

**THE HONORABLE BODY  
Council Chambers  
Municipal Building  
North Tonawanda, New York 14120  
Tuesday, April 21, 2015  
6:30P.M.**

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

**PLEDGE OF ALLEGIANCE**

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**ROLL CALL**

**Present: President Rizzo  
Alderman Zadzilka, Braun, Schwandt, Pecoraro**

**Absent: None**

**Also Present: Mayor Arthur G. Pappas  
City Attorney Shawn P. Nickerson**

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**AUDIENCE PARTICIPATION - None**

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**APPROVAL OF THE MINUTES OF THE REGULAR SESSION APRIL 7, 2015**

**MOVED by Alderman Zadzilka                      SECONDED by Braun  
That the minutes of the regular session held April 7, 2015 be approved as circulated and  
filed in the Office of the City Clerk.  
CARRIED.**

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**PROOF OF PUBLICATION PUBLISHED MARCH 27 & APRIL 3, 2015**

**1) Legal Notice – Collection of City 2015 Taxes – Treasurer’s Office**

**PROOF OF PUBLICATION PUBLISHED MARCH 28, 2015**

**1) Legal Notice – Annual Drinking Water Quality Report 2014 –Water Department**

**PROOF OF PUBLICATION PUBLISHED APRIL 1,2,3 2015**

**1) Legal Notice – Formal bids for One (1) New 1500 GPM Class “A” Fire Pumper – Fire  
Department**

**MOVED by Alderman Rizzo                      SECONDED by Alderman Schwandt  
That the Common Council hereby receives and files the aforementioned Proofs of  
Publication.  
CARRIED.**

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**VII.1 Accountant**

April 16, 2015

Honorable Arthur G. Pappas, Mayor  
& Common Council  
City Hall —216 Payne Avenue  
North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated April 21, 2015, 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 Schwandt                      SECONDED by Alderman Zadzilka  
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated April 21, 2015 and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$119,247.76
02	Water Fund	26,721.04
04	Sewer Fund	32,786.36
06	Capital Project Fund	20,987.17
07	Trust & Agency Fund	500.00
17	Home Rehab Program	<u>36.50</u>
	Final Total	<u>\$200,278.83</u>

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo

(5)

Nays: None

(0)

CARRIED.

**VII.2 Accountant**

April 17, 2015

Honorable Arthur G. Pappas, Mayor  
& Common Council  
City Hall —216 Payne Avenue  
North Tonawanda, New York 14120

Dear Honorable Body:

Please adopt the following resolution regarding the Post-Issuance Compliance Policies and Procedures related to the City's issuing of Tax-Exempt obligations such as bonds and notes.

This resolution is intended to insure that the requirements imposed upon the City pursuant to the Internal Revenue Code of 1986, as amended, will be satisfied. The City currently follows these procedures; however, it was recommend by the City's Bond Council that the policy be officially adopted by the Common Council.

Very truly yours,  
Mark W. Dotterweich  
City Accountant

04-21-2015

**MOVED** by Alderman Schwandt                      **SECONDED** by Alderman Zadzilka  
 At a regular meeting of the Common Council of the City of North Tonawanda, in the  
 County of Niagara, New York, held at City Hall, 216 Payne Avenue, North Tonawanda,  
 New York at 6:00 p.m. on April 21, 2015.

The meeting was called to order by Russ Rizzo, and upon the roll being called the following  
 were:

**PRESENT:** Philip Rizzo, President  
 Eric M. Zadzilka, Alderman  
 Donna Braun, Alderman  
 Catherine G. Schwandt, Alderman-at-Large  
 Robert E. Pecoraro, Alderman-at-Large

**ABSENT:** None

The following resolution was offered by Alderman Schwandt who moved its adoption,  
 seconded by Alderman Zadzilka; to-wit:

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NORTH  
 TONAWANDA, NIAGARA COUNTY, NEW YORK (THE "CITY") AUTHORIZING AND  
 ADOPTING POST ISSUANCE COMPLIANCE POLICIES AND PROCEDURES  
 RELATED TO THE CITY'S TAX-EXEMPT OBLIGATIONS, SUCH POLICIES AND  
 PROCEDURES INTENDED TO ENSURE THAT THE REQUIREMENTS IMPOSED  
 UPON THE CITY PURSUANT TO THE INTERNAL REVENUE CODE OF 1986, AS  
 AMENDED, WILL BE SATISFIED**

