

**THE HONORABLE BODY**  
**Council Chambers**  
**Municipal Building**  
**North Tonawanda, New York 14120**  
**Tuesday, October 6, 2009**  
**6:00P.M.**

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**REGULAR SESSION CALLED TO ORDER BY PRESIDENT SCHWANDT**

**ROLL CALL**

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

**Absent: Alderman Sommer**  
**Mayor Lawrence V. Soos**

**Also Present: Mayor's Administrative Assistant Jeffrey N. Mis**  
**City Attorney Shawn P. Nickerson**

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**APPROVAL OF THE MINUTES OF THE REGULAR SESSION SEPTEMBER 15, 2009**

**MOVED by Alderman Pasiak**                      **SECONDED by Alderman Brick**  
**That the minutes of the regular session held September 15, 2009 be approved as circulated**  
**and filed in the Office of the Clerk-Treasurer.**  
**CARRIED.**

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**APPROVAL OF THE MINUTES OF THE SPECIAL SESSION SEPTEMBER 22, 2009**

**MOVED by Alderman Pasiak**                      **SECONDED by Alderman Donovan**  
**That the minutes of the special session held September 22, 2009 be approved as circulated and**  
**filed in the Office of the Clerk-Treasurer.**  
**CARRIED.**

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**AUDIENCE PARTICIPATION - None**

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**COMMUNICATIONS FROM CITY OFFICIALS**

**II.1 Attorney**

**October 1, 2009**

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

**Re: Proposed Wal-Mart Supercenter Project**  
**Action Concerning Various Rights-of Way**

**Dear Honorable Body:**

**Attached is the Findings Statement to approve the request for abandonment of City-owned easements and rights-of-ways and the request for acceptance of the dedication for an additional Kingston Avenue right-of-way and utility easements for your consideration to facilitate the above-referenced project.**

**Should your Honorable Body concur, please pass a resolution to abandon certain City-owned rights-of-way and easements, and to accept additional rights-of-way for Kingston**

**10-06-09**

Avenue, and the relocation of certain City utility easements as attached, subject to approval of all documentation by the City Attorney. 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 Pasiak                      SECONDED by Alderman Donovan**  
Pursuant to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law and 6 NYCRR Part 617, the City of North Tonawanda Common Council, acting in its capacity as an Involved Agency in this Action, issues the following Findings Statement to Approve:

**Name of Action:**        Wal-Mart Supercenter (Store #4597-00)(“Project”)  
Request for Abandonment of City-owned right-of-ways (“ROWS”) and easements and  
Request for Acceptance of Dedication for additional Kingston Avenue ROW and for acceptance of relocated utility easements.

**Applicant:**                Wal-Mart Stores East, L.P. (“Wal-Mart”)  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716-0550

**SEQRA Status:**        Type 1, Positive Declaration

**Project:**                 Wal-Mart proposes to construct a 185,312 +/- square-foot Supercenter and out lots on a 38.0 +/- acre site near the intersection of Niagara Falls Boulevard (U.S.62) and Erie Avenue (SR 425) in the City of North Tonawanda (“City”). In order to facilitate such proposal, Wal-Mart is requesting that the City abandon certain ROWs and easements and Wal-Mart has proposed to dedicate additional ROW for Kingston Avenue and to relocate certain City utility easements.

**Description of Action:** Abandonment of certain City-owned ROWs and easements and acceptance of additional ROW for Kingston Avenue and relocation of certain City utility easements.

**Location:**                The Project will be situated on the former Melody Fair and Bluebird Coach Lines properties near the intersection of Niagara Falls Boulevard (US 62) and Erie Avenue (SR 425), City of North Tonawanda, Niagara County, New York.

**SEQRA Lead Agency:** North Tonawanda Planning Commission (“Planning Commission”)

**Agency Jurisdiction:** Wal-Mart is requesting that the Common Council abandon certain ROWs and easements and accept additional ROW for Kingston Avenue and relocation of certain City utility easements.

