

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

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

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

**Absent: None**

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

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**APPROVAL OF THE MINUTES OF THE REGULAR SESSION JUNE 15, 2010**

**MOVED by Alderman Zadzilka**                      **SECONDED by Alderman Donovan**  
**That the minutes of the regular session held June 15, 2010 be approved as circulated and filed in**  
**the Office of the City Clerk-Treasurer.**  
**CARRIED.**

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**APPROVAL OF THE MINUTES OF THE SPECIAL SESSION JUNE 22, 2010**

**MOVED by Alderman Pasiak**                      **SECONDED by Alderman Zadzilka**  
**That the minutes of the special session held June 22, 2010 be approved as circulated and filed in**  
**the Office of the City Clerk-Treasurer.**  
**CARRIED.**

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**AUDIENCE PARTICIPATION – None**

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**COMMUNICATIONS FROM CITY OFFICIALS**

**I. Mayor**

**June 15, 2010**

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

**Re: Local Law No. 2 for the year 2010 – Real Property Tax Law Establishing First Time**  
**Homebuyer Exemption.**

**Dear Honorable Body:**

**Please be advised that this office held a Public Hearing on the above-referenced Local Law**  
**No. 2 for 2010 in the Common Council Chambers at City Hall, 216 Payne Avenue, North**  
**Tonawanda, New York 14120 on Monday, June 14, 2010 at 4:30PM.**

**At the time of the Public Hearing, which was conducted by Mayor Robert G. Ortt, and**  
**attended by Assistant City Attorney Bob Sondel and the Mayor's Administrative Assistant**  
**Robert Welch, no one spoke in opposition to the passage of this Local Law.**

**07-06-2010**

Therefore, I hereby approve the passage of this Local Law #2 for 2010.

Sincerely,  
Robert G. Ortt  
Mayor

**MOVED by Alderman Donovan                      SECONDED by Alderman Zadzilka**  
That the Common Council hereby adopts Local Law No. 2 for 2010 Modifying Chapter 73 of the City Code – Real Property Tax Law Establishing First Time Homebuyer Exemption as follows:

**ARTICLE XIII – First Time Homebuyer Tax Exemption**

**§ 73-23. Exemption granted.**

Newly-constructed primary residential property purchased by one or more persons, each of whom is a first-time homebuyer, and has not been married to a homeowner in the three years prior to applying for this first-time homeowners exemption, shall be exempt from taxation levied by or on behalf of the City of North Tonawanda in which such newly-constructed residential property is located, as provided by Real Property Tax Law § 457 and to the extent hereinafter provided.

**§ 73-24. Newly-Constructed Homes.**

The length of such exemption shall not exceed five (5) years, in accordance with the table below:

<u>Year of Exemption</u>	<u>Percentage Assessed Valuation Exempt from Tax</u>
1	50
2	40
3	30
4	20
5	10
6	0

- A. Any newly-constructed primary residential real property within the purchase price limits defined by the State of New York mortgage agency low interest rate mortgage program in the non-target, one-family new category for the County of Niagara and in effect on the contract date for the purchase and sale of such property, shall be eligible for the exemption allowed pursuant to this section.
- B. A first-time homebuyer shall not qualify for the exemption authorized pursuant to this section if the household income exceeds income limits defined by the State of New York mortgage agency low interest rate mortgage program in the nontarget one-and two-person household category for the county where such property is located and in effect on the contract date for the purchase and sale of such property.

**§ 73-25. DEFINITIONS.**

**HOUSEHOLD INCOME** – The total combined income of all the owners, and of any owners’ spouses residing on the premises, for the income tax year preceding the date of making application for the exemption.

**INCOME** – The “adjusted gross income” for federal income tax purposes as reported on the applicant’s latest available federal or state income tax return, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed within the one-year period preceding taxable status date, “income” shall mean the adjusted gross income that would

have been so reported if such a return had been filed. For purposes of this subdivision, "latest available return" shall mean the federal or state income tax return for the year immediately preceding the date of making application, provided however, that if the tax return for such tax year has not been filed, then the income tax return for the tax year two years preceding the date of make application shall be considered the latest available.

**FIRST-TIME HOMEBUYER** – A person who has not owned a primary residential property and is not married to a person who has owned a residential property during the three (3) year period prior to his or her purchase of the primary residential property, and who does not own a vacation or investment home.

**PRIMARY RESIDENTIAL PROPERTY** – Any one- or two-family house or townhouse located in the State of New York which is owner-occupied by such homebuyer. In no event shall a condominium or townhouse be considered "primary residential property" for the purposes of this chapter.

**NEWLY-CONSTRUCTED** – Any improvement to real property which was constructed as a primary residential property, and which has never been occupied, and was constructed after the effective date of this section. "Newly constructed" shall also mean that portion of a primary residential property that is altered, improved or reconstructed.

