

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, December 16, 2008
6:00 P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

ROLL CALL

Present: President Sommer
Aldermen Brick, Pasiak, Donovan

Absent: Alderman Schwandt

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

APPROVAL OF THE MINUTES OF THE REGULAR SESSION DECEMBER 2, 2008

MOVED by Alderman Donovan **SECONDED** by Alderman Brick
That the minutes of the regular session held December 2, 2008 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.

AUDIENCE PARTICIPATION – None

COMMUNICATIONS FROM CITY OFFICIALS

I.1 Mayor

December 2, 2008

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

Re: Appointment to North Tonawanda Waterfront Commission

It is with great thought and consideration for the success of this body, the Waterfront Commission, that I reappoint Kevin J. O'Connor to a three year term, beginning January 1, 2009 and that will be completed on December 31, 2011.

I thank Kevin for his past effort working on the Waterfront Commission and look forward to his continued service on behalf of our community.

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.2 Mayor

December 2, 2008

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

Re: Appointment to North Tonawanda Waterfront Commission

It is with great thought and consideration for the success of this body, the Waterfront Commission, that I reappoint Linda Hankinson to a three year term as its Secretary, beginning January 1, 2009 and that will be completed on December 31, 2011.

I thank Linda for her past performance as secretary on the Waterfront Commission and look forward to her continued service on behalf of our community.

**Sincerely,
Lawrence V. Soos
Mayor**

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

I.3 Mayor

December 11, 2008

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

RE: Appointment to North Tonawanda Waterfront Commission

Dear Honorable Body:

Please be advised that I am reappointing to the North Tonawanda Waterfront Commission, JoAnn Dicky of 636 Fairmont Avenue and James Mroz of 484 Roncroff Drive, to four (4) year terms, beginning January 1, 2009 and expiring December 31, 2012.

Thank you for your attention to this matter.

**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.**

I.4 Mayor

December 11, 2008

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

RE: Appointment to North Tonawanda Planning Commission

II.2 Attorney

December 11, 2008

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

Re: Local Law #1 for 2009 – Alternative Veterans Exemptions for Cold War Veterans

Dear Honorable Body:

Attached for your consideration is a proposed local law, which would establish alternative veterans exemptions for Cold War veterans under the New York State Real Property Tax Law §458-b. The exemptions and limits for all cold war veterans and for disabled cold war veterans are highlighted in bold as additions to Article VI, Section 73.6 Adoption of Exemptions, A and B, to be added to the City Code of the City of North Tonawanda.

As with all local laws, it is necessary that this local law be formally laid on the table for a period of at least 7 days wherein it must stay in its final form prior to the adoption of the Common Council. After such adoption, this local law must be referred to the Mayor’s office for a public hearing on its provisions. After said public hearing and formal filing with the Secretary of State, this local law will become effective.

Consistent with state law, the appropriate motion for today’s action would be to formally lay this local law on the table and allow it to remain so in its final form for at least 7 days prior to adoption.

Very truly yours,
Shawn P. Nickerson
City Attorney

MOVED by Alderman Donovan SECONDED by Alderman Pasiak
That the Common Council hereby lays the following Local Law on the table for 7 days:

LOCAL LAW NO. 1 FOR 2009

**A LOCAL LAW PURSUANT TO SECTION 458-b
OF THE REAL PROPERTY TAX LAW
ALTERNATIVE VETERANS EXEMPTION
FOR COLD WAR VETERANS**

Chapter 73 of the City Code of the City of North Tonawanda, New York, Article VI entitled “Maximum Allowable Alternative Veterans Exemptions” is amended as follows:

Article VI

73.6 Adoption of Exemptions.

The maximum exemption allowable by Real Property Tax Law §458-a, Subdivision 2, Paragraphs (a), (b), and (c), shall be Twelve Thousand Dollars (\$12,000), Eight Thousand Dollars (\$8,000) and Forty Thousand Dollars (\$40,000), respectively.

A). There shall be an alternative qualifying residential real property exemption for Cold War veterans, under Real Property Tax Law §458-b, Subsection 2(a) and 2(b), in the amount of ten (10%) percent of the assessed value of such property, not to exceed Four Thousand Dollars (\$4,000), or the product of \$4,000 multiplied by the latest state equalization rate of such property’s assessing unit, subject to the definitions, limitations and requirements of §458-b.

B). For Cold War veterans disabled, there shall be an exemption in the amount equal to the extent of the product of the assessed value of such property, multiplied by fifty (50%) percent of the Cold War veteran's disability rating, provided, however, such exemption shall not exceed Twenty Thousand Dollars (\$20,000) or the product of twenty thousand dollars multiplied by the latest state equalization rate for the assessing unit.

Ayes: Brick, Pasiak, Donovan (3)

Nays: Sommer (1)

CARRIED.

IV.1 Engineer

December 4, 2008

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

Re: Project No. 2008-04, Payne Avenue Watermain Replacement
Change Order 1 and Project Acceptance

Dear Honorable Body:

Your approval of Change Order No. 1, approval of final payment and project acceptance for the Payne Avenue Watermain Replacement Project is hereby requested.