**WHEREAS, the City of North Tonawanda, Niagara County, New York (the "City")**  
 previously has issued bond and notes (the "Tax-Exempt Obligations"), the interest on which  
 is excluded from gross income of the owners thereof pursuant to Section 103 of the Internal  
 Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS, the City intends to issue additional series of Tax-Exempt Obligations in**  
 the future; and

**WHEREAS, in order to ensure that the interest on City's Tax-Exempt Obligations will**  
 continue to be excluded from gross income of the owners thereof for purposes of federal  
 income taxation, and that the City complies with its tax certifications relating to the Tax-  
 Exempt Obligations, the Common Council has determined, based on the advice of the City's  
 Bond Counsel, to adopt certain written Post-Issuance Compliance Policies and Procedures in  
 the form attached hereto as Exhibit A and made a part hereof (the "Post-Issuance  
 Compliance Procedures").

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of  
 North Tonawanda, Niagara County, New York (the "Board"), as follows:

**Section 1.** The Board hereby approves and adopts the Post-Issuance Compliance  
 Procedures.

**Section 2.** The Board hereby appoints the City Treasurer of the City to serve as the  
 "Designated Tax Compliance Official" under the Post-Issuance Compliance Procedures and  
 hereby authorizes and directs the City Treasurer, acting in such capacity, to take such actions,  
 after appropriate consultation with Bond Counsel to the City, as the City Treasurer deems  
 necessary, appropriate or desirable to effect the implementation of the Post Issuance  
 Compliance Procedures, and hereby further authorizes the City Treasurer, as such  
 Designated Tax Compliance Official, to delegate to such other City officials or employees as  
 the City Treasurer shall determine is necessary or appropriate, the responsibility to take  
 certain specific actions called for by the Post-Issuance Compliance Procedures.

**Section 3.** This Resolution shall take effect immediately.

The following vote was taken and recorded in the public or open session of said meeting:

AYES: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

NAYS: None (0)

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)  
COUNTY OF NIAGARA) SS.:

I, the undersigned City Clerk of the City of North Tonawanda, Niagara County, New York, DO HEREBY CERTIFY as follows:

1. I am the duly qualified and acting Clerk of the City of North Tonawanda, Niagara County, New York (the "City") and the custodian of the records of the City, including the minutes of the proceedings of the Common Council, and am duly authorized to execute this certificate.

2. A regular meeting of the Common Council of the City was held on April 21, 2015 and attached hereto is a true and correct copy of a resolution duly adopted at such meeting and entitled:

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NORTH TONAWANDA, NIAGARA COUNTY, NEW YORK (THE "CITY") AUTHORIZING AND ADOPTING POST ISSUANCE COMPLIANCE POLICIES AND PROCEDURES RELATED TO THE CITY'S TAX-EXEMPT OBLIGATIONS, SUCH POLICIES AND PROCEDURES INTENDED TO ENSURE THAT THE REQUIREMENTS IMPOSED UPON THE CITY PURSUANT TO THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, WILL BE SATISFIED**

3. That said meeting was duly convened and held and that said resolution was duly adopted in all respects in accordance with the law and regulations of the City. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Common Council was present throughout said meeting, and a legally sufficient number of members voted in the proper manner for the adoption of the resolution. All other requirements and proceedings under the law, said regulations, or otherwise, incident to said meeting and the adoption of the resolution, including the publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

4. The seal appearing below constitutes the official seal of the City and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of the City this 21st day of April, 2015.

Daniel R. Quinn  
City Clerk/Treasurer

**EXHIBIT A**

**CITY OF NORTH TONAWANDA**

**POST-ISSUANCE COMPLIANCE POLICIES AND PROCEDURES  
Related to Tax-Exempt Obligations**

Adopted: April 21, 2015

These Post-Issuance Compliance Policies and Procedures (the "Procedures") are adopted by CITY OF NORTH TONAWANDA, Niagara County (the "City") to ensure that interest on tax-exempt obligations of the City (the "Bonds") remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986 (the "Code").

In order to ensure continued compliance with requirements of the Code and the applicable regulations (the "Applicable Federal Tax Law") associated with the issuance of Bonds, the City will consult with the City's bond counsel, in advance, regarding deviations from the facts and expectations set forth in the closing certifications relating to any issue of Bonds.

If as a result of changes to the Applicable Federal Tax Law or the New York State Local Finance Law these Procedures are in conflict with such laws, the City will consult with Bond Counsel regarding the proper course of action, including amending these Guidelines.

## **I. Procedures**

The City Treasurer of the City (the "Designated Tax Compliance Official") is the primary person to consult with the City's bond counsel ("Bond Counsel"), financial advisor and other advisors on a continual basis for the entire term of the Bonds. The Designated Tax Compliance Official may delegate to his or her staff or contract with independent contractors (such as an arbitrage/rebate consultant) responsibility for different aspects of post-issuance tax compliance. However, the Designated Tax Compliance Official will be ultimately responsible for implementing the procedures described herein.

## **II. Securing Closing Documents**

Following each issuance of Bonds, the Designated Tax Compliance Official or his or her designee will:

- a. Confirm the filing of the Form 8038 or Form 8038-G (or applicable successor form) with Internal Revenue Service ("IRS"). Filing of the applicable Form 8038 is usually undertaken or overseen by Bond Counsel at or soon after the closing of a bond issue.
- b. Obtain and store the Transcript of Proceedings prepared by Bond Counsel (which typically includes the applicable Form 8038 and the Arbitrage and Tax Certificate containing the City's expectations as of the date of issuance of the bond issue).

## **III. Recordkeeping**

The Designated Tax Compliance Official or his or her designee will:

- a. Establish a plan for keeping relevant books and records as to the investment and the expenditure of bond proceeds.
- b. Keep accurate records including:
  - (i) Basic records relating to the bond transactions (including the bond resolutions, closing documents, and the Bond Counsel Opinion (see Securing Closing Documents, above);
  - (ii) Documentation evidencing the expenditure of bond proceeds;
  - (iii) Documentation evidencing use of bond-financed property by public and private sources (i.e., copies of leases, management contracts);
  - (iv) Documentation evidencing all sources of payment or security for the bonds; and
  - (v) Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, subscriptions for United States Treasury Securities-State and Local Government Series ("SLGs"), yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts and rebate calculations).
- c. Keep all records in a manner that ensures their complete access to the IRS so long as they are material.
- d. Keep the relevant records for each issue of bonds for as long as such issue of bonds is outstanding (including any bonds issued to refund such issue of bonds) plus three years after the final redemption date of the bonds.

#### IV. Arbitrage Rebate and Arbitrage Yield Restriction

The Designated Tax Compliance Official or his or her designee will:

- a. Engage the services of the City's financial advisor or an arbitrage/rebate consultant for assistance in compliance with arbitrage related issues.
- b. Consult with the City's bond counsel, and/or financial advisor to determine if an issue of Bonds is exempt from the rebate requirement under the exception for "small issuer" (Section 147(f)(4)(D) of the Code).
- c. Work with the City's bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with "temporary period exceptions" for expenditure of bond proceeds, typically three years for new money bonds and provide for yield restriction of investments or "yield reduction payments" if exceptions are not satisfied.
- d. Work with the City's bond counsel and financial advisor to ensure investments acquired with bond proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-5(d) of the Regulations).
- e. Consult with the City's bond counsel or arbitrage rebate consultant prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt bonds to determine in advance whether such funds must be invested at a restricted yield (i.e., yield restricted).
- f. Consult with the City's bond counsel and financial advisor before engaging in post issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap).
- g. Consult with the City's bond counsel, financial advisor, and/or arbitrage rebate consultant to identify situations in which compliance with applicable yield restrictions depends upon subsequent investments (e.g., purchase of 0% SLGS from U.S. Treasury) and monitor implementation.
- h. Work with an arbitrage rebate consultant to arrange for timely computation of rebate/yield reduction payment liability and, if an amount is payable, for timely filing of Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate/Yield Reduction payments are ordinarily due at 5-year intervals.

