

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, February 19, 2013
6:30P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT ANDRES

PLEDGE OF ALLEGIANCE

ROLL CALL

**Present: President Andres
Alderman Needler, Donovan, Rizzo, Zadzilka**

Absent: None

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

APPROVAL OF THE MINUTES OF THE REGULAR SESSION FEBRUARY 5, 2013

**MOVED by Alderman Zadzilka SECONDED by Alderman Donovan
That the minutes of the regular session held February 5, 2013 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

APPROVAL OF THE MINUTES OF THE SPECIAL SESSION FEBRUARY 12, 2013

**MOVED by Alderman Needler SECONDED by Alderman Rizzo
That the minutes of the special session held February 12, 2013 be approved as circulated and
filed in the Office of the City Clerk.
CARRIED.**

PROOF OF PUBLICATION PUBLISHED JANUARY 24 & 31, 2013

1) Legal Notice – Notice of Collection of 2013 County Tax – Clerk-Treasurer

**MOVED by Alderman Zadzilka SECONDED by Alderman Needler
That the Common Council hereby receives and files the aforementioned Proof of
Publication.
CARRIED.**

AUDIENCE PARTICIPATION - None

COMMUNICATIONS FROM CITY OFFICIALS

II.1 Attorney

February 12, 2013

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

Re: Salaries/Benefits for Police Chiefs of Municipalities - New York State

Dear Honorable Body:

As you may remember, effective June 24, 2011, the New York State Legislature repealed General Municipal Law §207-m, which had a profound effect on the salary and benefits due to our current police chief for the City of North Tonawanda. In order to address the current situation, attached is a proposed resolution to remedy the deficiencies caused by the action of the New York State Legislature.

If Your Honorable Body concurs, please pass a resolution for the City of North Tonawanda to allow the salary and benefits of the North Tonawanda Police Chief to return to their former level as before the June 24, 2011, New York State legislative action, and further to allow the position of the North Tonawanda Police Chief to become a member of the Office and Professional Employees International Union (OPEIU), Local No. 212, as of April 1, 2013, to allow the police chief all rights and benefits guaranteed by that union's collective bargaining agreement with the City of North Tonawanda, as executed on March 30, 2012. These matters will be subject to further review by the City Attorney.

Very truly yours,
Shawn P. Nickerson
City Attorney

MOVED by Alderman Donovan SECONDED by Alderman Zadzilka
WHEREAS, prior to June 24, 2011, New York State General Municipal Law §207-m codified salaries and benefits for heads of police departments of municipalities, districts or authorities within the State of New York, and

WHEREAS, prior to June 24, 2011, General Municipal Law §207-m provided that salaries and benefits for heads of police departments of municipalities, districts or authorities within the State of New York were to mirror those salaries and benefits contained in the collective bargaining agreement between each municipality, district or authority and its individual police department, and

WHEREAS, effective June 24, 2011, the New York State Legislature repealed General Municipal Law §207-m, thus affecting the salary and benefits due the City of North Tonawanda Police Chief and,

WHEREAS, the City of North Tonawanda Police Chief currently receives a salary of \$103,745 and the same benefits as the members of the North Tonawanda Police Benevolent Association as codified in their collective bargaining agreement with the City of North Tonawanda, executed the 19th day of September, 2012, and

WHEREAS, notwithstanding the repeal of General Municipal Law §207-m and in an effort to address the salary and benefits due the City of North Tonawanda Police Chief, now therefore

BE IT RESOLVED, that from the date of this resolution to April 1, 2013, the City of North Tonawanda Police Chief shall continue to receive the same salary and benefits to which he was entitled, prior to the June 24, 2011 repeal of General Municipal Law §207-m and,
BE IT RESOLVED, effective April 1, 2013, the City of North Tonawanda Police Chief shall thenceforth become a member of the Office and Professional Employees International Union, Local Union No. 212 and,

BE IT RESOLVED, that upon membership in the Office and Professional Employees International Union, Local Union No. 212, the City of North Tonawanda Police Chief shall be entitled to all rights and benefits guaranteed in that union's collective bargaining agreement with the City of North Tonawanda, executed March 30, 2012.

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres (5)

Nays: None (0)

CARRIED.