Change Order No. 1 represents a reduction in costs based on final measured quantities.

I therefore respectfully request that the Common Council approve Change Order No.1, decreasing the contract amount for Project 2008-04, Payne Avenue Watermain Replacement with E & R General Construction, Inc., 38 St. David's Drive, West Seneca, NY 14224 by \$1,026.70; from \$625,097.50; to the revised final contract amount of \$624,070.80 and that the Mayor be authorized to sign said change order subject to review by the City Attorney.

Further, that the Contractor has supplied the City with the Substantial Completion Form, Affidavit for Final Payment, Consent of Surety, and Form of Guarantee.

Accordingly, I hereby request that the Common Council accept Project 2008-04, Payne Avenue Watermain Replacement and approve the final payment, subject to review by the City Attorney.

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

MOVED by Alderman Pasiak

SECONDED by Alderman Brick

That the Common Council hereby approves Change Order No.1, decreasing the contract amount for Project 2008-04, Payne Avenue Watermain Replacement with E & R General Construction, Inc., 38 St. David's Drive, West Seneca, NY 14224 by \$1,026.70; from \$625,097.50; to the revised final contract amount of \$624,070.80 and authorizes the Mayor to sign said change order subject to review by the City Attorney.

Further, that the Common Council accepts Project 2008-04, Payne Avenue Watermain Replacement and approves the final payment, subject to review by the City Attorney.

Ayes: Brick, Pasiak, Donovan, Sommer (4)

Nays: None (0)

CARRIED.

IV.2 Engineer

December 11, 2008

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

Re: Western New York Stormwater Coalition
Local Government Efficiency Grant

Honorable Body:

The City of North Tonawanda, as a member of the Western New York Stormwater Coalition, has been asked by the coalition to pass a resolution in preparing a Local Government Efficiency Grant for funding Illicit Discharge and Detection Elimination program requirements for its members.

The Superintendent of Public Works has informed me that his department has already conducted its required 20% evaluation of outfalls in 2008 and that the proposed grant will help standardize these evaluations and will reduce the workload on the sewer maintenance staff.

I therefore respectfully request that the Common Council approve the attached resolution for the 2008-2009 Local Government Efficiency Grant Proposal, subject to review by the City Attorney.

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

MOVED by Alderman Donovan SECONDED by Alderman Brick
That the Common Council hereby approves the following resolution for the 2008-2009 Local Government Efficiency Grant Proposal, subject to review by the City Attorney:

WHEREAS, the Erie County Department of Environment and Planning (ECDEP) coordinates the activities of the Western New York Stormwater Coalition (WNYSC); and

WHEREAS, the ECDEP has assumed the role of lead agency and has pursued grant funding to support the work of the WNYSC since its inception; and

WHEREAS, the City of North Tonawanda is a member of the WNYSC; and

WHEREAS, the New York State Department of State solicited applications for projects that target shared services through it 2008-2009 Local Government Efficiency Grant Program; and

WHEREAS, the ECDEP, in cooperation with the WNYSC, has prepared a grant application for an Outfall Inspection and Illicit Discharge Track Down Project Proposal; and

WHEREAS, the required local match of 10% will provided by the WNYSC members' annual membership fees; and

WHEREAS, the Co-Applicants to this application are the members of the WNYSC: Village of Alden, Town of Alden, Town of Amherst, Village of Angola, Town of Aurora, Village of Blasdell, Town of Boston, Buffalo Sewer Authority, Town of Cheektowaga, Town of Clarence, Village of Depew, Village of East Aurora, Town of Eden, Town of Elma, Town of Evans, Town of Grand Island, Town of Hamburg, Village of Hamburg, Village of Kenmore, City of Lackawanna, Village of Lancaster, Town of Lancaster, Village of Orchard Park, Town of Orchard Park, Village of Sloan, City of Tonawanda, Town of Tonawanda, Town of West Seneca, Village of Williamsville, Town of Cambria, Village of

Lewiston, Town of Lewiston, Town of Niagara, Niagara Falls Water Board, City of North Tonawanda, Town of Pendleton, Town of Porter, Town of Wheatfield, Village of Youngstown, County of Erie, County of Erie - Sewer District #6, County of Niagara, Buffalo and Fort Erie Peace Bridge Authority, State University of New York at Buffalo; and

NOW, THEREFORE BE IT RESOLVED, the City of North Tonawanda authorizes the ECDEP to submit an application to the Local Government Efficiency Grant Program for the 2008-2009 funding year; and be it further

RESOLVED, that Chris Collins, Erie County Executive is the Lead Applicant Contact Person and is authorized to execute all financial and/or administrative processes relating to the grant program; and be it further

RESOLVED, that the required local match of 10% to be provided by the City of North Tonawanda will come from its membership in the WNYSC and the annual membership fee it pays; and

RESOLVED, that upon approval of said grant request, the City of North Tonawanda will enter into an Intermunicipal Agreement, where the shared services of the proposed project are listed in detail, with the co-applicants.

