

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, August 17, 2010
6:30P.M.

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

APPROVAL OF THE MINUTES OF THE REGULAR SESSION AUGUST 3, 2010

MOVED by Alderman Zadzilka **SECONDED by Alderman Andres**
That the minutes of the regular session held August 3, 2010 be approved as circulated and filed in
the Office of the City Clerk-Treasurer.
CARRIED.

APPROVAL OF THE MINUTES OF THE SPECIAL SESSION AUGUST 10, 2010

MOVED by Alderman Pasiak **SECONDED by Alderman Andres**
That the minutes of the special session held August 10, 2010 be approved as circulated and filed in
the Office of the City Clerk-Treasurer.
CARRIED.

AUDIENCE PARTICIPATION – None

COMMUNICATIONS FROM CITY OFFICIALS

II.1 Attorney

August 5, 2010

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

Re: Proposed Amendment to Chapter 75 of the City Code of the
City of North Tonawanda, New York, Entitled, “Sewers”

Dear Honorable Body:

Gary J. Franklin, Acting Superintendent of Water, and David Martin, Plumbing Inspector,
have requested that the attached sections be added to Chapter 75 of the City Code of the
City of North Tonawanda, entitled “Sewers”.

08-17-2010

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
City Attorney

MOVED by Alderman Zadzilka **SECONDED** by Alderman Donovan
That the Common Council hereby approves the following amendment to Chapter 75 of the City Code entitled “Sewers”:

Chapter 75 – SEWERS

§75-3. Use of Public Sewers Required.

- E) All building sewers connecting from privately-owned premises to the public sewers shall be installed by the owner of the premises, to be serviced at the owner’s expense. The owner shall also clean, make repairs to, and replacements of the building sewer to maintain it as necessary at the owner’s expense.**
- F) All drainage pipes connecting from privately-owned premises or property to public drainage structures shall be installed by the owner of the premises, or property to be serviced, at the owner’s expense. The owner shall also clean, make repairs to, and replacements of the drainage pipes to maintain them as necessary at the owner’s expense.**

§75-4. Building Sewer Construction; Specifications; Connections; Permit.

- N) Whenever a building sewer or drainage pipe connecting to a public sewer or public drainage structure respectively, is in need of repair and creates a condition which, in the opinion of the Superintendent of Public Works or other authority of competent jurisdiction, may tend to undermine a public roadway or create some other hazard or damage, the Superintendent of Public Works or other competent authority shall give notice in writing to the owner of record of the premises served by such building sewer or drainage pipe. Said notice shall demand that the owner make the necessary repairs within ten (10) days, and shall advise that if the owner does not make the repairs, then the City will cause the repairs to be made, and the costs and expenses of the repairs shall be assessed upon the land being serviced by such building sewer or drainage pipes.**
- O) Whenever the owner of record of a parcel of land, who has been sent a notice from the Superintendent of Public Works to repair a building sewer or drainage pipe servicing such parcel, refuses or neglects to make said repairs, the Common Council, by resolution, may cause said repairs to be made, and the costs and expenses of making said repairs shall be assessed upon such parcel in the name of the owner of record. From the time the assessment roll shall have been completed, filed and confirmed, the sum therein assessed upon the specified parcel shall become a lien and charge upon the parcel superior to all other liens, excepting those owed to the City.**

This amendment shall become effective upon publication in the City’s official newspaper.

Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt (5)
Nays: None (0)
CARRIED.

II.2 Attorney

August 5, 2010

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

Re: Return of Capital Investment – New York Municipal Insurance Reciprocal

Dear Honorable Body:

As you may know, several years ago the City of North Tonawanda became a part of the New York Municipal Insurance Reciprocal (NYMIR) as our city's insurer through agent M & T Insurance Co. At that time, all subscribers were required to provide an initial capital contribution a 5-year period to join this collaborative insurance program.

We are pleased to announce that due to our continuing loyalty to the program and our continuing sound claim handling and risk management practices the City of North Tonawanda has received a check in the amount of \$15, 299.73, which represents the second of three annual distributions from NYMIR as a share of the reciprocal's current surplus.

NYMIR is providing these distributions in recognition of the groundbreaking role we played by subscribing to this most successful collaborative program, which has become the largest and most successful example of municipal cooperation anywhere in New York State.

Should your Honorable Body need more information, please do not hesitate to contact us.

Very truly yours,
 Shawn P. Nickerson
 City Attorney

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

II.3 Attorney

August 11, 2010

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

Re: Local Law for Flood Damage Prevention

Dear Honorable Body:

Attached please find a proposed local law for Flood Damage Prevention. This law is required to permit city residents whose property lies within a flood zone to purchase flood insurance. I have also attached a the SEQR Full Environmental Assessment Form and a copy of the SEQR resolution. Before adopting the local law, please pass the SEQR resolution.

After passing the SEQR resolution, please adopt the following resolution:

“Be it resolved that the Common Council hereby repeals Chapter 42 of the Code of the City of North Tonawanda, entitled “Flood Hazard Areas” and adopts a new Chapter 42 entitled “Flood Damage Prevention” (copy attached hereto).”

If you need anything further, please feel free to call.

Very truly yours,
 Robert Sondel
 Assistant City Attorney

08-17-2010

- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see **"Structure"**

"Cellar" has the same meaning as **"Basement"**.

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Critical facilities" means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for a flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Cumulative Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, **"elevated building"** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, **"elevated building"** also includes a building otherwise meeting the definition of **"elevated building"**, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or **"flooding"** also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an

unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of

accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the City of North Tonawanda, Niagara County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the City of North Tonawanda, Community Number 360508, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Number:
36063C0334E, 36063C0342E, 36063C0344E, 36063C0353E, 36063C0354E,
36063C0361E, 36063C0362E, 36063C0363E, 36063C0364E

whose effective date is September 17, 2010, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Niagara County, New York, All Jurisdictions@ dated September 17, 2010.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Office of the City Engineer

216 Payne Avenue
North Tonawanda, New York 14120

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of North Tonawanda from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the City of North Tonawanda, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The North Tonawanda City Engineer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 75.00. In addition, the applicant shall be responsible for reimbursing the City of North Tonawanda for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.**
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.**
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.**
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.**
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.**

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

- (ii) the City of North Tonawanda agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of North Tonawanda for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of North Tonawanda for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the City of North Tonawanda agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of North Tonawanda for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of North Tonawanda for all costs related to the final map revisions.
- (3) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be

certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet

on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
- (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

5.6 Critical Facilities

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the City of North Tonawanda shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;

- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
 - (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this 17th day of August, 2010 by the Common Council of the City of North Tonawanda, Niagara County, New York, to be effective the 17th day of September, 2010.

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

Nays: None (0)

CARRIED.

IV. Engineer

August 12, 2010

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

RE: Gratwick Riverside Park Accessible Fishing Pier
Project No. 2008-19
Change Orders No. 1 and No. 2

Honorable Body:

Your approval of Change Orders No. 1 and No. 2 is hereby requested.

Change Order No. 1 in the amount of \$21,500 represents the additional equipment and labor cost to cut a 2 foot wide, 30 foot long keyway trench into the bedrock outcrop under the Niagara River in order to key in the heavy stone rip rap that protects the new fishing docks from ice damage.

Change Order No. 2 is an add in the amount of \$11,783.92 for the final installed quantities for concrete, light stone fill, heavy stone fill, subbase course, asphalt, and bedding material necessary to complete the project.

Accordingly, I respectfully request that the Common Council approve Change Order No. 1 in the amount of \$21,500; Change Order No. 2 in the amount of \$11,783.92; increasing the original contract amount from \$177,632.50 to the revised contract amount of \$210,916.42 with L.D.C. Construction Co., Inc., for the construction of the Gratwick Riverside Park Accessible Fishing Pier Project, authorizing the Mayor to sign said change orders, subject to review by the City Attorney.

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

MOVED by Alderman Schwandt SECONDED by Alderman Pasiak
That the Common Council hereby tables the aforementioned change order requests.
Ayes: Andres, Pasiak, Donovan, Schwandt (4)
Nays: Zadzilka (1)
CARRIED.

V. Water

July 23, 2010

Mayor Robert G. Ort
and Common Council
City Hall
North Tonawanda NY 14120

Re: Natural Gas Commodity
WWTP
Purchase Consultant

Honorable Body:

Your authorization is requested to renew the City's annual agreement for consulting services for the purchase of Natural Gas at the well head for use at our Wastewater Treatment Plant.

Enerscope, of Rochester, NY has been providing the service to the City for a number of years and they are maintaining their pricing for services at last year's values of \$3,600.00 per year and \$600 per year for bidding services.

A copy of their services agreement and scope of work is attached. For the previous 12 month period of May 2010 – June 2009 purchase of natural gas at the well head saved the City \$29,843 less Enerscope's fees for \$4,200.00, yielded a net savings of \$25,643 for Natural Gas.

I recommended that the agreement for professional services related to the purchase of Natural Gas for the Wastewater Treatment Plant be renewed with Enerscope of 187 Mill Landing, Rochester, NY 14626 for the period July 1, 2010 to June 30, 2011, for an annual fee of \$3,600 plus \$600 for Annual Bidding Administration, and that the Superintendent of Public Works be authorized to execute it, all subject to the approval of the City Attorney.

Very Truly Yours,
Gary J. Franklin,
Superintendent, Public Works

MOVED by Alderman Zadzilka SECONDED by Alderman Donovan
That the Common Council hereby approves the renewal of the professional services agreement for the purchase of Natural Gas for the Wastewater Treatment Plant with Enerscope, 187 Mill Landing, Rochester, NY 14626 for the period July 1, 2010 to June 30, 2011, for an annual fee of \$3,600 plus \$600 for Annual Bidding Administration, and that

the Superintendent of Public Works is authorized to execute said agreement subject to the approval of the City Attorney.

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

Nays: None (0)

CARRIED.

VII.1 Accountant

August 12, 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 August 17, 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 Schwandt **SECONDED** by Alderman Zadzilka
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated August 17, 2010 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$188,908.51
02	Water Fund	5,634.33
04	Sewer Fund	20,922.65
06	Capital Project Fund	443,725.77
07	Trust & Agency Fund	1,153.80
11	General Fund Encumbered	109.00
17	Home Rehab Program	<u>9,738.00</u>
	Final Total	<u>\$670,192.06</u>

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

Nays: None (0)

CARRIED.

VII.2 Accountant

August 12, 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 2, Section 5.023 and Section 2.2 of the Budgetary Transfer Policy, please authorize the City Accountant to make the following transfers of fiscal year 2010 appropriations, based on the request of Department Heads, copy attached:

<u>Control Number</u>	<u>Dollar Amount</u>	<u>From Appropriation Account</u>	<u>Into Appropriation Account</u>
15	19,500.00	1-1990.410 Contingent Account	1-7250.100 Golf Personal Services

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Donovan SECONDED by Alderman Andres
The Common Council hereby tables the aforementioned budget transfer.
Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt (5)
Nays: None (0)
CARRIED.

IX. Public Works

August 12, 2010

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

Re: Rail Safety Upgrades
Wheatfield St., Robinson St., Thompson St.
NYSDOT Agreement

Honorable Body:

In 2004, the New York State Department of Transportation contacted me requesting assistance with the installation of new traffic control arms at the CSX Transportation's rail crossings of Wheatfield St., Robinson St. and Thompson St. east of River Road. At that time, Mayor Burgio indicated to me we could assist by installing 15' of new curbing at each crossing and pavement replacement as requested. NYSDOT will reimburse the City for its estimated expenses of \$9,903.91.

NYSDOT has recently provided me with an agreement to authorize this work and its payment as they expect to progress this work this year. Enclosed is a copy of the agreement and a sample resolution they request be resolved.

I request the Common Council to resolve the enclosed resolution and authorize the Mayor to execute the agreement with the New York State Department of Transportation subject to the review and approval of the City Attorney.

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

MOVED by Alderman Zadzilka SECONDED by Alderman Donovan
WHEREAS, the Congress of the United States has provided for Federal funds to be expended for the Federal-Aid system as defined in Section 104A(1) of Title 23, United States Code, as amended; and Sections 203 and 230 of PL93-87, and

WHEREAS, the above mention sections provide for the apportionment of Federal-Aid funds to the State for the purposes of carrying out the Federal-Aid projects; and

WHEREAS, subdivision 34-a of Section 10 of the New York State Highway Law authorizes the State to enter into agreements with the appropriate local officials in which such Federal-Aid projects if located; and

WHEREAS, it is recognized by the State and the Municipality that State funds are available for the cost of the non-Federal share of construction of a Federal-Aid project not on the State Highway system; and

WHEREAS, THE State of New York has appropriated funds for the first instance funding of the Federal share of the cost, and the non-Federal share of the Federal-Aid projects; and

WHEREAS, THE State is desirous of designating the Municipality to undertake the construction of a Federal-Aid project not on the State Highway system within such municipality; and

