

**THE HONORABLE BODY**  
**Council Chambers**  
**Municipal Building**  
**North Tonawanda, New York 14120**  
**Tuesday, December 1, 2009**  
**6:00P.M.**

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

**ROLL CALL**

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

**Absent: None**

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

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**APPROVAL OF THE MINUTES OF THE REGULAR SESSION NOVEMBER 17, 2009**

**MOVED by Alderman Brick**                      **SECONDED by Alderman Sommer**  
**That the minutes of the regular session held November 17, 2009 be approved as circulated**  
**and filed in the Office of the Clerk-Treasurer.**  
**CARRIED.**

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**AUDIENCE PARTICIPATION**

**Liz Kaszubski, 1463 Fairfield Avenue – Asked if the \$30,000 designated for wetlands**  
**legislation is included on the current Abstract of Claims.**

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**COMMUNICATIONS FROM CITY OFFICIALS**

**I.1 Mayor**

**November 24, 2009**

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

**Re: Local Law No. 6 for the year 2009 - A Local Law Establishing Real**  
**Property Tax Exemption for Non-Residential Real Property**  
**Converted to Mixed-Use Property in accordance with Section**  
**485-a of the New York State Real Property Tax law**

**Dear Honorable Body:**

**Please be advised that this office held a Public Hearing on the above-referenced Local Law**  
**#6 for 2009 in the Common Council Chambers at City Hall, 216 Payne Avenue, North**  
**Tonawanda, New York 14120 on Monday, November 23, 2009 at 5:30 PM.**

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

**Therefore, I hereby approve the passage of this Local Law #6 for 2009.**

**12-01-09**

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.2     Mayor**

**November 24, 2009**

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

**Re: Appointment to North Tonawanda Housing Authority**

**Dear Honorable Body:**

**Please be advised that I am reappointing Walter Yaro of 170 Christiana Street, North Tonawanda, New York to the Housing Authority (Nortona Redevelopment Company) for a five (5) year term effective immediately and expiring on January 31, 2014. Mr. Yaro's term expired on January 30, 2009 and he has been acting in a holdover capacity.**

**Thank you for your attention to this matter.**

Sincerely,  
Lawrence V. Soos  
Mayor

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

**The following item was pulled from the agenda before the meeting:**

**I.3     Mayor**

**November 24, 2009**

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

**Re: Appointment of Director of Youth, Recreation, Parks and Senior Citizens**

**Dear Honorable Body:**

**As per City Charter Section 2.024(b), I hereby appoint Recreation Supervisor Patricia A. Brosius to the vacant position of Director of Youth, Recreation, Parks and Senior Citizens on a provisional basis pending a Civil Service Exam. Ms. Brosius has met all educational and experience requirements of Niagara County Civil Service and her application for appointment to said position has been approved.**

**Ms. Brosius has served the City of North Tonawanda Recreation Department in several capacities since 1977 and over the years has handled duties as a Program Leader, Adult Softball Supervisor, Playground Supervisor, Special Events Supervisor, Senior Citizens Program Coordinator and Recreation Supervisor. Ms. Brosius has been in the position of Recreation Supervisor since July 2001 and previous to that position was the Senior Citizens Program Coordinator for ten (10) years. Furthermore, retired Director Jerry Whitehead has recommended her appointment.**

As this is an OPEIU (Department Head Union) position, it has already been posted and no one from the OPEIU qualified for the position as per the Niagara County Civil Service. As she will now be a member of the OPEIU union, Ms. Brosius will be placed in the appropriate step of the salary schedule pursuant to Section 6.1.2 of said collective bargaining agreement.

Her appointment will become effective immediately. Thank you for your kind consideration in this matter.

Sincerely,  
Lawrence V. Soos  
Mayor

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I.4 Mayor

November 24, 2009

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

Re: Appointments to North Tonawanda Cable Television Advisory Board

Dear Honorable Body:

Please be advised that I am hereby appointing to the North Tonawanda Cable Television Advisory Board Mark Houghton, 795 Nash Road, North Tonawanda, NY 14120 and Robert Fritz, 33 East Felton, North Tonawanda, NY 14120 effective immediately. Advisory Board members Daniel Andrey and Margaret Andrey have been serving in holdover capacities since their terms expired as of December 31, 2008. They have informed this office that they no longer wish to serve on the board. Thus, the new board members would be serving the remainder of a two (2) year term which would then be expiring on December 31, 2010.

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.

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I.5 Mayor

November 24, 2009

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 hereby appointing to the North Tonawanda Waterfront Commission, effective immediately, Christopher Perna of 116 19<sup>th</sup> Avenue, North Tonawanda, NY 14120. Commission member Melissa Kenney has recently submitted her resignation and Mr. Perna had expressed an interest in volunteering for this commission. Mr. Perna will be serving the remainder of Ms. Kenney's term which will expire on December 31, 2011.