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

VII.1 Accountant

December 11, 2008

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 December 16, 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 Donovan SECONDED by Alderman Brick
That the Common Council hereby authorizes for payment the current Abstract of Claims dated December 16, 2008 and further authorizes the Mayor and City Clerk to respectively sign and countersign said Warrant:

01	General Fund	\$319,512.28
02	Water Fund	\$10,706.27
04	Sewer Fund	\$37,958.31
06	Capital Project Fund	\$140,528.51

07	Trust & Agency Fund	\$7,826.91
08	Community Development	<u>\$475.00</u>
	Final Total	<u>\$517,007.28</u>

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

VII.2 Accountant

December 11, 2008

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 2008 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>
5	25,000.00	1-1990.410 Contingent Account	1-1355.480 Assessor Operations
6	11,000.00	2-1990.410 Contingent Account	2-8340.232 Water Pickup Truck

Very truly yours,
 David R. Jakubaszek
 City Accountant

MOVED by Alderman Sommer **SECONDED** by Alderman Pasiak
 That the Common Council hereby authorizes the City Accountant to make the following budget amendment of fiscal year 2008 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>
5	25,000.00	1-1990.410 Contingent Account	1-1355.480 Assessor Operations

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

VII.3 Accountant

December 11, 2008

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

Dear Honorable Body:

To properly culminate the financial activities of the municipality for fiscal year 2008, I recommend that the Common Council authorize the City Accountant to make any necessary budgetary transfers, adjustments, subsidy's or amendments for sanctioned

WHEREAS, as a result, it is desirable to remove State Street as passive, nondiscretionary Trustee of the trust for the Plan and to appoint Reliance Trust Company (“RTC”) as successor passive, nondiscretionary Trustee of the trust for the Plan; and

NOW THEREFORE BE IT RESOLVED, that State Street is hereby removed as passive, nondiscretionary Trustee of the trust for the Plan, and that Reliance Trust Company is hereby appointed as successor passive, nondiscretionary Trustee for the trust for the Plan; and

FURTHER RESOLVED, that David R. Jakubaszek, City Accountant, on behalf of the Board, is hereby authorized, empowered and directed to execute any and all documents required to effectuate each removal and appointment, including but not limited to the enclosed Trustee Removal and Appointment, and to take such actions as are necessary, appropriate or advisable to effectuate the foregoing resolution.

Ayes: Brick, Pasiak, Donovan, Sommer (4)

Nays: None (0)

CARRIED.

VII.5 Accountant

December 11, 2008

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

Dear Honorable Body:

Please be advised that Request for Proposals were recently sent out for Third Party Administrators (TPA) for the cities self insured workers compensation plan. The quotations were for a three year engagement and are attached for your review. The bidders were FCS Administrators (our current TPA) located in Williamsville, Eagle Claims located in Syracuse and USA TPA also located in Syracuse.

The quotations were reviewed by our consultant, Self Funding Inc., who recommended that the award be given to FCS Administrators, at their three year total bid of \$87,000. As our current TPA, we have worked effectively with that organization to reduce the cost of worker’s compensation. The quotations were also reviewed by the Superintendent of Public Works, Administrative Assistant to the Mayor and myself, and we all concurred with the recommendation. The engagement with FCS also has a 60 day termination clause.

Accordingly, please award the Workers Compensation Third Party Administrator Contract to FCS for a three year term, at a total cost of \$87,000, contingent on the approval of the City Attorney.

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Donovan SECONDED by Alderman Brick
That the Common Council hereby awards the Workers Compensation Third Party Administrator Contract to FCS Administrators for a three year term, at a total cost of \$87,000, contingent on the approval of the City Attorney.

Ayes: Brick, Pasiak, Donovan, Sommer (4)

Nays: None (0)

CARRIED.

XXV. Monthly Reports

.1	Police	.3	Senior Citizens
.2	Vital Statistics	.4	Treasurer

MOVED by Alderman Sommer **SECONDED** by Alderman Brick
That the Common Council hereby receives and files the aforementioned monthly reports.
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Robert Finiki

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

Dear Common Council:

I would like to request a leave of absence from my current position as Laborer for the AFSCME Union at the Department of Public Works. I would like to begin my leave on December 11, 2008 and continue it until my new position as Laborer at the Water Department becomes permanent.

Thank you for your time and consideration.

Sincerely,
Robert Finiki
1187 Master St.
North Tonawanda, NY 14120

MOVED by Alderman Donovan **SECONDED** by Alderman Pasiak
That the Common Council hereby grants Robert Finiki, 1187 Master St., North Tonawanda, NY 14120 a leave of absence from his current position as Laborer for the AFSCME Union at the Department of Public Works beginning December 11, 2008 and continuing until his new position as Laborer at the Water Department becomes permanent.
CARRIED.

LATE COMMUNICATION

MOVED by Alderman Sommer **SECONDED** by Alderman Brick
To bring the following communication(s) to the floor.
Ayes: Brick, Pasiak, Donovan, Sommer **(4)**
Nays: None **(0)**
CARRIED.

#1
Attorney

December 15, 2008

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

Re: Proposed Meadow Drive Extension and New Grade Crossing Over CSXT Property