#### V. Private Use of Bond-Financed Facilities

The Designated Tax Compliance Official or his or her designee will:

- a. Create and maintain records of which proceeds of bond issues were used to finance which facilities. These records shall incorporate the refunding or partial refunding of any bond issues.
- b. Record the allocation of bond proceeds to expenditures, including reimbursements. These records will be consistent with the expenditures used for arbitrage purposes.
- c. Record the allocation of bond proceeds and funds from other sources in connection with any bond funded project. Review expenditure of bond proceeds with bond counsel to ensure bond proceeds are used for qualifying costs.
- d. Review with bond counsel prior to the sale or lease of a bond-financed facility, or the granting of a license or management contract, or any other arrangement allowing private use of a bond financed facility, the terms of such arrangement.
- e. Keep records of private use, if any, of bond financed facilities to monitor the amount of private use of bond financed facilities. Private use of bond-financed facilities shall be reviewed no less frequently than once a year (in connection with the preparation of the annual financial statements). If a change in private use occurs, bond counsel will be consulted to determine if remedial action is necessary.

The resolution herein shall be available for public inspection during normal business hours at the offices of the City Clerk/Treasurer, City of North Tonawanda, City Hall, 216 Payne Avenue, North Tonawanda, New York 14120

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

Nays: None (0)

CARRIED.

**XI. Fire Chief**

April 15, 2015

To: Clerk/Treasurer Quinn

From: Chief Lapham

Re: 25 year papers

Dear Dan,

I have been made aware that one of my volunteers has not received his 25 years of service certificate.

Mr. John Smith, who is now a member of Sweeney Hose #7, has been involved with the Department since approximately Sept. 4, 1989 when he joined Gratwick Hose #6. He left this company and transferred to Live Hose #4, and has now moved over to Sweeney.

I am aware that keeping tabs on members is important to record keeping, and I have been working with your office to update the files.

I am requesting that the proper certificate be filed with the Common Council and awarded to Mr. Smith at the earliest convenience.

Should you have any questions, please do not hesitate to call me, and thank you for your help in this matter.

Respectfully,  
John C. Lapham  
Fire Chief

MOVED by Alderman Rizzo

SECONDED by Alderman Zadzilka

That the Common Council hereby grants an Exemption Petition to Volunteer Fireman John Smith for 25 years of service.

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

Nays: None (0)

CARRIED.

**XXV. Monthly Reports**

.1 Police Department .2 Clerk / Treasurer

MOVED by Alderman Schwandt

SECONDED by Alderman Zadzilka

That the Common Council hereby receives and files the aforementioned Monthly Reports.

CARRIED.

**COMMUNICATIONS FROM OTHERS**

- A.
- Ralph LaFreniere
- Dennis Barberio
- Mark Houghton
- Janet Zehr

Thomas L. Reynolds  
 James K. McGinnis  
 Robert W. Fritz  
 Edward Harkey  
 Joseph A. Rich  
 Edward T. McDonald

March 17, 2015

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

Dear Honorable Body:

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

Thank you.

**MOVED** by Alderman Pecoraro                      **SECONDED** by Alderman Braun  
 That the Common Council hereby appoints as a Commissioner of Deeds for the City of North Tonawanda:

Ralph LaFreniere 722 Payne Avenue, North Tonawanda, NY 14120  
 Dennis Barberio 168 Stenzil Street, North Tonawanda, NY 14120  
 Mark Houghton 3 Eighth Avenue, North Tonawanda, NY 14120  
 Janet Zehr 971 Sweeney Street, North Tonawanda, NY 14120  
 Thomas L. Reynolds 739 East Robinson, North Tonawanda, NY 14120  
 James K. McGinnis 282 Old Falls Blvd., North Tonawanda, NY 14120  
 Robert W. Fritz 33 East Felton Street, North Tonawanda, NY 14120  
 Edward Harkey 246 Stenzil Street #3, North Tonawanda, NY 14120  
 Joseph A. Rich 287 Wheatfield Street, North Tonawanda, NY 14120  
 Edward T. McDonald 490 Homestead Drive, North Tonawanda, NY 14120

Their terms begin April 22, 2015 ending April 21, 2017.

