the previous year. Permits were finally issued by NYS Canal Corp, NYSDEC, and the Army Corp., which limited construction in the canal until in July 2007. The City however was able to begin work in May on City owned property with the demolition of the existing structure.

Change Order No. 1 represents additional costs caused by permit delays and permit requirements as follows:

- **The NYSDEC/ACOE permit required the City to install a turbidity curtain for the intake work in the canal. Additional cost of \$10,500.**
- **Permit delays caused the City to begin the project during the summer irrigation season. The City negotiated with the contractor a reduction in the original alternate bid price (not awarded) of \$58,000; down to \$23,000 to supply the course with temporary irrigation pumping and electric controls from June 25th through September 25th.**

Accordingly, I respectfully request that the Common Council approve Change Order No.1 to Deerwood Golf Course Irrigation System Improvements, to Kohl Construction Inc., 1427 Two Rod Rd., Alden, NY 14004; increasing the contract amount by \$33,500; from their \$337,000; to \$370,500; authorizing the mayor to sign the said change order, 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 approves Change Order No.1 to Deerwood Golf Course Irrigation System Improvements, to Kohl Construction Inc., 1427 Two Rod Rd., Alden, NY 14004; increasing the contract amount by \$33,500; from their \$337,000; to \$370,500; and authorizes the Mayor to sign the said change order, subject to review by the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

#2

Alderman Donovan & Alderman Schwandt

MOVED by Alderman Schwandt

SECONDED by Alderman Donovan

WHEREAS, on September 21, 2007, New York State Governor Eliot Spitzer announced through Executive Order an administrative policy change that will give illegal aliens the opportunity to apply for state driver licenses without regard to immigration status, and

WHEREAS, under this unilateral action, the state will no longer require a Social Security number or proof that a person is not eligible for such a number in order to qualify for a driver's license, and

WHEREAS, that change conflicts with the 2005 REAL ID law passed by Congress that states require, among other things, a Social Security number in order to get a license, which states have until December 2009 to be in compliance with, and,

WHEREAS, states that fail to meet the standards will lose their certification by the Department of Homeland Security, and

WHEREAS, drivers licenses in those states, will no longer be federally recognized for employment verification, entry to federal facilities, air travel identification and for tax purposes, meaning travelers will now have to carry a second form of ID, federally recognized, such as a passport, and

WHEREAS, Governor Spitzer's actions are in direct contradiction to the bi-partisan efforts of Western New York's Congressional Delegation who have been fighting the Western Hemisphere travel Initiative that will require passports for passenger traffic between the United States and Canada and have been proposing enhanced driver's licenses as a reasonable alternative, now, therefore, be it

RESOLVED, that the City of North Tonawanda Common Council does hereby condemn the policy change and its impact on the legal citizens of this state, including potentially higher costs, to the Governor, and be it further

RESOLVED, that the City of North Tonawanda Common Council does hereby request that the Niagara County Clerk institute a moratorium on implementation of this policy change until a complete examination of the impact of the policy change can be undertaken, including an analysis of the clear violation of state and federal law that accompany this policy change, and be it further

RESOLVED, that the City of North Tonawanda Common Council asks the Niagara County Clerk to represent North Tonawanda in opposition to Governor Spitzer's plan, and be it further

RESOLVED, that a copy of this resolution be sent to Governor Spitzer and DMV Commissioner David Swarts, as well as all state and federal officials representing North Tonawanda, and that a response be requested from each elected official.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

AUDIENCE PARTICIPATION

Ann Finkle, 896 Sun Valley – City should take a “Green” approach in moving forward.

Eric Zadzilka, 927 Fairmont Avenue – Supports Wal-Mart.

Tammy Godyn, 843 Ohio Street – Praised the Planning Commission for their review.

Dan Ross, 466 Wurlitzer Drive – Outlined his experience with the Building Inspector.

Ben Curto, 1308 Fairfax – Spoke in favor of Wal-Mart.

Mark Gillebaard, 368 Summit – Is against the proposed change in restricting RV’s.

Dave Durnin, 1793 Ruie Road – Spoke in support of Wal-Mart.

Kevin Lockett, 256 Meadow Drive – Is concerned about increased traffic that Wal-Mart will bring.

Bill Ames, 4050 Crescent Drive – Is in favor of Wal-Mart, prescription savings for fixed income individuals and stated that NT residents should spend their money in Niagara County.

Jerry DiVirgilio, 767 Payne Avenue – Questioned the role of the City Attorney and the City Clerk in the Charter Revision Proposal.

Glen DiTulio, 34 Lincoln Avenue – Spoke in favor of Wal-Mart – it will save money for people with large families.

Dennis Barberio, 168 Stenzil Street – Traffic is not a real concern in regards to Wal-Mart; other development issues come first.

Jim Cahill, 769 Fairmont Avenue – Opposes any other entrance to Wal-Mart except the on Niagara Falls Blvd.

Frank Budwey, 535 Division Street – Spoke against Wal-Mart and stated he is fighting for the jobs of his employees.

Susan Wilke, 239 Miller Street – Spoke against Wal-Mart.

Sonia Dusza, 123 Miller Street – Spoke against Wal-Mart and the Comprehensive Plan.

Susan Kuligowski, 43 Hyland – Spoke in support of Wal-Mart.

Pete Chenier, 1666 Eddy Drive – Supports Wal-Mart – asked the Council to do the “due diligence”.

Irene Kozelak, 197 Lindsey Place – Does not agree with taking the vote for the City Attorney’s position away from the people.

Deb Moran, 757 Fairmont – Is against Wal-Mart; is considering a class-action law suit.

Ian Ryslcalcrit, 102 N. Marion – Opposes Wal-Mart from a student’s perspective.

Mary Lasky, 1277 Greenbrier Lane – Asked what the advantages of Wal-Mart are.

Art Pappas, 1417 Forbes Street – Was disappointed that the charter revision will not make it to the ballot.

Walt Yaro, 170 Christiana Street – Asked when the Common Council Chambers will be remodeled.

Edward Kowalewski, 1285 Brookfield – Is member of “NT First”; spoke against Wal-Mart.

Cathy Kern, 1248 Greenbrier Lane – Has traffic concerns with Wal-Mart; asked if they are going to seek assessment reductions.

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: 8:55P.M.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk