

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, April 6, 2010
6:30P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SCHWANDT

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: President Schwandt
Alderman Andres, Pasiak, Donovan, Zadzilka

Absent: None

Also Present: Mayor Robert G. Ortt
City Attorney Shawn P. Nickerson

APPROVAL OF THE MINUTES OF THE REGULAR SESSION MARCH 16, 2010

MOVED by Alderman Zadzilka **SECONDED by Alderman Donovan**
That the minutes of the regular session held March 16, 2010 be approved as circulated and filed
in the Office of the City Clerk-Treasurer.
CARRIED.

AUDIENCE PARTICIPATION

Susan Wilke, 329 Miller Street – Inquired about what the traffic patterns were on Wheatfield Street and what basis was used to remove the signal on Wheatfield and was it going to be a four way stop. Commented on the joint resolution against the proposed DEC Wetlands designation and that without more Wetlands the balance of nature will be lost.

COMMUNICATIONS FROM CITY OFFICIALS

I.1 Mayor

March 22, 2010

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 Walter Wrazin, 52 N. Jessella, North Tonawanda, NY 14120, to the Zoning Board of Appeals. He will be replacing James DiBernardo, effective April 6th 2010 expiring December 31, 2010.

Thank you for your attention to this matter.

Sincerely,
Robert G. Ortt
Mayor

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

04-06-2010

WHEREAS, it is necessary and desirable that this Agreement be executed for the exchange of mutual aid; with the intent to supplement not supplant agency personnel.

NOW, THEREFORE, it is hereby agreed by each and all of the parties signatory to the Agreement as follows:

- 1. Each agency signatory to this Agreement agrees to furnish, upon its sole discretion, those resources and services it deems to be available to each other signatory agency hereto as necessary to assist in the prevention, response, recovery and mitigation of proclaimed emergencies/disasters.**
- 2. It is hereby understood that the Agreement shall not supplant pre-existing mutual aid agreements nor deny the right of any agency hereto to negotiate other mutual aid agreements.**
- 3. The Responding Agency shall assist in only those situations for which it has determined it has qualified personnel, appropriate equipment and necessary materials. Resources of the Responding Agency that are made available to the Requesting Agency shall, whenever possible, remain under the control and direction of the Responding Agency. The Requesting Agency shall coordinate the activities and resources of all Responding Agencies.**
- 4. It is hereby understood that the Responding Agency will be reimbursed (e.g. labor, equipment, materials and other related expenses as applicable, including loss or damage to equipment) at its adopted usual and customary rates. The Responding Agency shall submit an itemized voucher of costs to the Executive Head of the Requesting Agency within sixty (60) days after completion of work. Unless otherwise agreed, the Responding Agency shall receive reimbursement within ninety (90) days after the voucher submittal date.**
- 5. The Responding Agency shall have no responsibilities or incur any liabilities because it does not provide resources and/or services to any other party to this Agreement. The Responding Agency shall retain the right to withdraw some or all of its resources at any time. Notice of intention to withdraw shall be communicated to the Requesting Agency's designated official or the official's designee, as soon as practicable.**
- 6. All privileges, immunities, rights, duties and benefits of officers and employees of the Responding Agency shall apply while those officers and employees are performing functions and duties on behalf of the Requesting Agency, unless otherwise provided by law. Employees of the Responding Agency remain employees of the Responding Agency while performing functions and duties on behalf of the Requesting Agency.**
- 7. To the extent permitted by law, the Requesting Agency shall protect, defend, hold harmless and indemnify all other Responding signatory Agencies, and their officers and employees from any and all claims, suits, costs, damages of any nature, or causes of action, including the cost of defense and attorneys fees, by reason of the acts or omissions, whether negligent, willful, or reckless, of its own officers, employees, agency or any other person arising out of or in connection with any acts or activities authorized by this agreement, and will pay all judgments, if any, rendered. This obligation shall not include such claims, costs, damages or other expenses which may be caused by the sole negligence of the Responding Agencies or their authorized agents or employees.**
- 8. This Agreement is for the benefit of the Signatory agencies only and no other person or entity shall have any rights whatsoever under this Agreement as a third party beneficiary.**

This memorandum shall take effect upon the joint signing by authorized representatives of the City of Tonawanda, N.Y. and the City of North Tonawanda, N.Y.

