

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, July 2, 2024
6:30 P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT DIBERNARDO

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: **President DiBernardo**
 Alderman Schmigel, Loncar, Lavey, Marranta

Absent: **None**

Also Present: **Mayor Austin J. Tylec**
 City Attorney Edward A. Zebulske III

AUDIENCE PARTICIPATION

Jack Kanack -84 South Meadow- Questions on Noise Monitors for Digihost-Would \$250.00-\$500.00 be enough to get the job done.

Kevin O'Connor- 1064 Remmington-Asked our present Attorney is he would be handling the Digihost situation differently than our former attorney.

Deborah Gondek-257 Brentwood-Asked to have the specifics of the resolution being presented by the Council. She feels that the taxpayers shouldn't pay for any noise monitoring-she feels that Digihost should foot the bill. She would be in favor of a Third Party being involved.

Darlene Bolsover-1377 Sweeney Street-Asked about the resolution and where the proposed \$10,000.00 was coming from and she wanted answers.

Maryanne Franklin-673 Fairmont Ave.-How long does will this continue before Digihost gets fined by the city, until they get the noise levels under control.

Mike Gondek-257 Brentwood -Questioned the amendments to the Thursday on the Water Concert series.

John Tylec-815 Niagara Pkwy-Why are we going to train our police department on measuring the noise from Digihost? Shouldn't we get Niagara County Health Department involved.

Katherine Klimek-684 Treichler Street-There are many educated citizens within the city that could be trained to measure and document the noise levels-we need to think differently as a city.

Mark Polito 637 Fairmont Avenue-He would like to know why it has taken so long to address the noise levels coming from the Digihost site. It is affecting his health and he would like to have some peace.

APPROVAL OF THE MINUTES OF THE REGULAR SESSION JUNE 18, 2024

MOVED by Alderman Lavey **SECONDED** by Alderman Schmigel
That the minutes of the regular session held June 18, 2024 be approved as circulated and filed in the Office of the City Clerk.

Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)

Nays: None (0)

CARRIED.

COMMUNICATIONS FROM CITY OFFICIALS

#1. Common Council

June 21, 2024

**RESOLUTION FOR THE ALLOCATION OF FUNDS TO TRAIN AND EQUIP THE
NORTH TONAWANDA POLICE DEPARTMENT FOR NOISE ORDINANCE
ENFORCEMENT**

Submitted by President DiBernardo & Aldermen Marranca, Lavey, Schmigel & Loncar

MOVED by Alderman Lavey **SECONDED** by Alderman Loncar
That the Common Council at a regular session meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 PM on July 2nd, 2024, approved the Resolution to Allocate Funds to Train and Equip the North Tonawanda Police Department for Noise Ordinance Enforcement with the amendment to add #3 contracting with a firm that was presented on the floor and it reads as follows:

WHEREAS, in order to legally enforce noise ordinances in New York State, the North Tonawanda Police Department must be trained, certified, and possess property calibrated equipment; and

WHEREAS, noise ordinances must be enforced equitably across both residential and commercial properties to ensure the peace and well-being of all community members; and

WHEREAS, the Common Council recognizes the importance of providing the North Tonawanda Police Department with the tools and training required for this purpose; and

WHEREAS, according to the Noise Pollution Clearinghouse, a national non-profit organization focused on noise pollution, meters can cost between \$250 and \$500, calibrators cost about \$500, and training eight officers costs approximately \$5,000.

NOW, THEREFORE, LET IT BE RESOLVED, if the North Tonawanda Police Department is unable to locate the necessary funds within its existing budget, the North Tonawanda Common Council hereby allocates \$10,000 from the General Reserve Fund to the North Tonawanda Police Department for the purpose of:

1. **Training and Certification:** Sending officers to obtain the necessary training and certification to use sound level meters and other relevant equipment effectively and legally.
2. **Purchasing Equipment:** Acquiring certified sound level meters, calibrators, and any other necessary equipment required to enforce noise ordinances.
3. **Contracting with a Firm:** If more financially and efficiently prudent, the contracting with a professional Sound and Acoustic Firm that can provide legally enforceable noise readings.

AND LET IT BE FURTHER RESOLVED, that the North Tonawanda Police Department is encouraged to maintain open communication with the Common Council regarding the use of these funds and to notify the Council if additional funding is required.

Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

I. Mayor

April 29, 2024

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

**Re: Proposed Local Law 2024-1, Resolution to Adopt Solar Energy
 System Regulations**

Dear Honorable Body,

Attached for consideration is the adoption of a new Local Law, Solar Energy Systems Regulations, which aims to regulate the types of solar installations within the City of North Tonawanda. This ordinance ensures the proper siting of solar energy systems to protect our residential and business areas, preserve the city's beauty and character, promote the efficient use of solar energy resources, and safeguard the health, safety, and welfare of our citizens.