II.2 Attorney

February 15, 2013

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

Re: Seizure of 88 Webster Street Property

Dear Honorable Body:

Please be advised that I have been able to secure the above-referenced property for the City of North Tonawanda, in light of the former owner's long standing failure to pay his property taxes. Attached, for your review, is the Treasurer's Deed, allowing seizure of the property, which was filed in the Niagara County Clerk's office on February 5, 2013.

Should you have questions or need more information, please do not hesitate to contact me.

Very truly yours,
Shawn P. Nickerson
City Attorney

MOVED by Alderman Needler **SECONDED** by Alderman Andres
To receive and file the aforementioned communication.
CARRIED.

II.3 Attorney

February 13, 2013

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

Re: Sale of 88 Webster Street Property

Dear Honorable Body:

Attached, for your review, is a proposed Contract of Sale provided by 82 Webster Street Properties, LLC, to purchase the former Ava's Place at 88 Webster Street. I strongly endorse the sale proposal based upon the buyer's purchase offer of \$95,000, the buyer's good track record as a property owner on Webster Street in the City of North Tonawanda, and the fact that the proposed purchase price is \$20,000 over and above the assessed valuation of the property.

Further, pursuant to §31-A of the City Code of the City of North Tonawanda (copy attached), there is no requirement that the property be sold at public auction, as it is not needed for a public purpose. The Local Law adopted by Your Honorable Body on October 18, 2006, which established §31-A of the City Code, has subsequently withstood judicial scrutiny as part of the Walmart project. Hon. Richard C. Kloch, Sr., JSC, upheld the constitutionality of said local law at that time.

Therefore, please pass a resolution authorizing the sale of the 88 Webster Street property to 82 Webster Street Properties, LLC, for the proposed purchase price of \$95,000, as per the proposed Contract of Sale, subject to any further review by the City Attorney.

Very truly yours,
Shawn P. Nickerson
City Attorney

MOVED by Alderman Andres **SECONDED** by Alderman Zadzilka
That the Common Council hereby approves the sale of 88 Webster Street to 82 Webster Street Properties, LLC, for the purchase price of \$95,000, as per the Contract of Sale, subject to any further review by the City Attorney.

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres (5)
Nays: None (0)
CARRIED.



III.1 Clerk-Treasurer

February 8, 2013

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

Dear Honorable Body:

As of this date I have counted and verified the petty cash and receipts for all authorized departments and have found them to be in order and correct.

Please authorize each department to submit petty cash slips and vouchers to the City Accountant for payment, as well as continued authorization for each department to continue using the following petty cash accounts:

Building Inspector	\$100.00
City Clerk-Treasurer	\$1,000.00
Engineering	\$100.00
Fire Department	\$500.00
Flexible Spending Acct.	\$10,000.00
Golf Course	\$1,000.00
Health Reimburse Acct.	\$10,000.00
Police Department	\$ 1,000.00
Public Works	\$600.00
Recreation	\$850.00
City Clerk-Treasurer	\$100.00
Water Department	\$400.00
WWTP	\$ 500.00

Respectfully,
Scott P. Kiedrowski
City Clerk-Treasurer

MOVED by Alderman Needler **SECONDED** by Alderman Donovan
To receive and file the aforementioned communication.
CARRIED.



III.2 Clerk-Treasurer

February 15, 2013

Hon. Mayor Ortt & Common Council
 216 Payne Avenue
 North Tonawanda, NY 14120

Re: Winterizing Abandoned Homes

Dear Honorable Body:

Please authorize the hiring of a licensed plumber to shut off the water at the curb stop and remove the water meter at the following abandoned properties per Chapter 98 of the City Code:

1007 Payne Avenue
 98 Miller St.
 19 Monroe St.
 23 Niagara St.

Site inspections have been done and violation letters have been sent out with a ten day notice and we have received no response.

Regards,
 Scott P. Kiedrowski
 City Clerk-Treasurer
 City of North Tonawanda

MOVED by Alderman Donovan

SECONDED by Alderman Needler

That the Common Council hereby grants permission to hire a licensed plumber to shut off the water at the curb stop and remove the water meter at the following abandoned properties per Chapter 98 of the City Code:

1007 Payne Avenue
 98 Miller St.
 19 Monroe St.
 23 Niagara St.

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres

(5)

Nays: None

(0)

CARRIED.