This memorandum may be amended by mutual agreement of both parties and will remain in effect until terminated. Both parties will periodically review this agreement and coordinate revisions as needed. This memorandum may be terminated by either party with 30 days written notice.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

II.3 Attorney

March 31, 2010

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

Re: Proposed Amendment to Chapter 24 of the City Code of the
City of North Tonawanda, New York, Entitled, "Building Inspector"

Dear Honorable Body:

The Building Inspector has requested that the attached amendments be added to Chapter 24 of the Code of the City of North Tonawanda, entitled, "Building Inspector" in order to update that section of the Code. The amendments have been reviewed by your Honorable Body at a workshop and the resulting changes appear in bold print on the attached.

If your Honorable Body concurs, this amendment shall become effective upon publication in the City's official newspaper. Should you have any questions, please do not hesitate to contact me.

Very truly yours,
Shawn P. Nickerson

MOVED by Alderman Donovan SECONDED by Alderman Zadzilka
That the Common Council hereby amends §24-4 (B) (3) of the City Code as follows (as underlined):

The Building Inspector and Code Enforcement Officer are hereby designated and charged with the duty and obligation of supervising the enforcement of the Property Maintenance Code of the State of New York, with regard to investigation of complaints of violations hereunder, and with regard to bringing enforcement proceedings to enforce the provisions of the same. Once court proceedings for enforcement have commenced, inspections will be required to verify that the code violations have been abated. These inspections will be performed by the Building Inspector or Code Enforcement Officer and will be subject to the fee schedule set forth in §24-D Fees for inspections.

§24-D. Fees for inspections.

Any defendant in court proceedings charged with a violation(s) of the Property Maintenance Code of the State of New York shall be subject to inspection of the premises to determine compliance with said Code. Upon Common Council resolution, fees for the inspections will be as follows: The first and second inspection shall carry a maximum fee of two hundred fifty dollars (\$250). In the event the violations continue beyond the second inspection any subsequent inspection for compliance will be charged a fee of five hundred dollars (\$500). If the fees are not paid within thirty days of the inspection, the City Assessor shall assess this amount upon the real property on which such violations have occurred, and this total amount shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged, and shall be collected by the City Treasurer in the manner provided by law for the collection of taxes or delinquent taxes. None of the aforementioned fees shall be assessed without Common Council Authorization by resolution.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

IV.1 Engineer

March 31, 2010

Honorable Robert G. Ortt
and Common Council Members
City Hall
North Tonawanda, New York 14120

04-06-2010

Re: Project 2009-03, Clair Avenue Pump Station and Sanitary Sewer Engineering Agreement

Dear Honorable Body:

The Engineering Department in conjunction with the Department of Public Works has worked with Bergmann Associates over the past year in performing the Clair Avenue Geotechnical Study and Sanitary Sewer Recommendations Report. Based on the findings of that report, the Superintendent of Public Works and I are recommending that Bergmann Associates complete the plans, specifications, estimate and construction documents, including project oversight.

Accordingly, I respectfully request that the Common Council award the Clair Avenue Sanitary Sewer and Pump Station Replacement Project Engineering Services Agreement to Bergmann Associates, 28 East Main Street, 200 First Federal Plaza, Rochester, NY 14614-1909 in the amount of \$57,315; authorizing the Mayor to sign the enclosed agreement, subject to review by the City Attorney.

Financing for this capital project is provided by a 2008 Serial Bond in the Public Works Capital Budget.