The proposed Local Law includes two tiers of solar energy systems. Tier 1 includes building-integrated photovoltaic systems, while Tier 2 includes ground-mounted solar energy systems. The Local Law specifies that all solar energy systems must comply with applicable building codes, green codes, unified solar permit requirements, and county regulations.

Tier 1 building-integrated systems would be allowed in all zoning districts, while Tier 2 systems are limited to industrial districts, further protecting our residential neighborhoods and other sensitive areas.

By adopting this Local Law, the City of North Tonawanda will be taking a proactive approach to managing solar energy systems within our community. This strikes a balance between promoting the use of solar energy as an alternative energy source and ensuring that it is done in a way that is compatible with our existing land uses and preserves our city's unique character.

The attached Local Law has been reviewed and improved thanks to our Building Inspector Rob DePaolo as well. Passage of this will demonstrate our commitment to sustainable energy practices while protecting the interests of our residents and businesses.

Thank you for your time and consideration.

**Respectfully,
 Austin Tylec
 Mayor**

MOVED by Alderman Lavey SECONDED by Alderman Schmigel
That the Common Council at a regular session meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 PM on July 2nd, 2024, approved City of North Tonawanda Local Law #2024-1 Solar Energy Systems Regulations and it reads as follows:

**CITY OF NORTH TONAWANDA LOCAL LAW #2024-1
 RESOLUTION TO ADOPT SOLAR ENERGY SYSTEMS REGULATIONS**

Definitions.

SOLAR COLLECTOR – a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy.

SOLAR ENERGY EQUIPMENT – Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM – the components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy equipment. A Solar Energy System is classified as a Tier 1 or Tier 2 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

1. **BUILDING INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEM (TIER1)** – A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials and shading over windows.

B. Tier 2 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems, intended to generate electricity for use on site or off site.

Applicability.

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the City after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), Niagara County’s Solar Panel Recycling Regulations and the City Code.

General Permitting requirements.

A. The NYS Unified Soar Permit and Building Permit shall be required for installation of all Tire 1 and Tier 2 Solar Energy Systems.

B. The placement, construction, and major modification of all solar energy systems within the boundaries of the City of North Tonawanda shall be permitted only as follows:

1. Tier 1 systems are permitted in all zoning districts in the city.
2. Tier 2 systems are allowed in the following districts:
 - a. Industrial districts (M-1, M-2, M-3).
3. Tier 2 energy systems shall require site plan approval, before the issuance of a building permit and shall be subject to all provisions of this article where the lot in which the freestanding or ground-mounted solar energy system is situated on.

Preliminary Site Plan Review – Tier 2 Solar Energy Systems.

For Tier 2 solar energy systems, a site plan shall be required. The applicant shall be required to apply for a permit and a site plan review drawn in sufficient detail per the North Tonawanda Building Department.

Final Site Plan Review.

Applicants for a special use permit to place, construct, and make a major modification to a Tier 2 solar energy system within the boundaries of the City of North Tonawanda may require submission of the following information to the Building Inspector:

1. A completed State Environmental Quality Review Act (SEQRA) short form environmental assessment form (EAR), unless a full form is required by the City's professional engineer or consultant or the City of North Tonawanda Planning Commission, with the City of North Tonawanda Planning Commission designated as lead agency for the SEQRA process.
2. A site plan drawn of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a description of all components, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below the ground, on the site and adjacent to the site.
3. Property lot lines and the location and dimensions of all existing & new structures on site.
4. Proposed fencing and/or screening for project.
5. Clearing, grading, stormwater, and erosion control.
6. Glare – All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the site plan and then the building permit applications.
7. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed shall be provide with the site plan/permit application. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
8. Any such additional information as may be required by the City.

Application and annual fees.

A Tier 1 & Tier 2 solar energy systems. An applicant shall pay a permit fee in the amount as set by the Building Inspector to cover the cost of processing and reviewing the application.

Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

II. Attorney

June 27, 2024

**North Tonawanda City Council
 Donna Braun, City Clerk-Treasurer
 216 Payne Avenue
 North Tonawanda, NY 14120**

**Re: Proposed Addendum to the Lease Agreement with JG Production &
 Entertainment, LLC (Thursdays on the Water)**

Dear Honorable Body:

Attached for your review please find a proposed Addendum to the Lease Agreement relative to the concerts at Gratwick Park beginning very shortly.

Thank you for your consideration in this matter.

**Very truly yours,
 Edward A. Zebulske III
 City Attorney**

**MOVED by Alderman Marranca SECONDED by Alderman Lavey
 That the Common Council hereby approves the attached Proposed Addendum to the Lease**

Agreement with JG Production & Entertainment, LLC (Thursdays on the Water).
Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

VII. Accountant

June 13, 2024

Honorable Austin J. Tylec, Mayor
and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120

Dear Honorable Body:

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

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated July 2nd, 2024 and further authorize the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant.