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)  
 Nays: None (0)  
**CARRIED.**

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**B.**  
 Columbia Hook & Ladder No.1

April 9, 2015

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

Re: Volunteer Fire Roll

Dear Council & Mayor:

The Officers and Members of Columbia Hook & Ladder Co. No.1, Inc., regretfully request you remove from the City Volunteer Fire Roll the name of-

Kenneth J. Johnson

He Died March 29, 2015.

Ken Johnson joined Columbia Hook & Ladder Nov. 2, 1988, and served 26 years, 4 months, and 27 days until answering his Final Alarm.

Sincerely,  
Columbia Hook & Ladder Co. No. 1, Inc.  
David L. Evans  
Recording Secretary

**MOVED** by Alderman Zadzilka                      **SECONDED** by Alderman Rizzo  
That the Common Council hereby removes Kenneth J. Johnson from the North Tonawanda  
Volunteer Fire Roll.

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

Nays: None (0)

**CARRIED.**

C.  
Daniel E. Brick

April 14, 2015

Honorable Daniel Quinn  
City Clerk/Treasurer  
City of North Tonawanda  
216 Payne Avenue  
North Tonawanda, NY 14120

Re: April Howard 532 Payne Avenue, North Tonawanda, NY

Dear Mr. Quinn:

At the suggestion of Shawn Nickerson Esq., City Attorney, I am writing on behalf of Ms. April Howard.

She is requesting a reduction in the sewer usage portion of the water/sewer bill for the above-captioned premises.

The payment of this bill, as presently generated would create an extreme hardship on my client. In fact, the bill may be more than the value of the property in its present state.

Moreover, the cause of the rupture water line which caused this bill was vandalism. I know Ms. Howard thought she had neighbors who had the property under surveillance, but to no avail. As I had previously told the City Attorney, the property was uninsured due to the vacancy. As a result there was a tremendous loss of personalty as a result of flooding.

Ms. Howard has agreed to transfer the property so that repairs/rehabilitation can commence immediate. However, the reduction is necessary to make it all work.

A police report is enclosed for reference. If there is any other information needed, please advise.

Very truly yours,  
Brick, Brick & Elmer, P.C.  
Daniel E. Brick, Esq.

**MOVED** by Alderman Zadzilka                      **SECONDED** by Alderman Braun  
That the Common Council hereby reduces the water bill by the amount of \$7,500.00 for  
532 Payne Avenue on the condition that the house is sold and a police report is provided,  
subject to review by the City Attorney.

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

Nays: None (0)

**CARRIED.**

**D.**  
**NT National Little League**

April 16, 2015

Mayor Arthur Pappas  
 City Hall  
 216 Payne Ave  
 N. Tonawanda, N.Y. 14120

**Re: Parade Permit**

**Dear Mayor Pappas:**

The North Tonawanda National Little League is pleased to invite you to be the Grand Marshall at our opening day parade and ceremonies for the 2015 Baseball season, which marks 63 years of service to the community. The 2015 season's opening day will be Saturday, May 9, 2015.

We request your assistance in obtaining the necessary parade permit.

We would be honored if you could march with us and speak at the ceremonies prior to throwing the traditional first ball. The parade will form at 9:30 a.m. and follow a route from Taber Field to the baseball complex on Wheatfield Street.

Please contact Rick Dentinger at 289-8492, if you have questions regarding the activities outlined above.

Please return the enclosed post card indicating your ability to attend. We look forward to seeing you on opening day.

Sincerely,  
 Tom Witt  
 President

**MOVED** by Alderman Zadzilka                      **SECONDED** by Alderman Pecoraro  
 That the Common Council hereby grants a parade permit to the NT National Little League for their Opening Day Parade, May 9, 2015. North Tonawanda Police are instructed to contact Rick Dentinger at 289-8492 with questions about parade route and start time.

Ayes: Zadzilka, Braun, Schwandt, Pecoraro, Rizzo (5)

Nays: None (0)

**CARRIED.**

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**AUDIENCE PARTICIPATION** – None

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**ADJOURNMENT**

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

Time of Adjournment: 6:49P.M.

Respectfully submitted,



Daniel R. Quinn  
 City Clerk-Treasurer