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

MOVED by Alderman Donovan

SECONDED by Alderman Schwandt

That the Common Council hereby awards the Clair Avenue Sanitary Sewer and Pump Station Replacement Project Engineering Services Agreement to Bergmann Associates, 28 East Main Street, 200 First Federal Plaza, Rochester, NY 14614-1909 in the amount of \$57,315; authorizing the Mayor to sign the agreement, subject to review by the City Attorney.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

IV.2 Engineer

March 31, 2010

**Honorable Robert G. Ortt, Mayor
and Common Council Members
City Hall
North Tonawanda, New York 14120**

**Re: Project 2008-05 DPW Automated Vehicle Wash System
Contract No.2 Building Prep
Change Order No. 1**

Dear Honorable Body:

Attached is Change Order No. 1 to the DPW Automated Vehicle Wash System, Building Prep Contract No. 2. The change order is necessary since the Department of Public Works performed the electrical portion of the work in the original contract.

Accordingly, I respectfully request that the Common Council approve Change Order No.1 to the DPW Automated Vehicle Wash System Contract No. 2, Building Preparation Contract with Sicoli Construction Services, Inc., 4800 Hyde Park Blvd., Niagara Falls, NY 14305, reducing the contract amount by \$4,400; from the original contract amount of \$79,400 to the revised final contract amount of \$75,000; authorizing the Mayor to sign said change order, subject to review by the City Attorney.

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

04-06-2010

MOVED by Alderman Pasiak

SECONDED by Alderman Zadzilka

That the Common Council hereby approves Change Order No.1 to the DPW Automated Vehicle Wash System Contract No. 2, Building Preparation Contract with Sicoli Construction Services, Inc., 4800 Hyde Park Blvd., Niagara Falls, NY 14305, reducing the contract amount by \$4,400; from the original contract amount of \$79,400 to the revised final contract amount of \$75,000 and authorizes the Mayor to sign said change order, subject to review by the City Attorney.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

VII. Accountant

March 31, 2010

Honorable Robert G. Ortt, 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 April 6, 2010, 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 Andres

SECONDED by Alderman Zadzilka

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated April 6, 2010 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$634,574.17
02	Water Fund	56,863.55
04	Sewer Fund	142,270.41
06	Capital Project Fund	105,172.81
07	Trust & Agency Fund	3,688.28
11	General Fund Encumbered	8,202.71
12	Water Fund Encumbered	810.58
14	Sewer Fund Encumbered	4,697.74
17	Home Rehab Program	146.00
	Final Total	<u>\$956,426.25</u>

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

IX.1 Public Works

March 30, 2010

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

Re: Bid Award - Tire Disposal

04-06-2010

Dear Honorable Body:

On Monday, March 22, 2010, bids were received and publicly opened in the City Clerk's Office for Tire Disposal. My office has reviewed the bids submitted and tabulates them as follows:

<u>BIDDERS</u>	<u>AMOUNT</u>
Geiter Done of WNY, Inc.	\$ 98.50/Bidders Site \$ 98.50/DPW
Modern Recycling, Inc.	\$ 40.00/Bidders Site \$ 45.00/DPW
High Tread International, LTD.	\$ 42.50/Bidders Site \$ 100.00/DPW

We have verified the low bidder's suitability for disposing of tires with the New York State Department of Environmental Conservation.

I recommend that the bid for Tire Disposal be awarded to Modern Recycling, Inc. 4746 Model City Road, Model City, NY 14107 at their low bid of \$40.00/ton for tires dropped off at their facility, \$45.00/ton for tires picked up at DPW, subject to the approval of the City Attorney.