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.**

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**II.1    Attorney**

November 17, 2009

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

**Re:    Proposed Final Transfer of Gratwick-Riverside Park from Niagara Mohawk  
Power Corporation to the City of North Tonawanda**

**Dear Honorable Body:**

Attached, for your consideration, is a resolution for the final transfer of the Gratwick-Riverside Park parcels (two parcels totaling approximately 53 acres) from the Niagara Mohawk Power Corporation to the City of North Tonawanda.

Should your Honorable Body concur, please pass a resolution to accept the transfer of Gratwick-Riverside Park and to discontinue the lease of the Gratwick-Riverside Park between the Niagara Mohawk Power Corporation and the City of North Tonawanda, subject to review and approval of all documentation by the City Attorney.

Very truly yours,  
Shawn P. Nickerson  
City Attorney

**MOVED by Alderman Donovan                      SECONDED by Alderman Brick**  
**WHEREAS:**

- 1. Niagara Mohawk Power Corporation (“Corporation”) has authorized the transfer of two parcels of land containing a total of approximately 53 acres, subject to a reservation of rights, situate in the City of North Tonawanda, County of Niagara and State of New York (“Gratwick-Riverside Park”) for consideration of \$1.00.**
- 2. This transfer is pursuant to the Agreement for Joint Performance of a Remedial Design/Remedial Action for the Gratwick-Riverside Park Landfill (“JPA”) dated April 8, 1996; by and among the New York State Department of Environmental Conservation, Niagara Mohawk Power Corporation, Bell Aerospace Textron, Booth Oil Company, Occidental Chemical Corporation and the City of North Tonawanda.**
- 3. In light of the proposed transfer of Gratwick-Riverside Park, it is no longer necessary to continue the lease of said premises between the Corporation and the City.**

**NOW THEREFORE BE IT RESOLVED THAT:**

- 1. The Common Council finds that it is in the best interests of the City of North Tonawanda to accept the transfer of Gratwick-Riverside Park.**
- 2. Upon filing of the deed transferring Gratwick-Riverside Park from Niagara Mohawk Power Corporation to the City of North Tonawanda, the Common Council hereby terminates the lease of said premises between the parties.**
- 3. The Mayor, City Attorney and any other city officials are authorized and directed to take all steps necessary to implement the above transfer.**

4. The Mayor, City Attorney and any other city officials are authorized and directed to take all steps necessary to terminate the above lease upon filing of the deed transferring the property to the City of North Tonawanda.

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

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## V. Water

November 23, 2009

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

Re: Extension of Grant –  
 Tri-City Water and Wastewater Systems Optimization and Consolidation Study

Honorable Body:

The City of Lockport, NY has requested that the members of the Tri-City Water and Wastewater Systems Optimization and Consolidation Study (Tri-City) approve application for an extension of the grant deadline to the New York State Department of State.

The Tri-City grant was originally awarded for a two (2) year time period to end in March 2010. The work has progressed and three (3) preferred alternatives have been identified, engineered and financially evaluated. These alternatives are scheduled to be presented to various boards in late December 2009/early January 2010. A legal and funding evaluation would then have to be done starting in February 2010.

The City of Lockport, NY has, as lead agency, requested that we approve a six (6) month grant extension to allow for the completion of all required tasks. This would extend the completion date to September 2010.

I recommend that the City of North Tonawanda, NY support this application for extension.

Sincerely,  
 Paul Joseph Drof

**MOVED** by Alderman Pasiak                      **SECONDED** by Alderman Donovan  
 That the Common Council hereby approves a six month grant extension of the Tri-City Water and Wastewater Systems Optimization and Consolidation Study to allow for the completion of all required tasks, extending the completion date to September 2010.  
 Ayes: Pasiak, Sommer, Donovan, Schwandt (4)  
 Nays: Brick (1)  
**CARRIED.**

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## VII.1 Accountant

November 24, 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 December 1, 2009, and further authorize the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant.

Very truly yours,  
David R. Jakubaszek  
City Accountant

MOVED by Alderman Pasiak

SECONDED by Alderman Brick

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated December 1, 2009 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$2,441,646.71
02	Water Fund	136,283.33
04	Sewer Fund	192,405.81
06	Capital Project Fund	83,725.38
07	Trust & Agency Fund	12,719.28
17	Home Rehab Program	<u>15,057.00</u>
	Final Total	<u>\$2,881,837.51</u>

Ayes: Brick, Pasiak, Sommer, Donovan, Schwandt

(5)

Nays: None

(0)

CARRIED.

## VII.2 Accountant

November 24, 2009

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 2009, I recommend that the Common Council authorize the City Accountant to make any necessary budgetary transfers, adjustments, subsidies or amendments for sanctioned expenditures, accrued liabilities, accounts payable and encumbrances, at December 31, 2009. It should be noted that Department Heads are still responsible and accountable for their financial actions.

Approval of this recommendation will insure that no appropriation accounts or operating funds are over-obligated at year-end, providing a favorable financial and management representation for the auditors, State Comptroller, investment analysts and bankers.

This action would be in compliance with the State of New York Uniform System of Accounts for Cities and Generally Accepted Accounting Principals (GAAP).