IV. Engineer

February 14, 2013

Robert G. Ortt, Mayor and Common Council Members
 City Hall North Tonawanda
 216 Payne Avenue
 North Tonawanda, New York

Re: Meadow Drive Extension Project
 Project No. 2003-02
 PIN 5757.52
 Supplemental Agreement No. 1
 Comptroller's Contract No. D030114

Honorable Body:

In order to complete the Meadow Drive Extension Project with Federal Aid, the City will need to pass the attached resolution and enclosed agreement with the New York State Department of Transportation that indicates the City's commitment to participate in the administration and funding of the construction and construction inspection phase of the project.

02-19-2013

As you are aware, the Common Council adopted the project in the 2007 Capital Budget that commits the City to ultimately fund twenty percent (20%) of the Non-Federal share of costs at the overall project cost of \$1,799,800. Additionally, the City will be receiving Marcheselli Aid reimbursement from the State for seventy five percent (75%) of the City's Non-Federal share of the project cost as indicated in the enclosed letter from the NYSDOT.

Accordingly, please approve the attached Resolution, authorizing the Mayor to sign the enclosed Marchiselli Aid Supplemental Agreement No.1 with the State of New York Department of Transportation that commits the City to provide \$286,000 in funds, which approximates the current Non-Federal share of the costs of the Meadow Drive Extension Project's construction and construction inspection, subject to review by the City Attorney.

If you have any questions, please do not hesitate to call me at 695-8565.

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

MOVED by Alderman Zadzilka

SECONDED by Alderman Donovan

WHEREAS, a Project for the Extension of Meadow Drive, from its current terminus approximately 0.22 miles east of Nash Road to NY Route 425, Erie Avenue, a distance of approximately 0.63 miles, in the City of North Tonawanda, Niagara County, PIN 5757.52, (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80 % Federal funds and 20 % Non-Federal funds; and

WHEREAS, the City of North Tonawanda desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering, Right-of-Way (Incidentals & Acquisition) and Construction & Construction Inspection phases of the project PIN 5757.52

NOW, THEREFORE, the Common Council of the City of North Tonawanda, duly convened does hereby

RESOLVE, that the Common Council of the City of North Tonawanda hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council of the City of North Tonawanda hereby authorizes the City of North Tonawanda to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering, Right-of-Way (Incidentals & Acquisition) and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 286,000 is hereby appropriated from Capital Projects Fund in addition to \$ 500,000 previously appropriated for the project's Preliminary Engineering and Right-of-Way (Incidentals) phases via a City Resolution adopted on January 16, 2007, and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the project's Preliminary Engineering, Right-of-Way (Incidentals & Acquisition) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 786,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering, Right-of-Way (Incidentals & Acquisition) and Construction & Construction Inspection phases exceeds \$ 1,799,800, the City of North Tonawanda shall convene its Common Council as soon, as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Mayor of the City of North Tonawanda be and is hereby, authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or State Marchiselli Aid on behalf of the City of North Tonawanda with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's

first instance funding of Project costs and permanent funding of the local share of Federal Aid and State Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres (5)

Nays: None (0)

CARRIED.

V. Water

February 6, 2013

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

Dear Honorable Body;

In 2009 the City bonded \$220,000 for "Improvements to Water Distribution System - 2009." The Council approved four projects that made up this \$220,000: Stand-by Power Pumping Station, Boiler Replacement Water Treatment, Water Plant Mixer, and Water Plant Electrical System. The Boiler Replacement, Mixer and Electric System Projects have been completed and to date \$203,130.74 of the \$220,000 bonded for the Water Distribution System improvements has been spent. As the amount bonded was for Water Distribution System Improvements and no work has been completed on the Stand-by Power for the Pumping Station, the Water Department requests that the remaining \$16,896.26 of remaining bond funds be transferred to Project 1206, Generator Replacement, Filter Controllers.

The money was approved while former Superintendent Paul Drof was in charge. Since his departure, Water Plant personnel deemed the project was not necessary. Back-up plans are in place and there won't be a problem if power is lost. I feel the money will be better utilized for the overhaul of the back-up generator used to supply water to the city in a power failure. The original plan was to replace the diesel engine with a generator.

After talks with Wendel Engineering, \$150,000 would not be sufficient funds to purchase a generator to supply enough power. We are going to use the funds to completely overhaul the existing diesel generator and ancillary equipment. At this time we are in the process of getting an estimate.

