

**THE HONORABLE BODY  
Council Chambers  
Municipal Building  
North Tonawanda, New York 14120  
Tuesday, December 6, 2011  
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, Donovan, Zadzilka**

**Absent: None**

**Also Present: Mayor Robert G. Ortt  
Assistant City Attorney Robert Sondel**

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**APPROVAL OF THE MINUTES OF THE SPECIAL SESSION NOVEMBER 15, 2011**

**MOVED by Alderman Zadzilka                      SECONDED by Alderman Andres  
That the minutes of the special session held November 15, 2011 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 REGULAR SESSION NOVEMBER 15, 2011**

**MOVED by Alderman Pasiak                      SECONDED by Alderman Andres  
That the minutes of the regular session held November 15, 2011 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.1 Mayor**

**December 1, 2011**

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

**Dear Honorable Body:**

**Homes for Our Troops is an organization that serves severely handicapped veterans (both men & woman) wounded in action during Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq. This organization has contacted the City of North Tonawanda to have a parcel of land donated and have a house built for Marine Lance Corporal Paul Schaus. A parcel of land on Sherwood Avenue is being donated by a local resident, Mike Wachowicz, to the organization.**

**12-06-2011**

In order to facilitate this project, a portion of City owned land will need to be deeded over to Mr. Wachowicz in order to square off the property being donated. Attached is a current survey showing the portion of land the City would be deeding over with appropriate easements, along with a bio of the Marine Veteran.

I appreciate your consideration and cooperation in this initiative. Should you have any questions, please feel free to contact me.

Faithfully,  
Robert G. Ortt  
Mayor

**MOVED** by Alderman Donovan                      **SECONDED** by Alderman Zadzilka  
That the Common Council hereby donates a portion of City owned land along Sherwood Avenue to Michael Wachowicz in order to square off the property that he is donating to "Homes for Our Troops" to build a home for Marine Lance Corporal Paul Schaus who was wounded in action.

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

Nays: None (0)

**CARRIED.**

## VII.1 Accountant

December 1, 2011

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 December 6, 2011, 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 Andres  
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated December 6, 2011 and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$2,790,437.18
02	Water Fund	181,584.80
04	Sewer Fund	286,698.03
06	Capital Project Fund	87,129.76
07	Trust & Agency Fund	272.95
11	General Fund Encumbered	400.00
17	Home Rehab Program	20,891.00
	Final Total	<u>\$3,367,413.72</u>

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

Nays: None (0)

**CARRIED.**

## VII.2 Accountant

December 1, 2011

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 2011 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>
4	2,700.00	1-3310.480 DPW Signal Operations	1-3310.100 DPW Signal Personal

Very truly yours,  
David R. Jakubaszek  
City Accountant

MOVED by Alderman Donovan                      SECONDED by Alderman Andres  
That the Common Council hereby authorizes the City Accountant to make the following transfer of fiscal year 2011 appropriations, based on the request of Department Heads:

<u>Control Number</u>	<u>Dollar Amount</u>	<u>From Appropriation Account</u>	<u>Into Appropriation Account</u>
4	2,700.00	1-3310.480 DPW Signal Operations	1-3310.100 DPW Signal Personal

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

## VII.3 Accountant

December 1, 2011

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

Dear Honorable Body:

Please be advised that the city of North Tonawanda currently administers a Model Deferred Compensation 457b Plan, for the employees of the municipality, through The Hartford.

The New York State Deferred Compensation Board made modifications, effective August 26, 2011, to the regulations for the Model Plan. Accordingly, the city must now adopt a resolution that amends and restates our Deferred Compensation Plan to include the modifications, for employees of the city of North Tonawanda.

Accordingly, the Common Council should adopt the attached resolution, amending our Model Plan and authorized the City Accountant to execute same.

Very truly yours,  
David R. Jakubaszek  
City Accountant

12-06-2011

**MOVED by Alderman Pasiak**

**SECONDED by Alderman Andres**

**WHEREAS, the New York State Deferred Compensation Board (the "*Board*"), pursuant to Section 5 of the New York State Finance Law ("*Section 5*") and the Regulations of the New York State Deferred Compensation Board (the "*Regulations*"), has promulgated the Plan Document of the Deferred Compensation Plan for Employees of the City of North Tonawanda (the "*Model Plan*") and offers the Model Plan for adoption by local employers;**

**WHEREAS, the City of North Tonawanda, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the City of North Tonawanda;**