**§73-26. Restrictions.**

A). Newly-constructed primary residential property purchased by first time homebuyers at a sale price greater than the maximum eligible sales price shall qualify for the exemption allowed pursuant to this section for that portion of the sales price of such newly-constructed primary residential property equal to the maximum eligible sales price, provided, however, that any newly-constructed primary residential property purchased at a sales price greater than fifteen percent (15%) above the maximum eligible sales price shall not be allowed any exemption.

B). In the event that a primary residential property granted an exemption pursuant to this action ceases to be used primarily for residential purposes, or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall be discontinued.

C). Upon determining that an exemption granted pursuant to this section should be discontinued, the assessor shall mail a notice so stating to the owner or owners thereof at the time, and in the manner provided by §510 of the Real Property Tax Law. Such owner or owners shall be entitled to seek administrative and judicial review of such action in the manner provided by law, provided that the burden shall be on such owner or owners to establish eligibility for the exemption.

D). Such exemption shall be granted only upon application by the owner of such building on a form filed with the assessor of North Tonawanda, having the power to assess property for taxation on or before the appropriate taxable status date of the City of North Tonawanda.

E). If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such primary residential property shall thereafter be exempt from taxation and special ad valorem levies as provided in this actions, commencing with the assessment roll prepared on the basis of the taxable status date referred to in subsection E of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

**§73-27. Effective date.**

This local law shall take effect immediately and shall apply to all assessment rolls prepared on the basis of taxable status dates occurring on or after the effective date of this local law.

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

Nays: None (0)

**CARRIED.**

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**I.2 Mayor**

**June 18, 2010**

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

**Re: Appointment to North Tonawanda Waterfront Commission**

**Dear Honorable Body:**

**Please be advised that I am appointing Larry Kuebler, 897 Thomas Fox W., North Tonawanda, NY 14120 to the Waterfront Commission effective July 1, 2010 and expiring on December 31, 2011. He will be filling out the term of Christopher Perna.**

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

**Sincerely,  
Robert G. Ortt  
Mayor**

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

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**I.3 Mayor**

**June 29, 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 Elliott Winter, 830 Sweeney Street, North Tonawanda, NY 14120, to the Zoning Board of Appeals. He will be replacing Carol Steuernagel, effective July 1, 2010 and expiring on December 31, 2013.**

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

**Sincerely,  
Robert G. Ortt  
Mayor**

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

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**IV. Engineer**

**July 1, 2010**

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

**07-06-2010**

**Re: City Incinerator Building Demolition Phase  
795 Walck Road  
Award of Engineering Agreement for Plans, Specifications, and Demolition  
Observation and Air Monitoring**

**Dear Honorable Body:**

As you may be aware, the City received a Restore New York Grant from the Empire State Development Corporation in the amount of \$310,000 to remediate and demolish the City's former incinerator building at Walck Road and Zimmerman Street.

In order to begin the final demolition phase of the project, the City must prepare the demolition plans, specifications and estimate that include provisions for demolition observation and air monitoring, sampling and testing due to the asbestos present.

Accordingly, I respectfully request that the Common Council, award the 795 Walck Road City Incinerator Building Demolition Professional Consulting Services Agreement to Stearns and Wheler, LLC, University Centre, Suite 100, 415 North French Road, Amherst, NY 14228, in an amount not to exceed \$49,800; authorizing the mayor to sign said contract, subject to review by the City Attorney.

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

**MOVED by Alderman Pasiak**

**SECONDED by Alderman Zadzilka**

The Common Council hereby awards the 795 Walck Road City Incinerator Building Demolition Professional Consulting Services Agreement to Stearns and Wheler, LLC, University Centre, Suite 100, 415 North French Road, Amherst, NY 14228, in an amount not to exceed \$49,800; authorizing the Mayor to sign said contract, subject to review by the City Attorney.

**Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt**

**(5)**

**Nays: None**

**(0)**

**CARRIED.**

## **VII. Accountant**

**July 1, 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 July 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 Pasiak**

**SECONDED by Alderman Donovan**

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

01	General Fund	\$763,972.95
02	Water Fund	71,494.96
04	Sewer Fund	158,810.69
06	Capital Project Fund	236,191.07
07	Trust & Agency Fund	2,610.20
09	Capital – Buffalo Bolt	251,583.75
11	General Fund Encumbered	<u>1,500.00</u>
	<b>Final Total</b>	<b><u>\$1,486,163.62</u></b>

**Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt**

**(5)**

**Nays: None**

**(0)**

**CARRIED.**

**IX. Public Works**

**June 28, 2010**

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

**Re: Solid Waste Agreement 4<sup>th</sup> Extension Term**

**Honorable Body:**

**Enclosed please find a copy of Modern Landfill Inc.'s proposal to extend the City's master agreement with them for solid waste disposal services. This extension is for the fourth and final five year term from July 1, 2010 through June 30<sup>th</sup>, 2015.**