Sincerely,
David Scott
Superintendent Water/Wastewater

MOVED by Alderman Needler

SECONDED by Alderman Donovan

That the Common Council hereby approves transferring \$16,896.26 of funds that were originally bonded for the Water Distribution System Improvements to Project 1206, Generator Replacement, Filter Controllers.

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres (5)

Nays: None (0)

CARRIED.

VII.1 Accountant

February 15, 2013

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 February 19, 2013, and further authorize the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant.

Very truly yours,
Mark W. Dotterweich
City Accountant

MOVED by Alderman Donovan

SECONDED by Alderman Needler

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated February 19, 2013 and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$118,098.41
02	Water Fund	69,653.06
04	Sewer Fund	64,493.42
06	Capital Project Fund	22,586.94
07	Trust & Agency Fund	85.00
17	Home Rehab Program	3,080.00
	Final Total	<u>\$277,996.83</u>

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres

(5)

Nays: None

(0)

CARRIED.

VII.2 Accountant

February 15, 2013

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

Dear Honorable Body:

Please review and approve the 2013 seasonal part time wage schedule. The only change for 2013 is the addition of the Part Time Recreation Director position at the golf course.

Thank you for your consideration.

Respectfully submitted,
Mark W. Dotterweich
City Accountant

XIX. Building Inspector

To: Honorable Mayor Robert Ortt and Council

Date: January 22, 2013

**From: Cosimo R. Capozzi
Building Inspector**

**Re: Fees for inspection
1686 Sweeney Street**

Per City Code, Section 24-D Fees for Inspections, I make the following recommendation with regard to 1686 Sweeney Street. After numerous attempts to have the owner clean and keep clean the property located @ 1686 Sweeney Street without any success, on April 19, 2012, this department commenced legal action. Since that date, the owner has failed to make substantial progress in cleaning his property. On August 8, 2012, the owner was granted an ACD by the Courts, fined \$200 and advised to finish cleaning the property. It is my understanding that the \$200 fine has yet to be paid.

On November 30, 2012 this department, after a site inspection, re-instated the ACD due to the condition of the property once again being in violation. After numerous inspections and an additional accusatory filed on January 3, 2013 for abandoned vehicles, it appears that this owner simply will not comply. Therefore, after four separate Court cases in the last two years, I am requesting that the Council consider my recommendation per Section 24-D of the City Codes to impose Fees for Inspections as follows:

Court action was commenced on 4/19/2012 and there were five (5) inspections done after the initial accusatory. On 11/30/2012 this department re-instated the charges and six (6) additional inspections have been done including a separate accusatory for abandoned vehicles. The property has yet to be in compliance and a trial has been set by the Court.

Based on the lack of meaningful, lasting cooperation from this owner over a two year period, I would recommend that the Council approve my request and impose a fee of \$250 for each of the first two inspections and \$500 for each of the nine additional inspections done for a total of \$5,000 or any portion the Council may choose per Section 24-D.

Attached, please find a copy of the list of inspections regarding this property.

This case has yet to be resolved in the Courts. I expect additional inspections to be done before this site is brought into compliance.

If you have any questions or need additional information, please let me know.

Cosimo R. Capozzi

MOVED by Alderman Zadzilka

SECONDED by Alderman Andres

That the Common Council hereby imposes the following fees for the inspection of 1686 Sweeney Street: \$250 for each of the first two inspections and \$500 for each of the nine additional inspections done for a total of \$5,000.00 as per Section 24-D of the City Code.

Ayes: Needler, Donovan, Rizzo, Zadzilka, Andres (5)

Nays: None (0)

CARRIED.

XXV. Monthly Reports

.1 City Clerk

.3 Police

.2 Treasurer

.4 Senior Citizens

MOVED by Alderman Needler

SECONDED by Alderman Andres

To receive and file the aforementioned Monthly Reports.

CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Columbia Hook & Ladder - Re: Statement of Volunteer Fireman:

Carolyn E. Evans

MOVED by Alderman Donovan SECONDED by Alderman Zadzilka
That the Common Council hereby adds Carolyn E. Evans to the City Fire Rolls.
CARRIED.

AUDIENCE PARTICIPATION - None

ADJOURNMENT

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

Time of Adjournment: 6:40P.M.

Respectfully submitted,

Scott P. Kiedrowski
City Clerk-Treasurer