WHEREAS, the Municipality is desirous of constructing such Federal-Aid project with available Federal and State funds, and maintaining such project at its own expense; and

WHEREAS, the Commissioner deems it to be in the best interest of the State that the Municipality construct and maintain the above-identified project; and

WHEREAS, the Legislative Body of the City of North Tonawanda, by Resolution No. IX – Public Works, adopted at the Common Council meeting held on August 17, 2010, approved the construction of the above-identified project by the City of North Tonawanda and the terms and provision of this Agreement and has further authorized the Mayor of the City of North Tonawanda to execute this Agreement with respect to the construction and maintenance of such project on behalf of the City of North Tonawanda (copy of such resolution is attached to and made a part of this Agreement).

NOW, THEREFORE, the Common Council of the City of North Tonawanda agrees to install curbing at the Wheatfield St., Robinson St., and Thompson St. crossings of CSX RR Albany Div. Niagara Sub Div. in the City of North Tonawanda, Niagara County in accordance with approved plans, specifications and estimates and authorizes the Mayor to sign such Agreement.

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

Nays: None (0)

CARRIED.

XIV. Recreation

August 3, 2010

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

Re: Award of Bid for Gas Powered Sand Trap Machine

Dear Honorable Body:

On Monday, August 2, 2010 bids were received and publicly opened in the Common Council Chambers for a Gas Powered Sand Trap Machine for Deerwood Golf Course. My office has reviewed the bids submitted and tabulated them as follows:

<u>BIDDERS</u>	<u>AMOUNT</u>
Cazenovia Equipment Co., Inc.	\$11,760.00
Moffett Turf Equipment Inc.	\$11,128.00
Grasslands Equipment	\$10,597.06

I recommend that the Council award the bid for Gas Powered Sand Trap Machine to Grasslands Equipment and Irrigation Corporation, P.O. Box 2060 Blasdel, New York 14219, at their low bid of \$10,597.06 subject to review by the City Attorney.

Respectfully submitted,
Patricia A. Brosius
Director of Youth, Recreation & Parks

MOVED by Alderman Andres **SECONDED** by Alderman Zadzilka
The Common Council hereby awards the bid for Gas Powered Sand Trap Machine to Grasslands Equipment and Irrigation Corporation, P.O. Box 2060 Blasdell, New York 14219, at their low bid of \$10,597.06, subject to review by the City Attorney.
Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt (5)
Nays: None (0)
CARRIED.

XXV. Monthly Reports

.1	City Clerk	.3	Police
.2	Treasurer	.4	Senior Citizens

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

XXVI. Semi-Annual Vacation and Sick Leave Reports

.1 **Police**

MOVED by Alderman Pasiak **SECONDED** by Alderman Donovan
That the Common Council hereby receives and files the aforementioned Semi-Annual Vacation and Sick Leave Report.
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Sweeney Hose Company #7

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

Dear Honorable Body:

Sweeney Hose is coordinating their first ever Rocktober fest on September 24th and 25th of this year. We are trying to raise funds to subsidize some of the general cost of the fire hall. We are writing to you today requesting the use of the city band stage and we are requesting that you waive the rental fees if possible. Our first band goes on at 4 on Friday so we would need the stage there on Thursday, September 23rd. It can be hauled away on Sunday or Monday.

We would also like to use 10 to 15 rolls of wooden snow fence, ties and stakes. We would be able to pick that up if need be, which I can coordinate with the DPW. We also request 10 of the special event trash cans and the use of 10 city picnic tables.

We appreciate the support we have received in the past and the great working relationship we continue to have. I encourage all of you to come down either night and relax and enjoy yourself. Any questions I can be reached at any time on my cell at 716-812-6467.

Thank you in advance for your support.

Sincerely,
Peter Chenier, Jr.
Treasurer / Event Chairperson

MOVED by Alderman Zadzilka

SECONDED by Alderman Andres

That the Common Council hereby approves the use of the City band stage and further waives the rental fee; also approves the use of 10 to 15 rolls of wooden snow fence, ties and stakes, 10 special event trash cans and 10 city picnic tables.

Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt

(5)

Nays: None

(0)

CARRIED.

B.