These actions will be reflected in the municipality's year-end appropriation ledgers, the audited 2009 Financial Statements and in our Annual Financial Update Document, which is sent to the New York State Comptrollers office.

Very truly yours,  
David R. Jakubaszek  
City Accountant

**MOVED by Alderman Pasiak**

**SECONDED by Alderman Donovan**

**That the Common Council hereby authorizes the City Accountant to make any necessary budgetary transfers, adjustments, subsidy's or amendments for sanctioned expenditures, accrued liabilities, accounts payable and encumbrances, at December 31, 2009.**

**Ayes: Brick, Pasiak, Sommer, Donovan, Schwandt**

**(5)**

**Nays: None**

**(0)**

**CARRIED.**

### **COMMUNICATIONS FROM OTHERS**

**A.**

**WNY Bassmasters**

**November 17, 2009**

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

**To Whom It May Concern:**

**WNY Bassmasters is holding their third annual Servicemen Bass Tournament on July 18<sup>th</sup>, 2010 on the Niagara River. This tournament is for servicemen and women from the Niagara Falls Air Force Base. There will be twenty servicemen anglers and twenty boat captains for this event.**

**We will be launching from Gratwick Park and utilizing the pavilion for the tournament weigh in and BBQ dinner. I have spoken with Mr. Lawrence Soos and he has given us approval to conduct this event as of November 17, 2009. We are requesting the launch permit fees to be waived for our organization for this one day (July 18, 2010).**

**If you have any further questions or concern regarding this event, please feel free to contact myself at 716-804-1298 or bassin27@roadrunner.com.**

**Best regards,  
Larry St. Cyr  
President of WNY Bassmasters**

**MOVED by Alderman Schwandt**

**SECONDED by Alderman Brick**

**That the Common Council hereby waives the launch permit fees for the WNY Bassmasters Servicemen Bass Tournament on July 18<sup>th</sup>, 2010 at Gratwick Park.**

**Ayes: Brick, Pasiak, Sommer, Donovan, Schwandt**

**(5)**

**Nays: None**

**(0)**

**CARRIED.**

**B.**

**Kenneth & Donna Braun**

**To the Members of the North Tonawanda Common Council & City Officials:**

**We are presently interested in purchasing the empty lot at 236 Schenck Street. This empty lot adjoins the side of our property at 175 Lincoln Avenue.**

**Our intentions would be to construct additional garage space for personal storage along with fencing and landscaping.**

**We have already spoken to the City Attorney, City Engineer and Building Inspector in regards to this property and it was suggested that we propose our intentions to the Common Council. We would like to move quickly on this matter, so work could be started before winter begins.**



mayor shall within ten (10) days after it has been presented to him, veto same and transmit a copy of the resolution and written statement of the reasons for disapproval to the city clerk. In short, there is no hiring freeze existing at this time as the resolution has not taken effect. Thus, the recent newspaper articles stating that there is a current hiring freeze are not accurate.

3. The Common Council resolution also undermines the powers of the office of the mayor. If such a resolution stands, it will undermine this office's and future mayor's legal ability and responsibility under the City Charter to do his or her job. The reason for the passing of the resolution presented by the City Accountant David Jakubaszek and adopted by the Common Council, namely, to allow the new Common Council the opportunity to evaluate the effect of the retirement incentive as it relates to the 2010 budget, is flawed. To pass such a resolution undermining the powers of the mayor and department heads under an already established and funded 2009 budget for the purpose of seeing how it relates to the 2010 budget, might in itself look good, but makes no sense. For the sake of argument, and giving the reasoning by the City Accountant some measure of credibility, the actual fact is that eight (8) employees took the retirement incentive, as opposed to the anticipated five (5) employees. Thus, the "new" Common Council already has its answer. Due to more retirements than anticipated, the city is actually ahead on what was anticipated and budgeted for 2010. It makes any needed "evaluation" by the "new" Common Council moot.

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

MOVED by Alderman Brick

SECONDED by Alderman Sommer

That the Common Council hereby supports the Veto of Common Council Resolution of November 17, 2009 adopting a hiring freeze as a result of a Communication from Accountant-Item No. VII.3 – Accountant.

Ayes: Brick (1)

Nays: Pasiak, Sommer, Donovan, Schwandt (4)

MOTION FAILED.

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### AUDIENCE PARTICIPATION

Liz Kaszubski, 1463 Fairfield Avenue – Asked why the \$250.00 fine per day is not being assessed by the Building Inspector regarding the lack of progress for the Villas at Deerwood project and requested that the \$30,000 designated for wetlands legislation should be put back in the budget. Also, questioned money spent in favor of developers.

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### ADJOURNMENT

MOVED by Alderman Donovan

SECONDED by Alderman Brick

That this regular session of the Common Council be and hereby is adjourned.

CARRIED.

Time of Adjournment: 6:25P.M.

Respectfully submitted,

Robert G. Ortt  
City Clerk-Treasurer