Warm regards,
Jeffrey R. Zellner
City Accountant

MOVED by Alderman Schmigel SECONDED by Alderman Marranca
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated July 2nd, 2024, and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$255,422.87
02	Water Fund	\$55,759.72
04	Sewer Fund	\$29,058.46
06	Capital Project Fund	\$360,725.49
07	Trust & Agency Fund	<u>\$36,117.24</u>
00	Final Total	<u>\$737,083.78</u>

Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

IX. Supt. Public Works

June 26, 2024

Honorable Austin J. Tylec, Mayor
And common council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120

Re : New Street Light – 1367 Lexington

Dear Honorable Body:

In conjunction with the City Engineering Department, we requested the annual facilities and energy use charges for new LED street light from National Grid for a new street light

just north of 1367 Lexington adjacent to the Wurlitzer Park. The estimated annual cost per street light is approximately \$188.70 from National Grid.

I recommend that the Council resolve to authorize National Grid to install a new street light just north of 1367 Lexington Avenue and that the City Clerk be directed to send a copy of the Council's Resolution to Ms. Bernice Montague, Customer Representative for National Grid.

Please let me know if you have any further questions or concerns. Thank you for your consideration.

Very truly yours,
Mark Zellner
Supt. Public Works

MOVED by Alderman Lavey SECONDED by Alderman Marranta
That the Common Council at a regular session meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 PM on July 2nd, 2024, approves National Grid to install new street lighting just north of 1367 Lexington Avenue, at an estimated cost of \$188.70.

Ayes: Alderman Schmigel, Marranta, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

XXV. Monthly Reports

.1 Police Department

MOVED by Alderman Lavey SECONDED by Alderman Marranta
That the Common Council hereby receives and files the aforementioned Monthly Report.
Ayes: Alderman Schmigel, Marranta, Loncar, Lavey, DiBernardo (5)
Nays: None (0)
CARRIED.

COMMUNICATIONS FROM OTHERS

A. Third Ward Social Club

June 4, 2024

**Honorable Common Council and
Honorable City Clerk-Treasure
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120**

Re: TWSC Family Picnic, Saturday, August 17th

Dear Honorable Body,

On Saturday, August 17th the Third Warders is conducting its annual club family picnic.

We respectfully request permission to block off 12th Avenue from Gilmore Street to our driveway entrance on 12th Avenue on Saturday August 17th beginning at 12:00PM in the afternoon and ending at 5PM. Many children will be participating in activities in front of our property on this day and we want to ensure that everyone remains safe.

Lastly, we ask that the Department of Public Works drop off barriers as they have in years past to let motorists know that a portion of the street has been shut down for the day.

We thank you in advance for your help with our annual request.

Best,
Scott Kiedrowski
President TWSC

MOVED by Alderman Schmigel **SECONDED** by Alderman Loncar
That the Common Council hereby grants permission for the Third Warders Social Club to close 12th Avenue from Gilmore Street to their driveway entrance on Saturday, August 17th from 12pm to 5pm for their annual club family picnic and directs the DPW to provide the necessary barricades for said event.

Ayes: Alderman Schmigel, Marranca, Loncar, Lavey, DiBernardo (5)

Nays: None (0)

CARRIED.

AUDIENCE PARTICIPATION

Darlene Bolsover 1377 Sweeney Street-Asked why there was no Public Hearing on the Resolution presented by the council

Deborah Gondek 257 Brentwood Drive- The whole Digihost situation has gone on too long and it is very disheartening to the residents that it is affecting.

Carl Bauer-278 River Road-would like to ask the council why they don't use Roberts Rules to conduct their meetings.

Eric Karneth 532 North Avenue-Addressed the Council and the Mayor on how unhappy he is with the Chicken Coop that is next door to his house. Un happy that the mayor is going to approve the coop. He submitted a letter of disapproval to the city-the neighbor is already in violation.

Dan Rotuno-representing Digihost/Fortistar-Would be in favor of working with a Third Party on the noise monitoring at the site. He has been working with the city on a solution.

Gary Franklin 673 Fairmont Avenue-Questioned the letter that was received by the residents in the city from Solor Simplified – how did the city choose this company? There are companies listed with NYSERDA that offer the same and they are local. He doesn't agree with the city's agreement with this company using the city's seal-doesn't look good.

Joe Midura 115 10th Avenue-Also question Solar Simplified-he call National Grid-asked how can they guarantee 10% savings. He feels that it is a injustice to the city that we have allowed this company to blanket the city using our letterhead.

Mike Gondek 257 Brentwood Drive-asked Council President who does he talk with at Digihost and if they are willing to spend \$30,000.00 to help the city with the situation at hand, the people need a deadline.

ADJOURNMENT

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

Tim of adjournment: 8:38 P.M.

Respectfully submitted,

Donna L. Braun

Donna L. Braun
City Clerk-Treasurer