Dr. & Mrs. Maurice Dewey

August 12, 2010

Mayor Ortt

City Hall

216 Payne Avenue

North Tonawanda, NY 14120

Dear Mayor Ortt:

We would like to invite you and your wife to a Block Party scheduled for September 11, 2010 from 5:00 – 11:00 pm. In addition to our usual smorgasbord of food and beverages, excellent entertainment will be provided by “Sugar and Jazz” conducted by Frank Lorango.

In order to ensure this party be as safe as it will be fun, we ask that you agree to have the Department of Public Works set up road barricades on Christiana between the streets of Bryant and Falconer. We would like to set up the barricades by 1:00pm. Thank you for your consideration of this matter and we hope to see you the 11th.

Respectfully,

Dr. and Mrs. Maurice Dewey

MOVED by Alderman Pasiak

SECONDED by Alderman Andres

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 September 11, 2010 from 5:00 – 11:00 PM and further directs the Department of Public Works to provide road barricades.

Ayes: Andres, Pasiak, Zadzilka, Donovan, Schwandt

(5)

Nays: None

(0)

CARRIED.

C.

Columbia Hook & Ladder - Re: Exemption Petitions:

Cecil William Wolcott – 50 Yrs.

Vernon D. Zuch, II – 25 Yrs.

MOVED by Alderman Schwandt

SECONDED by Alderman Donovan

To issue Exemption Certificates to Cecil William Wolcott – 50 Yrs. and Vernon D. Zuch, II – 25 Yrs.

CARRIED.

The following Resolution was introduced in Support of Niagara County Civil War Veteran Michael Huskey - unrecognized Civil War Medal of Honor Recipient:

WHEREAS; the City of North Tonawanda joins the Niagara County Legislature in recognizing the valor and gallantry of Niagara County native Michael Huskey who gave his life as a sailor aboard the U.S.S. Carondelet during the Civil War, and

WHEREAS; we implore the United States Navy to recognize the importance of this historic honor in the hopes that the United States Navy will bestow upon and distinguish Michael Husky as a Civil War Medal of Honor Recipient, and

WHEREAS; this very important snapshot in time of the early history of our Country and in our County should never be forgotten or taken lightly, and

WHEREAS; Michael Husky, his contribution to the war effort, and this Medal of Honor will be prominently displayed in the Rotunda of the Niagara County Courthouse in his honor and in his memoriam,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor of the City of North Tonawanda and the City of North Tonawanda Common Council support the Niagara County Legislature in its endeavor requesting that the United States Navy award Michael Husky the Civil War Medal of Honor.

IN WITNESS WHEREOF, WE have hereunto set our hands and caused the Seal of the City of North Tonawanda to be affixed this 10th day of August 2010.

Mayor Robert G. Ortt

Council President Catherine G. Schwandt

Alderman-at –Large Nancy A. Donovan

Alderman First Ward Dennis Pasiak

Alderman Second Ward Richard Andres

Alderman Third Ward Eric Zadzilka

City Clerk Treasurer Scott P. Kiedrowski

AUDIENCE PARTICIPATION

Jean Kroetsch, 465 Witmer Road – Questioned the return of the Capital Investment for Insurance, the local law for flood damage prevention, wanted to know what the amount of surplus funds the City had, asked what the bond indebtedness amount was. Thought the City should take more money out of surplus to avoid layoffs and economic hardships in the City. Thought bonding more money to fix roads would be a good idea.

Greg Woytila, 120 Greenwood Circle – Wanted the Mayor and Common Council to know that when he starts his term as the new Superintendent of the North Tonawanda School District that he intends on building a new positive relationship between the City and the School District.

Christine Porto, 530 Old Falls Blvd – Introduced herself as the School Board President and echoed the sentiments of Mr. Woytila.

Mark Houghton, 1246 Payne Avenue – Questioned the Mayor and the Common Council on the budget and why they were blaming the past administration for the current budget problems. Questioned why we were spending \$80,000.00 on a study on the City owned Marina just to tell us that's it's a Marina which we already know. Questioned the shared services proposal on the Water/Wastewater Superintendent with the City of Lockport, wanted to know why we didn't go with the original plan of sharing the former Superintendent Paul Drof with the City of Niagara Falls.

Kathy Kern, 1238 Greenbrier Lane – Thanked the Mayor for his efforts in getting part of the TCCO driveway fixed and paved. This has taken a long time and was much appreciated.

ADJOURNMENT

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

Time of Adjournment: 7:23P.M.

Respectfully submitted,

Scott P. Kiedrowski
City Clerk–Treasurer