

II. Attorney

May 14, 2009

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

**Re: Tentative Settlement – Galloway v. Parsons
& City of North Tonawanda**

Dear Honorable Body:

As you know, the city is involved in the above-referenced law suit regarding the remediation of the property at 815 River Road. The city had an agreement with Parson in the amount of \$459,374.00. The amount of contaminated soil had increased by approximately 1100 tons over the original contract. The city was billed an additional \$467,954.60 above the original contract amount.

Dale Marshall, the city engineer, believed that this was an excessive amount for the additional work required. At this point work was stopped. Galloway, which was a sub-contractor of Parsons, sued Parsons who then sued the city.

After negotiation by Dale Marshall and me, we tentatively reached agreement to pay Parsons \$332,797.70. This figure represents \$161,351.57 still remaining to be paid under the original agreement and an additional \$171,446.13 to be paid for the additional excavation and removal to a secure landfill of the 1100 tons of contaminated soil.

If you concur with this settlement, please authorize payment of the claim and authorize the mayor, city engineer and this office to execute any documents necessary to complete this settlement.

Very truly yours,
Robert Sondel
Assistant City Attorney

MOVED by Alderman Brick

SECONDED by Alderman Pasiak

That the Common Council hereby authorizes payment of \$332,797.70 to Parsons and authorizes the Mayor, City Engineer and the City Attorney to execute any documents necessary to complete this settlement.

Ayes: Brick, Pasiak, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

V. Water

May 06, 2009

Honorable Mayor Lawrence Soos
and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120

**Re: Water Service Leak
Account # 500125**

Dear Mayor and Common Council:

Would you please grant permission to the Water Department to hire a licensed plumber to repair the Water Service Leak at 180 Sweeney St.

Also, all costs are to be assessed upon the land involved – [Water Ordinance Chapter 98 – Section 98-12(5)].

Sincerely,
Paul J. Drof,
Water Works Superintendent

MOVED by Alderman Donovan **SECONDED** by Alderman Pasiak
That the Common Council hereby grants permission to the Water Department to hire a licensed plumber to repair the Water Service Leak at 180 Sweeney Street, with all costs assessed upon the land involved - [Water Ordinance Chapter 98 - Section 98-12 (5)].

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

Nays: None (0)

CARRIED.

VII.1 Accountant

May 14, 2009

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 May 19, 2009, 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 May 19, 2009 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$56,357.02
02	Water Fund	5,016.72
04	Sewer Fund	26,738.57
07	Trust & Agency Fund	3,173.95
11	General Fund Encumbered	1,170.10
17	Home Rehab Program	37,651.00
	Final Total	<u>\$130,107.36</u>

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

Nays: None (0)

CARRIED.

VII.2 Accountant

May 14, 2009

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

Dear Honorable Body:

Please be advised that the city of North Tonawanda currently administers a Model Deferred Compensation 457b Plan, for the employees of the municipality, through The Hartford.

The New York State Deferred Compensation Board made modifications to the regulations for the Model Plan. Accordingly, the city must now adopt a resolution that amends our Deferred Compensation Plan to include the modifications, for employees of the city of North Tonawanda.

Accordingly, the Common Council should adopt the attached resolution, amending our Model Plan and authorized the Mayor to execute same.

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Pasiak

SECONDED by Alderman Brick

WHEREAS, the New York State Deferred Compensation Board (the "*Board*"), pursuant to Section 5 of the New York State Finance Law ("*Section 5*") and the Regulations of the New York State Deferred Compensation Board (the "*Regulations*"), has promulgated the Plan Document of the Deferred Compensation Plan for Employees of the City of North Tonawanda (the "*Model Plan*") and offers the Model Plan for adoption by local employers;

WHEREAS, the City of North Tonawanda, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the City of North Tonawanda;

WHEREAS, effective December 7, 2007 the Board amended the Model Plan to adopt provisions

- Expanding the eligibility for unforeseeable emergency withdrawals
- Permitting law enforcement officers, firefighters, members of a rescue squad or ambulance crew who have retired for service or disability to request a plan distribution of up to \$3,000 annually to pay for health insurance or qualified long-term care premiums for themselves, their spouse or dependents.
- Permitting a beneficiary who is not the spouse of the deceased Participant to transfer their Plan account directly to an IRA.
- Permitting a Participant who is eligible for a distribution to rollover all or a portion of their Plan account to a Roth IRA.

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the City of North Tonawanda has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the City of North Tonawanda by adopting the amended Model Plan.

NOW, THEREFORE, BE IT RESOLVED, that the City of North Tonawanda hereby amends the Deferred Compensation Plan for Employees of the City of North Tonawanda by adopting the amended Model Plan effective December 7, 2007.

Ayes: Brick, Pasiak, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

XIX.1 Building Inspector

To: Mayor Larry Soos & Council
Shawn Nickerson

Date: May 6, 2009

From: Cosimo R. Capozzi

Re: Permitting rebuilding of existing
Residential homes in an M1 zone

Section 103-12 M-1 light Manufacturing District**103-12 A Permitted uses:**

(1) Any use, except new dwellings, permitted in the C-2 District, but without the requirement of being enclosed in a building or by a wall or fence.

(a) The rebuilding of an existing residential dwelling shall be permitted.

MOVED by Alderman Pasiak

SECONDED by Alderman Brick

That the Common Council hereby approves the following amendment (as underlined) to §103-12 of the City Code as follows:

Section 103-12 M-1 light Manufacturing District**103-12 A Permitted uses:**

(1) Any use, except new dwellings, permitted in the C-2 District, but without the requirement of being enclosed in a building or by a wall or fence.

(a) The rebuilding of an existing residential dwelling shall be permitted.

Ayes: Brick, Pasiak, Schwandt, Donovan, Sommer

(5)

Nays: None

(0)

CARRIED.

The following item was pulled from the agenda.

XIX.2 Building Inspector

To: Hon. Mayor and Council

Date: April 30, 2009

From: Cosimo R. Capozzi
Building Inspector

Re: Part Time electrical inspector

As you are well aware I have been in the process of interviewing for the position of part time electrical inspector for some time.

I did interview the three candidates on the Civil Service list, each of whom is not a resident of North Tonawanda, and none of the applicants was willing to relocate into our City for a part time position as required per Section 73 of our City Code. I then proceeded to interview local electricians who were interested in the position.

After several interviews, I have decided to offer the position to Mr. Robert DePaolo of 386 Old Falls Blvd. Mr. DePaolo has been approved by Civil Service and will be taking the necessary test when said test is next scheduled. Additionally Mr. DePaolo will attend the next available training courses as required by the State of New York.

Mr. DePaolo has agreed to accept the position at an hourly rate of \$15 with a two hour minimum per inspection. Plan review and office time will at the \$ 15 per hour.

Therefore I respectfully request that you approve the hiring of Mr. Robert DePaolo of 386 Old Falls Blvd., North Tonawanda NY as the new part time Electrical Inspector as soon as possible.

Cosimo R. Capozzi

The following item was pulled from the agenda.

XIX.3 Building Inspector

To: Hon. Mayor & Council	Date: May 7, 2009
From: Cosimo R. Capozzi Building Inspector	Re: Changes to Chapter 36

In order to permit our electrical inspector to be the only inspector permitted to perform all electrical inspections within the City, sections of Chapter 36 must be changed as follows:

36-4. Authorization of Inspectors;

The Chief Inspector and each of the duly appointed inspectors of the City of North Tonawanda are hereby authorized to make inspections and re-inspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspection and re-inspections be a charge against the City of North Tonawanda.

36-5. Duties of the Inspector;

It shall be the duty of the Inspector to report in writing to the Building Inspector, whose duty it shall be to enforce all the provisions.....

he shall direct that a copy of the Certificate of Compliance be sent to the City of North Tonawanda, to the attention of the Building Inspector.

36-6. Violations;

It shall be a violation of this ordinance for any persons, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the City of North Tonawanda until an application for inspection has been filed with the Building Inspector. It shall be a violation of this ordinance for a person or firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the Building Department.

36-7. Penalty for violations;

Any person, firm or corporation who shall violate any of the provisions of this ordinance or any rule or regulation made pursuant thereto shall be guilty of a violation, which for the purposes of this ordinance shall be designated as an offense, and shall be assessed a fee of not more than one hundred dollars (\$100), and each day on which such violation continues shall constitute a separate offense.

XXV. Monthly Reports

- | | |
|------------------|---------------------------|
| .1 Police | .2 Senior Citizens |
|------------------|---------------------------|

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

COMMUNICATIONS FROM OTHERS

A.
Sweeney Hose

January 19, 2009

City Council
North Tonawanda NY
216 Payne Ave
North Tonawanda, NY 14120

Honorable Council Members:

Once again Sweeney Hose Company requests the use of Gateway Park for the 26th Annual Canal Fest to be held July 19th, 2009 to July 26th, 2009.

Specifically we request the use of the area adjacent to the Delaware Street Bridge at the corner of Main Street and Sweeney Streets. This would be for our beer tent. We also ask for the use of a section of Webster Street to be determined by the Canal Fest Corp. for a beer booth the Friday night of the bike cruise.

As in the past we would set up the tent starting the Thursday prior to Canal Fest and would be in operation during the entire Canal Fest.

If you should have any questions you can contact Peter Chenier at 695-3655 or 913-8496.

Thank you in advance for your consideration.

Sincerely yours,
Peter Chenier
Secretary Sweeney Hose Company #7

MOVED by Alderman Schwandt **SECONDED** by Alderman Donovan
That the Common Council hereby grants permission for Sweeney Hose Company to use Gateway Park for their beer tent at the 26th Annual Canal Fest to be held July 19th, 2009 to July 26th, 2009 and also grants permission for the use of a section of Webster Street to be determined by the Canal Fest Corp. for a beer booth on Friday, July 24, 2009.

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

Nays: None (0)

CARRIED.

B.
St. Matthew Lutheran Church

To: Mayor, City of North Tonawanda
Common Council

From: St. Matthew Lutheran Church
875 Eggert Drive
North Tonawanda, NY 14120

I am writing this letter to formally request the use of 6 picnic tables. On Saturday, June 13, 2009, from 9am to 5pm we are having an outdoor fundraiser at St. Matthew Church. If approved, please call Art "Joe" Smith cell number 609-1300 as p. o. contact for the church.

Respectfully submitted,
Art "Joe" Smith

MOVED by Alderman Donovan **SECONDED** by Alderman Brick
That the Common Council hereby grants permission for St. Matthew Church to use 6 picnic tables for its outdoor fundraiser on Saturday, June 13, 2009.
CARRIED.

C.
Mark Houghton
Arthur G. Pappas
Joseph A. Rich
Daniel Rivera
Lawrence V. Soos

May 2009

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

Dear Honorable Body:

We are requesting to be appointed as a Commissioner of Deeds for the City of North Tonawanda.

Thank you.

Sincerely,

Mark Houghton
795 Nash Road
N. Tonawanda, NY 14120

Arthur G. Pappas
1417 Forbes Street
N. Tonawanda, NY 14120

Joseph A. Rich
287 Wheatfield Street
N. Tonawanda, NY 14120

Daniel Rivera
65 Sixth Avenue
N. Tonawanda, NY 14120

Lawrence V. Soos
678 Treichler
N. Tonawanda, NY 14120

MOVED by Alderman Pasiak **SECONDED** by Alderman Schwandt
That the Common Council hereby appoints Mark Houghton, 795 Nash Road, N. Tonawanda, NY 14120; Arthur G. Pappas, 1417 Forbes Street, N. Tonawanda, NY 14120; Joseph A. Rich, Wheatfield Street, N. Tonawanda, NY 14120; Daniel Rivera, 65 Sixth Avenue, N. Tonawanda, NY 14120 and Lawrence V. Soos, 678 Treichler, N. Tonawanda, NY 14120 as Commissioners of Deeds for the City of North Tonawanda for a term beginning May 20, 2009 ending May 19, 2011.
CARRIED.

AUDIENCE PARTICIPATION –

Kathy Kern, 1248 Greenbrier Lane – Thanked elected officials for stopping by and helping with the Inter-Church Food Pantry. Asked about the loose gravel on roads as the result of the “Pothole Killer”. Asked for later start for the Common Council meetings.

Gordon Fritz, 1727 Eddy Drive – Complained about Eddy Drive, the steel cap that broke in front of his house and the train in front of Museum on Oliver Street.

Mike Gondek, 257 Brentwood Drive – Remarked about the property at 149 S. Meadow and asked about the Marina and other properties that were approved at the public auction.

Donna Burgio, 1879 Sweeney Street – Asked about the Sweeney Hose agenda item regarding the beer booth on Webster Street.

Jeremy Ballsmith, 51 Washington Street – Complained about potholes.

Ashley Smith, 423 Wurlitzer Drive – Complained about potholes.

ADJOURNMENT

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

Time of Adjournment: 6:35P.M.

Respectfully submitted,

Robert G. Ortt
Clerk-Treasurer