Very truly yours,
Gary J. Franklin
Superintendent Public Works

MOVED by Alderman Pasiak

SECONDED by Alderman Donovan

That the Common Council awards the bid for Tire Disposal to Modern Recycling, Inc. 4746 Model City Road, Model City, NY 14107 at their low bid of \$40.00/ton for tires dropped off at their facility, \$45.00/ton for tires picked up at DPW, subject to the approval of the City Attorney.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

IX.2 Public Works

March 30, 2010

Honorable Mayor & Common Council
City of North Tonawanda
City Hall – 216 Payne Avenue
No. Tonawanda, NY 14120

Re: Award Purchase Offer
Leaves and Wood Chips

Dear Honorable Body:

On Monday, March 22, 2010 bids for Purchase Offers for Leaves and Wood Chips were received and publicly opened by the City Clerk. We have reviewed and tabulated them as follows:

<u>Bidder Name</u>	<u>Bid</u>
Leo Brenon Topsoil	2010 - \$600.00
	2011 - \$600.00
	2012 - \$600.00
	2013 - \$600.00
C. J. Krantz Topsoil	2010 - \$1600.00
	2011 - \$1700.00
	2012 - \$1800.00
	2013 - \$1900.00

I request the Council authorize the Department to accept these purchase offers and sell its leaves and wood chips to C. J. Krantz, Topsoil, 8960 Lapp Road, Clarence Center, NY

14032, at their bid of \$1,600.00 for 2010, \$1,700.00 for 2011, \$1,800.00 for 2012 and \$1,900.00 for 2013, subject to the approval of the City Attorney.

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

MOVED by Alderman Pasiak **SECONDED** by Alderman Zadzilka
 That the Common Council accepts the aforementioned purchase offer to sell leaves and wood chips to C. J. Krantz, Topsoil, 8960 Lapp Road, Clarence Center, NY 14032, at their bid of \$1,600.00 for 2010, \$1,700.00 for 2011, \$1,800.00 for 2012 and \$1,900.00 for 2013, subject to the approval of the City Attorney.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

XI. Fire

To: City Clerk/Treasurer Scott Kiedrowski

From: North Tonawanda Fire Department

Re: City Fire Rolls

Please add Kevin VanHise to the city fire rolls. He is a member of Active Hose. The effective date was March 25, 2010.

Thank you.

William DeMonte
 Assistant Fire Chief

MOVED by Alderman Zadzilka **SECONDED** by Alderman Donovan
 To add Kevin VanHise to the Fire Rolls.
CARRIED.

XVI. City Clerk

April 1, 2010

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

Re: Rezoning of Mazda Terrace from R1-2 to R-2

Dear Honorable Body:

At the special session of the North Tonawanda Common Council held on February 9, 2010, a resolution was passed directing the City Clerk-Treasurer to schedule a Public Hearing regarding the rezoning of Mazda Terrace from R1-2 to R-2.

A public hearing was held on Tuesday, February 23, 2010 regarding this rezoning. It would now be appropriate to take action on the rezoning.

Very truly yours,
 Scott P. Kiedrowski
 City Clerk-Treasurer

MOVED by Alderman Andres **SECONDED** by Alderman Pasiak
 That the Common Council hereby denies the aforementioned request for the rezoning of Mazda Terrace from R1-2 to R-2.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

John Newman – 35 Yrs.
 Mark Lemke – 25 Yrs.
 Patrick Hutton – 25 Yrs.
 Scott Wilson – 25 Yrs.
 Albert Gerlach, Jr. – 25 Yrs.
 Christopher Sommer – 25 Yrs.
 Ronald Walker – 25 Yrs.
 Mark O'Lay – 25 Yrs.
 Jeffery Mott – 25 Yrs.

MOVED by Alderman Schwandt **SECONDED** by Alderman Zadzilka
To issue Exemption Certificates to Richard Karre – 50 Yrs.; Robert Duerr – 50 Yrs.; James Manth – 50 Yrs.; Kenneth Balling – 35 Yrs.; Richard Arndt – 35 Yrs.; Jeffery Heller – 35 Yrs.; Paul Topolski – 35 Yrs.; John Newman – 35 Yrs.; Mark Lemke – 25 Yrs.; Patrick Hutton – 25 Yrs.; Scott Wilson – 25 Yrs.; Albert Gerlach, Jr. – 25 Yrs.; Christopher Sommer – 25 Yrs.; Ronald Walker – 25 Yrs.; Mark O'Lay – 25 Yrs. and Jeffery Mott – 25 Yrs.
CARRIED.

