

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, February 5, 2008
7:00 P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

ROLL CALL

Present: President Sommer
Aldermen Brick, Pasiak, Schwandt, Donovan

Absent: None

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

APPROVAL OF THE MINUTES OF THE REGULAR SESSION JANUARY 15, 2008

MOVED by Alderman Schwandt SECONDED by Alderman Pasiak
That the minutes of the regular session held January 15, 2008 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.

APPROVAL OF THE MINUTES OF THE SPECIAL SESSION JANUARY 22, 2008

MOVED by Alderman Donovan SECONDED by Alderman Pasiak
That the minutes of the special session held January 22, 2008 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.

AUDIENCE PARTICIPATION

Debbie Gondek, 257 Brentwood Drive – Asked for more information regarding the Roblin
Steel Agenda item.

COMMUNICATIONS FROM CITY OFFICIALS

I.1 Mayor

January 16, 2008

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

RE: Appointment to Laborer position in Building Maintenance Department

Dear Honorable Body:

Please be advised that pursuant to a Notice of Posting of Job Opening for the above-referenced position, the period of posting being, January 7-January 11, 2008, I am appointing John D. DiVirgilio to this position on a permanent basis pursuant to said posting. As you know, Mr. DiVirgilio is presently in the position on a temporary basis. In speaking with Harry Vollmer, who supervises said department, Mr. DiVirgilio has done well in the position and he supports this appointment.

Thank you for your attention to this matter.

Sincerely,
Lawrence V. Soos
Mayor

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

I.2 Mayor

January 18, 2008

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

Re: Appointment to North Tonawanda Zoning Board of Appeals

Dear Honorable Body:

Please be advised that I am appointing James J. DiBernardo of 711 Fairmont Avenue, North Tonawanda, New York to the Zoning Board of Appeals for a three (3) year term effectively immediately and expiring on December 31, 2010. Mr. DiBernardo will be replacing the current holdover member William L. Paton.

I am also requesting that the City Clerk arrange for the appropriate oath to be administered to the new appointee. Thank you.

Sincerely,
Lawrence V. Soos
Mayor

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

I.3 Mayor

January 30, 2008

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

Re: Appointment to Traffic Safety Committee

Dear Honorable Body:

Please be advised that I am appointing Assistant Fire Chief, Joseph D. Sikora, to the Traffic Safety Committee in the capacity of fire/advisor for the committee effective immediately for a term of three (3) years expiring December 31, 2010. Assistant Fire Chief Sikora will be replacing Assistant Fire Chief Leon Szczerbinski who has retired.

Thank you for your attention to this matter.

Sincerely,
Lawrence V. Soos
Mayor

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

I.4 Mayor

January 31, 2008

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

RE: Appointments to North Tonawanda Waterfront Commission

Dear Honorable Body:

Please be advised that I am reappointing Beverly Loxterman of 881 Sweeney Street and Kurt Alverson of 1296 Wurlitzer Court to the North Tonawanda Waterfront Commission effective immediately for a three (3) year term expiring December 31, 2010.

Thank you for your attention to this matter.

Sincerely,
Lawrence V. Soos
Mayor

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

I.5 Mayor

February 1, 2008

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

Re: Appointment to North Tonawanda Zoning Board of Appeals

Dear Honorable Body:

Please be advised that I am appointing Janet B. Zehr of 971 Sweeney Street, North Tonawanda, New York to the Zoning Board of Appeals for a two (2) year term effective immediately and expiring on December 31, 2009. Ms. Zehr will be replacing the current holdover member Barbara Chetney McCarthy.

I am also requesting that the City Clerk arrange for the appropriate oath to be administered to the new appointee. Thank you.

Sincerely,
Lawrence V. Soos
Mayor

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

II.1 Attorney

January 29, 2008

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

Re: Status of Roblin Steel Property

Dear Honorable Body:

We are pleased to announce that today we received the fully-recorded Environmental Easement for the Roblin Steel property from the Niagara County Clerk's Office. Therefore, the City is now in the position to begin offering the property for sale.

Should your Honorable Body concur, please authorize the Mayor and the Community Development office to begin the process of offering the property for sale. Should you have any questions or need more information, please do not hesitate to contact me.

**Very truly yours,
Shawn P. Nickerson
City Attorney**

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

II.2 Attorney

January 31, 2008

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

**Re: Various Amendments to City Code to
Comply with Clean Water Act**

Dear Honorable Body:

The city must adopt various amendments to Chapter 42 – Flood Hazard Areas; and Chapter 48 – Grading; Chapter 75 – Sewers of the Code of the City of North Tonawanda, as well as the Zoning Ordinance, Chapter 103 and the city's Subdivision Regulations. These amendments are required to comply with the state's phase II stormwater regulations issued pursuant to the Clean Water Act. The city would do this by adopting two ordinances: the first, the Erosion and Sediment Control Ordinance, requires developers that disturb 1 or more acres of land to submit a stormwater pollution plan (SWPPP) providing for certain erosion and sediment controls in compliance with two technical documents; the second, the Illicit Discharge Detection and Elimination Ordinance, prohibits any individual from discharging anything other than stormwater into municipality owned storm sewer systems.