**WHEREAS, effective August 26, 2011 the Board amended the Model Plan to adopt provisions**

- **Reorganizing and updating sections to improve the overall readability and eliminate unnecessary numerical references (annual limits) from the Model Plan document.**
- **Including employer elections within the plan document including: suspension of deferrals following an unforeseeable emergency withdrawal, automatic distributions from small and inactive accounts, loan design parameters and Roth deferrals and in-plan conversions are permissive. The Model Plan document includes a Schedule A where the employer may indicate the election of one or more of these provisions.**
- **Clarifying the first date a participant may make deferrals in compliance with Code Section 457(b) and timing requirements for any subsequent changes to deferral rates or allocations between pre-tax and after-tax deferrals.**
- **Clarifying compensation available for deferral for purposes of calculating contributions and recognizes that employers use various methods in determining the order of deductions taken before a deferral percentage is applied.**
- **Including provisions related to HEART Act of 2008 regarding treatment of differential pay and qualifying distributions for active military service in compliance with the HEART Act, including suspension of deferrals for six months following distribution.**
- **Making technical recognition of the waiver of RMDs for 2009.**
- **Clarifying that a beneficiary form must be received in good order to be considered valid.**
- **Clarifying that the Model Plan will only accept rollovers from Eligible Retirement Plans comprised of pre-tax amounts and amounts may be rolled in by participants, beneficiaries (other than inherited accounts) and alternate payees. Model Plans may roll account balances out to Eligible Retirement Plans that include post-tax amounts if the receiving plan separately accounts for them.**
- **Clarifying that a beneficiary of a deceased participant may roll a distribution directly to a Roth IRA, in addition to plan participants.**
- **Including language allowing for future delivery of participant communications through electronic means, where appropriate.**
- **Codifying that periodic and lump sum payments must be a minimum of \$100 per payment, unless the Committee selects a different minimum, and sets a maximum annual number of partial distributions.**
- **Clarifying that the \$50,000 loan limit includes the highest loan value in the last twelve months from the Model Plan and other employer plans. Regarding participants who have defaulted on a Plan loan, subsequent loans would not be allowed until defaulted loan is repaid. Removes requirement that a participant must wait until the term of the original loan expires before applying for a new loan, assuming the defaulted loan is repaid.**
- **Providing guidance on the handling of the receipt of special proceeds such as SEC settlements payable to former participants.**

- Allowing a surviving spouse beneficiary to name a beneficiary on their account.
- Including the 5 year option for non-spousal beneficiaries to receive distributions and makes distribution rules consistent for pre- and post-age 70½ deaths.
- Allowing earlier distributions due to severance of employment as long as a balance of \$500 remains in the account for 45 days after a severance from employment.
- Providing that outstanding loans from another New York state 457(b) plan may be allowed to be transferred or rolled in with a full account transfer.
- Removing the Power of Attorney Language since the acceptance of a power of attorney is governed by State law and not required in the Model Plan document.
- Clarifying the requirement that Committee actions must be taken at a public meeting in accordance with Article 7 of the Public Officers Law.
- Limiting indemnification to Committee Members only.

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the City of North Tonawanda has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the City of North Tonawanda by adopting the amended Model Plan.

NOW, THEREFORE, BE IT

RESOLVED, that the City of North Tonawanda Common Council hereby amends the Deferred Compensation Plan for Employees of the City of North Tonawanda by adopting the amended Model Plan effective August 26, 2011, including the optional provisions in Schedule A, in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned have executed this Resolution in Niagara County, New York this December 6, 2011 and directed that it be filed as appropriate.

Ayes: Andres, Pasiak, Donovan, Zadzilka, Schwandt

(5)

Nays: None

(0)

CARRIED.

#### XIV.1 Recreation

November 22, 2011

The Honorable Mayor, Robert Ortt and Common Council Members  
City Hall  
216 Payne Ave.  
North Tonawanda, New York 14120

Dear Honorable Mayor Ortt and Common Council Members;

Please review and approve for signing the attached renewal agreement between Ms. Diane Sheehan and the City of North Tonawanda. Ms. Sheehan provides the Youth Court and First Offender services to our department as an Independent Contractor. The agreement will allow these services to continue through December 31, 2012.

City Attorney, Shawn Nickerson has reviewed the agreement and forwarded it to the Mayor's office for the required approval and notarized signature.

Thank you.

Sincerely,  
Patricia A. Brosius  
Director of Youth, Recreation & Parks



All affected city departments will be invited to our meetings to get input as to safety and sanitation issues as well as concerns they may have.

We will have proper insurance and permits for all aspects of this event, but request the use of 40 city trash containers.

We are working on many details that make events of this nature successful and I will keep you as informed as possible as to our progress.

Sincerely,  
David J. Burgio  
Committee Member  
716-694-6237

**MOVED** by Alderman Donovan                      **SECONDED** by Alderman Andres  
That the Common Council hereby directs the Department of Public Works to provide 40 special event trash containers and to close Webster Street from Tremont Street to Sweeney Street, including the bridge, and the use of Gateway Park all day December 31, 2011 to noon January 1, 2012 for the "New Years Eve on the Canal" event.

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

Nays: None (0)

**CARRIED.**

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

Michael T. Timblin

**MOVED** by Alderman Schwandt                      **SECONDED** by Alderman Pasiak  
To remove Michael T. Timblin from the City Fire Rolls.

**CARRIED.**

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**C.**  
4 DNT, Inc.

December 2, 2011

The Office of Mayor Robert Ortt  
City of North Tonawanda  
City Hall  
216 Payne Ave.  
North Tonawanda, NY 14120

**Re: Letter of Request**

**Dear Mayor Ortt:**

On behalf of 4DNT Inc, the Not-For-Profit Organization that produces the New Year's on the Canal - GATEWAY HARBOR Ball Drop community, I am asking that a letter be provided by the City in order to lift the Open Container Laws governing the City of North Tonawanda.

This letter has been requested by the New York State Liquor Authority in regards to the permit we are requesting for New Year's event at Gateway Harbor Park on Saturday, December 31 from 6pm-2am.

The letter of request can be provided to Greg Stenis, the Representative for the Riviera Theatre, and the person obtaining the necessary permits involved for the event.

Please feel free to contact us should you have any questions.