B.
Canal Fest

March 12, 2010

Mayor Ortt:

As briefly discussed before our Canal Fest Meeting on Wednesday, March 10th, please amend line item #15 of our yearly request to include: "Support from the North Tonawanda Dive Rescue Team to provide manpower and equipment for all events that take place directly on the water."

I will amend my 2010 request to read the same and it will remain on the request going forward in future years. I will consider this request approved and added unless otherwise notified.

Thank you,
 Lawrence M. Deneff
 President
 Canal Fest of the Tonawanda's, Inc.
 P.O. Box 1243
 North Tonawanda, NY 14120

MOVED by Alderman Paziak **SECONDED** by Alderman Andres
That the Common Council hereby adds the following to the Common Council Minutes of March 2, 2010, item CFO – B Canal Fest, #15 to include: "Support from the North Tonawanda Dive Rescue Team to provide manpower and equipment for all events that take place directly on the water."
Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)
Nays: None (0)
CARRIED.

Joint Resolution in support of the Sixth Annual Clean Sweep in the City of North Tonawanda:

MOVED by Alderman Andres **SECONDED** by Alderman Pasiak
That the Office of the Mayor of the City of North Tonawanda in conjunction with the City of North Tonawanda Common Council enthusiastically supports the North Tonawanda Waterfront Commissions efforts in organizing and running the Sixth Annual Clean Sweep on Saturday April 17, 2010.

Both the Mayor and Common Council are willing to dedicate the necessary resources to make this annual event a huge success.

The Mayor and Common Council are in agreement that this community minded event will foster civic pride and at the same time beautify our city.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

Joint Resolution in opposition of Proposed Wetlands Designation:

MOVED by Alderman Zadzilka SECONDED by Alderman Andres

That the Office of the Mayor of the City of North Tonawanda in conjunction with the City of North Tonawanda Common Council submit this joint resolution in strong opposition to the recent proposal by the Department of Environmental Conservation to allocate a wide expanse of land throughout the City of North Tonawanda as “designated wetlands”.

The Mayor and Common Council are in agreement that such a designation would hinder future growth and create undue hardships on the many homeowners that this proposal includes.

The Common Council supports the Mayor’s and Senator Maziarz’ recent request to extend the public comment period in order to make this process fair and equitable for all the citizenry of the City of North Tonawanda.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

Joint Resolution in recognition of Female Veterans in the Armed Forces:

MOVED by Alderman Pasiak SECONDED by Alderman Donovan

That the Office of the Mayor of the City of North Tonawanda in combination with the City of North Tonawanda Common Council in a joint resolution spearheaded by Alderman Dennis Pasiak wish to recognize and bring to the forefront Female Veteran’s, the often forgotten and unsung heroes in our armed forces.

While the Mayor and the Common Council are cognizant that all Veteran’s that have served and currently serve in our armed forces are as of equal importance, it is also significant to point out that Female Veteran’s are often overlooked and have had a vital impact and play crucial roles within the military service to our country.

The Mayor and Common Council wish to thank and recognize all Female Veteran’s in all branches of the armed forces for all they have done and all they continue to do on behalf of our great nation.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt (5)

Nays: None (0)

CARRIED.

AUDIENCE PARTICIPATION

Cathy Kern, 1248 Greenbrier Lane – Wanted the Common Council and the Mayor to know that May 8th is the Postal Service food drive and hoped all would help out. Stated that she thought the Market Clerk should remain and not be replaced until the end of his term and just because the Clerk can be replaced does not mean that the Mayor should make a change.

ADJOURNMENT

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

Time of Adjournment: 7:04P.M.

Respectfully submitted,

Scott P. Kiedrowski
City Clerk–Treasurer