I have attached copies of the proposed ordinance amendments to be adopted, together with a Negative Declaration of Non-Significance under the State Environmental Quality Review Act and resolution for your consideration.

At your meeting of December 18, 2007, you referred these amendments to the Niagara County Planning Board for their consideration. The planning board has recommended adoption of said amendments.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated February 5, 2008, 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 dated February 5, 2008 and further authorizes the Mayor and City Clerk to respectively sign and countersign said Warrant:

01	General Fund	\$585,518.18
02	Water Fund	49,805.22
04	Sewer Fund	85,842.45
06	Capital Project Fund	282,421.41
07	Trust & Agency Fund	193.48
11	General Fund (Encumbered)	92,497.11
12	Water Fund (Encumbered)	7,301.55
14	Sewer Fund (Encumbered)	<u>5,119.71</u>
	Final Total	<u>\$1,108,699.11</u>

Ayes: Pasiak, Schwandt, Donovan, Sommer (4)
Nays: None (0)
Abstained: Brick (1)
CARRIED.

IX. Public Works

January 31, 2008

Honorable Mayor Lawrence Soos
And Common Council
City Hall, 216 Payne Avenue
No. Tonawanda, NY 14120

Re: Assistant Superintendent of Public Works
Provisional Appointment of Michael Donovan

Dear Mayor Soos and Honorable Body:

Please be advised that I have provisionally appointed Mr. Michael Donovan to the position of Assistant Superintendent of Public Works effective February 1, 2008, at the minimum salary step set forth in OPEIU contract Section 6.11.

I have requested the Niagara County Civil Service to schedule a Promotional Examination for the position of Assistant Superintendent of Public Works.

On Mr. Donovan's behalf I would request the Council grant him a Leave of Absence from his previous position of Dispatcher, until such time as his return to the position or he receives another permanent appointment.

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

MOVED by Alderman Brick **SECONDED** by Alderman Pasiak
That the Common Council hereby receives and files the aforementioned communication.
Ayes: Brick, Pasiak, Schwandt, Sommer (4)
Nays: None (0)
Abstained: Donovan (1)
CARRIED.

XIV.2 Recreation

January 29, 2008

The Honorable Mayor, Lawrence Soos and Common Council Members
 City Hall
 216 Payne Ave.
 North Tonawanda, New York 14120

Dear Honorable Mayor Soos and Common Council Members:

Please review and approve for signing the attached agreement with 621 Payne Ave. LLC (Gersh Academy), 150 Broad Hollow Rd., Suite 120, Melville, N.Y 11747. The lease provides our department with adequate classroom and gymnasium space for our Youth Center and Recreation Program needs. The lease extends through August 31, 2008 and requires monthly payments of Two Thousand Dollars (\$2,000.) that is included in our 2008 Budget.

We have operated our current program in the building since November of 2007 and have determined that the current facility adequately meets our recreation program needs. The City Attorney's Office has reviewed the agreement and found no problems with its form and content.

Thank you.

Sincerely,
 Jerry Whitehead
 Director of Youth, Recreation & Parks

MOVED by Alderman Brick

SECONDED by Alderman Donovan

That the Common Council hereby authorizes the Mayor to sign the lease with 621 Payne Ave. LLC (Gersh Academy), 150 Broad Hollow Rd., Suite 120, Melville, N.Y 11747 to provide the Recreation Department with adequate classroom and gymnasium space for the Youth Center and Recreation Program needs. The lease extends through August 31, 2008 with monthly payments of Two Thousand Dollars (\$2,000.), subject to review by the City Attorney.

Ayes: Brick, Pasiak, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

XIV.3 Recreation

January 31, 2008

The Honorable Mayor and Common Council Members
 City Hall
 216 Payne Ave.
 North Tonawanda, New York 14120

Dear Honorable Body;

On Thursday, January 31, 2008 at 11:00 A.M. bids were received and publicly opened in the City Clerk's Office for an Electric Cart Garage to be constructed at Deerwood Golf Course.

I recommend that the Mayor and Common Council award the bid for the Deerwood Golf Course Electric Cart Garage to the Parco Building Systems, Inc, 6140 First Street, Newfane, N.Y. 14108 at the bid price of Fifty Three Thousand, Three Hundred and Fourteen Dollars (\$53,314.00). Approval will allow the completion of construction prior to the 2008 golf season. My office has inspected and approved the low bid and forwarded it to the City Attorney's Office for their review.