**Modern Landfill, Inc. is proposing to reduce the tipping fee from the current rate of \$34.00 per ton to \$33.50 per ton and to hold that price throughout the five year term. No other changes to the master agreement have been proposed.**

**I recommend that the Common Council accept Modern Landfill, Inc.'s proposal to extend the Solid Waste Agreement for its fourth and final extension term of five years effective July 1, 2010 through June 30, 2015 and that the Mayor be authorized to execute such extension agreement all subject to the approval of the City Attorney.**

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

**MOVED by Alderman Schwandt**

**SECONDED by Alderman Zadzilka**

**The Common Council hereby accepts Modern Landfill, Inc.'s proposal to extend the Solid Waste Agreement for its fourth and final extension term of five years effective July 1, 2010 through June 30, 2015 and authorizes the Mayor to execute such extension agreement all subject to the approval of the City Attorney.**

**Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt**

**(5)**

**Nays: None**

**(0)**

**CARRIED.**

**XI. Fire - Re: Removal from Fire Rolls:**

**Daneane Hosmer – Rescue Hose  
Roscoe Daugherty – Gratwick Hose**

**MOVED by Alderman Pasiak**

**SECONDED by Alderman Donovan**

**To remove Daneane Hosmer and Roscoe Daugherty from the City Fire Rolls.**

**CARRIED.**

**XXV. Monthly Reports**

- .1 Senior Citizens
- .2 Vital Statistics

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

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**COMMUNICATIONS FROM OTHERS**

**A.**  
**Columbia Hook & Ladder -              Re:    Removal from Fire Rolls:**

**Daniel K. Evans**  
**Edward L. Browning**

**MOVED by Alderman Donovan                      SECONDED by Alderman Andres**  
**To remove Daniel K. Evans and Edward L. Browning from the City Fire Rolls.**  
**CARRIED.**

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**B.**  
**Richard Andres**  
**Gregg Schnitzer**

**July 2010**

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

**Dear Honorable Body:**

**I am requesting to be appointed as a Commissioner of Deeds for the City of North Tonawanda.**

**Thank you.**

**Sincerely,**  
**Richard Andres**  
**249 Wheatfield Street**  
**North Tonawanda, NY 14120**

**Gregg Schnitzer**  
**429 Wheatfield Street**  
**North Tonawanda, NY 14120**

**MOVED by Alderman Pasiak                      SECONDED by Alderman Donovan**  
**That the Common Council hereby reappoints Richard Andres, 249 Wheatfield Street, North Tonawanda, NY 14120 and Gregg Schnitzer, 429 Wheatfield Street, North Tonawanda, NY 14120 as Commissioners of Deeds for the City of North Tonawanda effective July 7, 2010 expiring July 6, 2012.**  
**CARRIED.**

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C.  
North Presbyterian Church

June 16, 2010

City Clerk's Office  
216 Payne Avenue  
North Tonawanda, NY 14120

Dear Sir:

North Presbyterian Church would like to request permission to hold an outdoor worship service at the War Memorial at Brauer Park on August 29, 2010 at 10:00 am.

Sincerely yours,  
Peter Somerville  
Clerk of Session

**MOVED** by Alderman Zadzilka                      **SECONDED** by Alderman Pasiak  
That the Common Council hereby grants permission to North Presbyterian Church to hold an outdoor worship service at the War Memorial at Brauer Park on August 29, 2010 at 10:00 am.

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

Nays: None (0)

**CARRIED.**

**LATE COMMUNICATION**

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

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

Nays: None (0)

**CARRIED.**

#1  
Water

June 28, 2010

Honorable Robert G. Ortt, Mayor  
And Common Council Members  
City Hall, 216 Payne Ave  
N Tonawanda NY 14120

Re: 2010-2011 Occupational Safety and Health  
Training and Education Grant

Dear Honorable Body:

The Department, as in prior years, previously applied for an Occupational Safety and Health Training and Education Grant from the New York State Department of Labor in the amount of \$5,676.00.

This is a non-matching grant to provide necessary funding for the Department to secure the services of a training consultant to perform Occupational Health and Safety Training courses to Water, Wastewater and Public Works personnel. A copy of the grant award is attached.

I request and recommend the Common Council authorize the acceptance of this grant and execution of same by the Mayor 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 authorizes the acceptance of the 2010-2011 Occupational Safety and Health Training and Education Grant and authorizes the Mayor to sign the grant, subject to the approval of the City Attorney.

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

Nays: None (0)

**CARRIED.**

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#### **AUDIENCE PARTICIPATION**

Kathy Kern, 1248 Greenbrier Lane – inquired about Ridge Street. Told the Council that this drive that is used by a variety of entities is in deplorable condition and in serious need of repair. Ms. Kern stated that she has been working on trying to get this fixed for a long period of time and has not been able to get any answers as to who is responsible for this property.

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#### **ADJOURNMENT**

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

**Time of Adjournment: 6:47P.M.**

Respectfully submitted,

Scott P. Kiedrowski  
 City Clerk–Treasurer