**Date Final Environmental Impact Statement Accepted:** May 12, 2008

**Date of Lead Agency’s Findings Statement:** June 2, 2008.

**Contact:** Brett M. Sommer, Common Council President  
City of North Tonawanda  
216 Payne Avenue  
North Tonawanda, NY 14120  
(716)695-8555

**Date:**        October 6, 2009

### **Facts and Conclusions Relied on to Support the Decision:**

As part of the SEQRA and zoning application processes, Wal-Mart has submitted significant supporting documentation to the City of North Tonawanda (“City”) associated with the proposed construction of a 185,312 +/- square-foot Supercenter and out lots on a 38.0 +/- acre site near the intersection of Niagara Falls Boulevard (U.S.62) and Erie Avenue (SR 425) in the City of North Tonawanda (“City”). SEQRA requires state or local governments to assess the potential environmental impacts of their actions during the planning, review, and decision-making processes for those actions. The public (City, County, and State) approvals and permits required for the Project constitute the “Action” subject to SEQRA. The intent of SEQRA is to ensure that governmental decision-making is a balance of social, economic, and environmental factors that are considered and weighed in reaching decisions on proposed activities or actions.

Pursuant to SEQRA, the City of North Tonawanda Planning Commission determined that the Action was a Type I Action and sought and received concurrence from other Involved and Interested Agencies to be the Lead Agency. Then, on April 2, 2007, the Planning Commission determined that the proposed action may have a significant impact on the environment and issued a Positive Declaration, requiring the Project Sponsor to prepare a Draft Environmental Impact Statement (DEIS). A public scoping session regarding the project was held on April 25, 2007. Wal-Mart submitted a DEIS to the City of North Tonawanda on July 27, 2007. On August 6, 2007, the Planning Commission found the DEIS to be complete and accepted for review by all Involved and Interested Agencies and the public. The DEIS was made available to the public at the City Library, City Clerk’s Office, and on the City’s website. A public hearing on the DEIS was held September 10, 2007 at the North Tonawanda City Hall. Following a comment from CSX Transportation denying the at-grade access to Erie Avenue, the project was revised to provide secondary access to Wurlitzer Drive through Bluebird Drive. The Planning Commission reopened the DEIS comment period and held a second Public Hearing at Grant Elementary School to gather further input on the project change on March 11, 2008.

The Planning Commission reviewed and considered all agency and public comments in the creation and acceptance of the FEIS. The FEIS was accepted as complete on May 12, 2008. The FEIS, similar to the DEIS, was made available to the public at the City Clerk’s office and the library, and posted on the City’s website. The FEIS addresses specific substantive comments raised during the public comment period and discusses changes to the project that were made to ensure that the project mitigates potential negative impacts to the fullest extent practicable. The Planning Commission adopted Lead Agency SEQRA Findings on June 2, 2008 which Findings are hereby INCORPORATED BY REFERENCE. New York Supreme Court, Niagara County has upheld the SEQRA review process in the face of a legal challenge.

The City Planning Commission in September 2008 granted site plan approval for the Wal-Mart project and re-authorized such approval on October 5, 2009 after the City Engineer and the City Planning Commission approved the Wal-Mart Stormwater Pollution Prevention Plan.

The actions requested to be taken by the Common Council are consistent with the Lead Agency SEQRA Findings. The Lead Agency’s Finding Statement states that several under-utilized City ROWs would be closed to help shield adjacent residential properties from site related impacts. The proposed dedication of additional ROW for Kingston Avenue and the relocation of utility services were also part of the SEQRA review of the Project.

On September 19, 2008, Wal-Mart submitted a written proposal to the Common Council. Specifically, Wal-Mart applied to the Common Council for discontinuing portions of Bluebird Drive; a 30-foot-wide service drive granted to the City by instrument recorded in the Niagara County Clerk’s Office; and a portion of Lyric Avenue. The discontinuance of these areas as city streets and the private sale of such areas to Wal-Mart are consistent with the complete SEQRA review of the Project by the City Planning Commission.

This Project will result in significant public improvements and direct and indirect economic benefits for the City of North Tonawanda. The applicant has agreed to forego participation in the New York State 485-B property tax exemption program and is expected to contribute approximately \$229,700 in taxes to the City of North Tonawanda

School District, \$89,000 in County property taxes, and \$124,800 in City Property taxes. Additionally, Wal-Mart will contribute an estimated \$2,100,000 in sales tax for the county, \$122,480 of which is likely to be shared with the City.

As an Involved Agency, the Common Council has also reviewed all the relevant submissions associated with the overall Project and the proposed Action before issuing these Findings.

**CONCLUSION**

The City of North Tonawanda Common Council hereby CERTIFIES that consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the Proposed Action is one that avoids or minimizes environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions those mitigative matters that were identified as practicable.

**Certification to Approve:**

Having considered the DEIS, FEIS, and the Planning Commission’s Findings Statement, and having considered the proceedings, facts, and conclusions relied on to meet the requirements of 6 NYCRR Part 617 (State Environmental Quality Review Act [SEQRA]) the Common Council certifies that:

- 1. The City of North Tonawanda Common Council (“Common Council”) has considered the relevant environmental impacts, facts, and conclusions disclosed in the DEIS and the FEIS and other supporting materials;

The Common Council has weighed and balanced the relevant environmental impacts with social, economic, and other considerations;

The Common Council has provided a rationale for its decision;

The requirements of Article 8 of the Environmental Conservation Law and the implementing regulations, 6 NYCRR Part 617 (State Environmental Quality Review Act [SEQRA]) have been met;

Consistent with social, economic, and other essential considerations, from among the reasonable alternatives available, the actions to be carried out are those which avoid or minimize, to the maximum extent practicable, adverse environmental impacts disclosed in the DEIS, and the FEIS; and

That adverse environmental impacts will be minimized or avoided to the maximum extent practicable by incorporating, as conditions to this decision, those mitigating measures which were identified as practicable in the SEQR Lead Agency Findings Statement dated June 2, 2008.

**Filing:**

The City of North Tonawanda Common Council designees are hereby directed to file and distribute this Findings Statement as required by Article 8 of the Environmental Conservation Law and the implementing regulations, 6 NYCRR Part 617 (State Environmental Quality Review Act [SEQRA]).

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

Nays: None (0)

**CARRIED.**

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**II.2 Attorney**

October 1, 2009

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

**Re: Proposed Wal-Mart Supercenter Project  
Action Concerning Various Easements**

**Dear Honorable Body:**

**Attached is a resolution to approve the relocation of certain City water and sewer sanitary easements and for the dedication of additional Kingston Avenue rights-of-way to the City of North Tonawanda for your consideration, to facilitate the above-referenced project.**

**Should your Honorable Body concur, please pass a resolution to approve the relocation of new sanitary sewer and waterline easements at such time as the new utility services are constructed, and to accept the proposed dedication of additional rights-of-way for Kingston Avenue at such time as Wal-Mart acquires the project site from third parties, subject to review and approval of all documentation by the City Attorney. 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 Donovan  
Whereas:**

**SECONDED by Alderman Brick**

- 1. Wal-Mart Stores East, L.P. (“WMSELP”) has proposed the development of a new supercenter store and certain outparcels in the City of North Tonawanda. WMSELP is the contact vendee of lands required for the project.**
- 2. The Wal-Mart Project was the subject of a complete State Environmental Quality Review (“SEQR”) by the City Planning Commission and such SEQRA process has been upheld by New York State Supreme Court, Niagara County.**
- 3. The Wal-Mart Project received site plan approval from the City Planning Commission in September 2008 and such site plan was re-authorized by the City Planning Commission on October 5, 2009. Prior to such re-approval the City Engineer and the Planning Commission reviewed and approved the Wal-Mart Stormwater Pollution Prevention Plan.**
- 4. The Wal-Mart site plans approved by the Planning Commission included provision for relocation of City water and sanitary sewer easements and also provided for the dedication of additional Kingston Avenue right-of-way to the City of North Tonawanda.**
- 5. The Common Council has adopted its own SEQR findings related to actions the Common Council may take concerning the Wal-Mart Project.**
- 6. The Common Council finds that the Wal-Mart project as proposed and as approved by the Planning Commission is in the best interests of the City of North Tonawanda.**

**Now, Therefore, be it Resolved That:**

- 1. The Common Council hereby approves acceptance of new sanitary sewer easements and/or water line easements to the City of North Tonawanda in substantially the same locations and of the same configurations shown in the plans presented to this Council. The Mayor and Corporation Counsel are authorized to accept such easements at such time as the new utility services are constructed within such easement areas in accordance with the approved plans and such construction has been reviewed by and approved by the City Engineer.**
- 2. The Common Council accepts the proposed dedication of additional right-of-way for Kingston Avenue as proposed by Wal-Mart and as contained in the plans presented to the Council. The Mayor, with the concurrence of the Corporation Counsel, is authorized and directed to accept a quitclaim deed from Wal-Mart for such additional right-of-way. Such transfer of title will occur simultaneously with Wal-Mart’s acquisition of the project site from third parties.**

6

3. The Mayor, Corporation Counsel, City Engineer and other city officials are authorized and directed to take all steps necessary or appropriate for implementation of the intent of these resolutions.
4. A copy of this resolution shall be filed with the City Clerk's Office and a copy shall be provided to Wal-Mart representatives.

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

Nays: None (0)

CARRIED.

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### II.3 Attorney

October 1, 2009

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

Re: Proposed Wal-Mart Supercenter Project  
Action Concerning Discontinuing Certain Portions of Bluebird Drive,  
Lyric Avenue and 30-foot Service Road Upon Written Closing Notice  
of the Transfer of Property to Wal-Mart

Dear Honorable Body:

Attached, for your consideration, is a resolution to approve the discontinuing of certain streets and rights-of-way as well as any pre-existing easements, as attached, by the City of North Tonawanda, to facilitate the above-referenced project.

Should your Honorable Body concur, please pass a resolution to approve the discontinuation of certain portions of Bluebird Drive, Lyric Avenue, and the 30-foot service road as well as any pre-existing related easements upon the written closing notice of the transfer of property for the project by private sale, subject to review and approval of all documentation by the City Attorney. 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 Pasiak  
Whereas:

SECONDED by Alderman Brick

1. Wal-Mart Stores East, L.P. ("WMSELP") has proposed the development of a new supercenter store and certain outparcels in the City of North Tonawanda ("Wal-Mart Project"). WMSELP is the contract vendee of lands required for the project. WMSELP may assign its rights in such purchase contracts to other Wal-Mart entities such as Wal-Mart Real Estate Business Trust, Wal-Mart Stores, Inc. or any other entity controlled by Wal-Mart Stores, Inc.
2. The Wal-Mart Project was the subject of a complete State Environmental Quality Review ("SEQR") by the City Planning Commission. Such SEQRA process has been upheld by New York Supreme Court, Niagara County.
3. The Common Council has adopted its own SEQR Findings regarding the Wal-Mart project and the actions to be taken by the City Council to implement the project.
4. Chapter 31A of the Code of the City of North Tonawanda (the "City") authorizes the Common Council to discontinue streets or rights-of-way and to transfer such discontinued property by private sale.
5. WMSELP has made application to the Common Council for discontinuing portions of Bluebird Drive; a 30-foot-wide service drive granted to the City by instrument recorded in the Niagara County Clerk's Office at Liber 1585 of Deeds, p. 870; and a

portion of Lyric Avenue comprising approximately 1.623 acres. These areas are no longer needed by the City for a public purpose.

6. The discontinuance of these areas as city streets and the private sale of such areas to WMSELP and the abandonment of certain easements are consistent with the site plan approval for the Wal-Mart Project granted by the City Planning Commission in September 2008 as re-authorized by the City Planning Commission on October 5, 2009. The City Engineer and the City Planning Commission have also approved the Wal-Mart Stormwater Pollution Prevention Plan. The approved site plans also provided for the abandonment of certain existing utility easements on the Wal-Mart Project site which will no longer be needed for a public purpose.
7. The City and WMSELP have exchanged appraisals for the city property that is the subject of the WMSELP abandonment application and representatives of WMSELP and the City have exchanged further information concerning the value of such property.
8. After reviewing all appraisal information and comments thereof, and considering other factors related to the Wal-Mart project, the Common Council has determined that \$81,150 is a fair and adequate consideration for the transfer of such property to Wal-Mart.
9. Wal-Mart has agreed to pay all reasonable closing costs associated with the transfer of such property by private sale.

**Now Therefore Be It Resolved:**

1. The Common Council finds that it is in the best interests of the City of North Tonawanda to discontinue the specified portions of Bluebird Drive, Lyric Avenue and the 30-foot-wide service road effective thirty (30) days after receipt of a written closing notice to the Mayor and Corporation Counsel from Wal-Mart (“Wal-Mart Notice”).
2. Upon receipt of the Wal-Mart Notice, a copy of such notice shall be provided to each Common Council member.
3. Upon receipt of such Wal-Mart Notice, the Mayor is authorized and directed to execute and deliver to Wal-Mart quitclaim deed(s) in the form attached hereto subject to Wal-Mart’s payment of the sum of \$81,150 to the City Treasurer.
4. The Common Council also finds that it is in the best interests of the City of North Tonawanda to quit claim to Wal-Mart the interest of the City of North Tonawanda, if any, to the following easements or appurtenances as identified on the attached Property Easements and Abandonments Plan presented to the Council as easement numbers 3,4,5,6,7,8 9, and 11. The Mayor is authorized and directed to execute and deliver a quit claim deed of such easements to Wal-Mart at or prior to the time the Wal-Mart store is issued a certificate of Occupancy.
5. The Mayor and Corporation Council shall execute and deliver to Wal-Mart any ancillary documents such as TP-584 or other forms required for the recording of the quitclaim deed(s).
6. The Mayor, Corporation Counsel and other city officials are authorized and directed to take all steps necessary to implement the above resolutions.
7. A copy of this resolution shall be filed with the City Clerk’s Office and a copy shall be provided to Wal-Mart representatives.

Ayes: Brick, Pasiak, Donovan, Schwandt

(4)

Nays: None

(0)

**CARRIED.**



Should your Honorable Body concur, please pass a resolution to adopt this Memorandum of Agreement, as attached, 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 Schwandt                      SECONDED by Alderman Donovan  
WHEREAS, on September 1, 2009, the City entered into a Memorandum of Understanding (MOU) with Calgon pertaining to Calgon's Leasing the Carbon Regeneration Furnace at the North Tonawanda Wastewater Treatment Plant ("NTWWTP") for the commercial manufacturing and reactivation of carbon, and;

WHEREAS, the initial term of the Lease will be 5 years, and;

WHEREAS, carbon regeneration work is currently performed by NTWWTP Operators who are members of the CSEA Local 832 / Unit 7692 bargaining unit, and;

WHEREAS, section 5.45 of the Collective Bargaining Agreement ("CBA") between the City and the Union states that: *"The employer must not contract out work normally performed by employees in the negotiating unit if to do so would result in the elimination of any position in the negotiating unit"*, and;

WHEREAS, the Union believes impact negotiations must occur regarding the MOU with Calgon, or any future contracts entered into with any other private company providing this service, which may affect negotiating unit employees;

NOW THEREFORE, the parties, in order to comply with the CBA, hereto set forth below their basic understanding regarding the MOU and its affect on the CSEA employees:

1. **Staffing:** The City agrees to maintain staffing at current levels in the Water Works Department, which includes the Water Filtration, Water Distribution and Wastewater Divisions. The staffing levels will not decrease for the duration of this MOA and any ensuing contract as per the CBA as long as the MOU with Calgon or any other private company providing this service is in effect.
2. **Exclusivity of Work:** The Union retains the right to perform the regeneration of NTWWTP carbon upon the termination or expiration of any resulting contract between the City and Calgon or any other private company providing this service.
3. **Acknowledgements:**
  - A. The Union acknowledges that the City has the right to Lease any of its facilities or equipment, but not to the contracting out any Union work if it results in the elimination of any position in the negotiating unit. Regardless of the above, the Union is agreeing to the basic premise of the MOU as long as it results in at least an equal or more efficient and cost effective utilization of the Carbon Regeneration Furnace, which will in turn guarantee staffing levels for the Union employees in the Water Works Department.
  - B. The City acknowledges that the Union is not giving up its right to perform Carbon Regeneration. The City acknowledges that the Union has the right to file a grievance, or legal action, against the City if there is a violation of the CBA or an Improper Practice ("IP") occurs. The City agrees to negotiate with the Union on the impact upon the Union regarding the MOU, or any future contracts entered into with any other private company providing this service, which may affect staffing levels and / or working conditions of negotiating unit employees.

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







**XXV. Monthly Reports**

- |           |                              |           |                         |
|-----------|------------------------------|-----------|-------------------------|
| <b>.1</b> | <b>Treasurer</b>             | <b>.3</b> | <b>Vital Statistics</b> |
| <b>.2</b> | <b>Treasurer Investments</b> |           |                         |

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

**COMMUNICATIONS FROM OTHERS**

**A.**  
**Dr. & Mrs. Maurice Dewey**

**September 14, 2009**

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

**Dear Mayor Soos:**

**We would like to thank you and Linda for coming to our last Block Party “Irish for a Day” and hope that you can come to our “Octoberfest” scheduled for October 17<sup>th</sup>. In addition to our normal smorgasbord of food and beverages, we are going to have various children’s activities including a pie and cake baking contest and a costume competition. Further, excellent music will be provided by Sugar and Jazz, conducted by Frankie Larango.**

**In order to ensure this party be as safe as it will be fun, we ask that you agree to allow the North Tonawanda police and DPW to set up road barricades between 2-11:00pm on Christiana Street between the streets of Bryant and Falconer. Thank you for your consideration in this matter, and we hope to see you on the 17<sup>th</sup>.**

**Respectfully**  
**Dr. & Mrs. Maurice Dewey**

**MOVED by Alderman Pasiak                      SECONDED by Alderman Brick**  
**That the Common Council hereby grants permission to Dr. and Mrs. Maurice Dewey to hold a Block Party on Christiana Street between Bryant and Falconer Streets on Saturday, October 17, 2009 from 2:00 – 11:00 PM and further directs the Department of Public Works to provide road barricades.**  
**CARRIED.**

**B.**  
**NT Catholic School**

**September 29, 2009**

**Mr. Robert G. Ortt**  
**City Clerk**  
**City of North Tonawanda**  
**216 Payne Avenue**  
**North Tonawanda, NY 14120**

**Dear Mr. Ortt:**

**I am writing to request a Block Party permit for North Tonawanda Catholic School’s second annual Family Fall Festival event to be held on Thursday, October 22, 2009. We would like approval for closing off one block of Vandervoort Street from the corner of Robinson Road and Vandervoort to the corner of Keil Street and Vandervoort. The time frame needed for the closing would be from 4:00 PM to 10:00 PM as our event will run between 6:00-8:30 PM. This would allow us time to set up and clean up.**

I would like to request from the Department of Public Works, at least five barricades or whatever would be appropriate to close off the block and driveway on the Keil Street side of the school. If possible, I would also like to request about 4-6 refuse containers and our event will mostly take place outdoors.

Thank you for your consideration. If you have any questions, or need additional information, please contact me, or our Principal, Mrs. Martha Eadie at 693-2828.

Sincerely,  
Mrs. Nancy Kindred  
Advancement Director

**MOVED by Alderman Donovan                      SECONDED by Alderman Pasiak**  
That the Common Council hereby grants permission to NT Catholic School to hold its second annual Family Fall Festival event on Thursday, October 22, 2009 closing off one block of Vandervoort Street from the corner of Robinson Street and Vandervoort to the corner of Keil Street and Vandervoort from 4:00 PM to 10:00 PM and further directs the Department of Public Works to provide road barricades and 4-6 refuse containers.  
**CARRIED.**

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C.  
Arthur R. Neiswonger

September 3, 2009

To Whom It May Concern:

I am a life long resident of the city of North Tonawanda and am also an avid golfer. Due to health reasons it has become very difficult for me to walk the course while playing golf.

I know that for a fee of \$300 per year there are people that do have their own privately owned golf carts which they use at the public golf course. I inquired at the Deerwood Golf Course about using my own privately owned golf cart. I was told that if I did not have a private cart there already then I would not have the opportunity to bring one there.

Understanding that the fine folks working at the golf course do not make the rules or issue permits, I then went to the North Tonawanda recreation department to inquire. At the parks and recreation department I was told that as of this year if you did not have a privately owned golf cart that was already permitted then you would not have a chance to get a permit. I asked what I would need to do to get a permit for next season and was told no that if I did not already have a permit then I would not be eligible in the future.

As I was speaking with the people at the parks department I stated that I did not feel that was very fair. I was told that the Mayor had made this decision and I would need to speak to that office to have this changed. I was told by one of the people I was talking with that they do recall someone else requesting an exception to this policy earlier this year and it was granted. Then I went to the office of the Mayor with my concerns.

I was informed that yes the policy is that if you do not have a privately owned golf cart presently then there is no chance in the future. I stated that as a tax payer in this city I should have the same opportunity as the other people that have a privately owned cart at the golf course. I was asked by the person I was speaking with if I would put in writing my concerns, to which I said I would be happy to.

I would like to request that I be given the opportunity to use my privately owned golf cart so that I may continue to play the game I enjoy. Thank you in advance for your time.

Arthur R. Neiswonger  
69 Donald Drive  
North Tonawanda, NY 14120  
716-692-7750

**MOVED** by Alderman Schwandt                      **SECONDED** by Alderman Donovan  
**That the Common Council hereby grants permission to Arthur R. Neiswonger to purchase a resident golf cart pass.**

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

**Nays: None** (0)

**CARRIED.**

### **LATE COMMUNICATION**

**MOVED** by Alderman Donovan                      **SECONDED** by Alderman Schwandt  
**To bring the following communication(s) to the floor.**

**Ayes: Brick, Pasiak, Donovan, Schwandt** (4)

**Nays: Sommer** (1)

**CARRIED.**

**#1 Mayor**

**October 6, 2009**

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

**Re: Local Law No. 5 for the year 2009 - Prohibiting the Use of Wireless Handsets to Compose, Read or Send Text Messages While Operating a Motor Vehicle in the City of North Tonawanda**

**Dear Honorable Body:**

**Please be advised that this office held a Public Hearing on the above-referenced Local Law #5 for 2009 in the Common Council Chambers at City Hall, 216 Payne Avenue, North Tonawanda, New York 14120 on Tuesday, October 6, 2009 at 5:30 PM.**

**At the time of the Public Hearing, which was conducted by Mayor Lawrence V. Soos, no one spoke in opposition to the passage of this Local Law.**

**Therefore, I hereby approve the passage of this Local Law #5 for 2009.**

**Sincerely,  
Lawrence V. Soos  
Mayor**

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

**Ayes: Brick, Pasiak, Donovan, Schwandt** (4)

**Nays: Sommer** (1)

**CARRIED.**

### **AUDINENCE PARTICIPATION**

**Kathy Kern, 1248 Greenbrier Lane – Thanked City Officials for supporting the Twin Cities Community Outreach event at Sikora Post on Sunday, October 4 and thanked Cathy Schwandt for organizing a food drive in her neighborhood and delivering the bags of food.**

**Theresa Wozniak, Zimmerman Street – Questioned the City ordinance regarding free standing signs and asked why her sign had to come down.**

**Walt Yaro, 170 Christiana Street – Stated that agenda should contain more details.**

**Gordon Fritz, 1727 Eddy Drive – Asked when winter parking hours begin.**

**Bob Gibson – Questioned why money is not spent properly on golf course – drainage ditches are not clean.**

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**ADJOURNMENT**

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

**Time of Adjournment: 6:40P.M.**

**Respectfully submitted,**

**Robert G. Ortt**  
**Clerk-Treasurer**