COMMUNICATIONS FROM OTHERS

A.
Carrousel Museum

January 15, 2008

Mayor Lawrence Soos
City Hall
216 Payne Avenue
North Tonawanda, NY 14120

Dear Mayor Soos:

As per our agreement with the City, I am notifying you that the Carrousel Museum will be presenting a Renaissance Festival in the Linear Park adjacent to the museum on Saturday, June 7, 2008 from 11:00AM – 6:00PM.

We are also requesting use of Felton Field for the day – the portion outside the ballpark, as last year.

The Society for Creative Anachronism, which is presenting the activities, will be supplying an insurance certificate to the city.

Additional assistance from the City is requested as follows:

1. Fencing to close in the linear park from Thompson to Lincoln, as last year.
2. 8 tables from the Parks Dept.
3. 6 trash cans.
4. Street barriers to close off Thompson St. between Vandervoort and Lincoln.
5. Although we had no difficult situations at all in the past 6 years, it may be helpful to have auxiliary police on hand to assist people crossing the street.

Thank you for your continuing support for the museum.

Yours truly,
Vicki J. Prager, Esq.
Director

MOVED by Alderman Brick

SECONDED by Alderman Donovan

That the Common Council hereby approves City assistance to the Carrousel Museum for their Renaissance Festival in the Linear Park adjacent to the museum on Saturday, June 7, 2008 from 11:00AM – 6:00PM and the use of Felton Field for the day (the portion outside the ballpark) as follows:

1. Fencing to close in the linear park from Thompson to Lincoln, as last year.
2. 8 tables from the Parks Dept.
3. 6 trash cans.
4. Street barriers to close off Thompson St. between Vandervoort and Lincoln.
5. Although we had no difficult situations at all in the past 6 years, it may be helpful to have auxiliary police on hand to assist people crossing the street.

Ayes: Brick, Pasiak, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

#1
Mayor

February 4, 2008

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

Re: Veto of Item No. 1 from a Common Council Special Session held on Tuesday, January 22, 2008 authorizing Mayor to sign Shared Municipal Services Incentive Grant Program Cooperation Agreement

Dear Honorable Body:

At a Special Session of the North Tonawanda Common Council held in the Council Chambers at 6:00 pm on Tuesday, January 22, 2008, your Honorable Body passed a resolution authorizing the Mayor to sign the Shared Municipal Services Incentive Grant Program Cooperation Agreement accepting \$400,000 from the NYS Department of State along with the Cities of Lockport and Niagara Falls.

In accordance with the Mayor's powers under Section 2.023 (a) of the City Charter, I hereby veto passage of said resolution based upon the following reasons:

1. I find it unacceptable to ignore the legitimate contractual, technical and legal issues/questions that were raised by both the City Attorney, Shawn Nickerson, Esq. and Paul J. Drof, Superintendent of Water/Wastewater. Those issues/questions are still unresolved even after our office and Mr. Drof have made several requests to Mayor Michael Tucker of the City of Lockport for pertinent information to make an informed decision on behalf of the residents of North Tonawanda. These department heads have the duty and obligation to review these documents and until they are comfortable with the terms and conditions of same, I will not execute any agreement.

2. On December 4, 2007, the Common Council made the approval of the SMSI Grant subject to the review of City Attorney, Mr. Nickerson and Water Superintendent, Mr. Drof. As stated above, they brought up legitimate issues and questions and needed further information to evaluate this agreement. Instead of waiting and allowing Mr. Nickerson and Mr. Drof to first obtain this information for review as they had requested, the Common Council decided to pass a new resolution instead that eliminated our own department heads ability to review the agreement. In essence, the Common Council has said to Mr. Nickerson and Mr. Drof, don't do your job on behalf of the residents of North Tonawanda. This is not only unacceptable, but unconscionable.

3. I am always in favor of evaluating ways to save taxpayer dollars and also to share municipal services with other communities. Our office and Mr. Drof's office have made that clear. Mr. Drof has a track record of doing just that throughout his years as the Superintendent. The key goal is to do this correctly and with all parties knowing what they are getting into. I want the grant to proceed along but not at the cost of ignoring proper legal and technical protocol. I have also confirmed with the NYS Department of State that time is not of the essence and that we are not in danger of losing the grant.

Having said the above, let's do this correctly on behalf of the taxpayers of the City of North Tonawanda.

Based upon the reasons set forth above, I hereby veto said resolution and do not approve same as presented by the Common Council.

Sincerely,
Lawrence V. Soos
Mayor

ADJOURNMENT

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

Time of Adjournment: 8:35P.M.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk