

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, August 17, 2021
9:05 P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT PECORARO

PLEDGE OF ALLEGIANCE

ROLL CALL

**Present: President Pecoraro
Alderman Schmigel, DiBernardo, Zadzilka, Tylec**

Absent: None

**Also Present: Mayor Arthur G. Pappas
City Attorney Luke Brown**

PRESENTATION FROM DIGIHOST/FORTISTAR

AUDIENCE PARTICIPATION – All residential comments regarding the aforementioned presentation have been received and filed with the Common Council minutes in the City Clerks Office.

APPROVAL OF THE MINUTES OF THE REGULAR SESSION AUGUST 3, 2021

**MOVED by Alderman Zadzilka SECONDED by Alderman Tylec
That the minutes of the regular session held August 3, 2021, be approved as circulated and filed in the Office of the City Clerk.
Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.**

PROOF OF PUBLICATION PUBLISHED 8/3/2021

- 1) Legal Notice – Sealed Proposals for the Pinewoods Park Improvements Project No. 2020-08 – City Clerk-Treasurer

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

COMMUNICATIONS FROM CITY OFFICIALS

#1. Austin Tylec

August 12, 2021

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

**Re: Public Hearing on Three-Month MORATORIUM on Bitcoin Mining
Facilities & Facilities that Authenticate Blockchain**

Dear Honorable Body:

Bitcoin Mining is a new type of facility that has the potential to impact our community in an adverse way. Numerous concerns from residents, pending state legislation, and information from environmental organizations shows how crucial it is to place a moratorium on these energy intensive mining facilities. I am proposing we hold a public hearing to pass a local law for a 3-month moratorium on the processing, permitting and/or construction of bitcoin mining facilities & facilities that authenticate blockchain within the City of North Tonawanda to allow time for our city and the state to fully investigate the environmental impact in North Tonawanda.

I am recommending a public hearing on the submitted local law to take place on Tuesday August 31st at 6:30 pm in the Council Chambers so we may hear from all members on this topic. Per NYS Municipal Law, we must provide at least 7-days notice of the public hearing. We as a body can then decide on whether or not to place a moratorium on these types of facilities after we hear what is best for our community.

We as city leaders need to do our due diligence and represent the best interests of our residents and business owners

Respectfully,
Austin J. Tylec
Alderman-at-Large

MOVED by Alderman Tylec **SECONDED** by Alderman DiBernardo
That the Common Council hereby denies the public hearing to pass a Local Law
Establishing a Three-Month MORATORIUM on Bitcoin Mining Facilities and Facilities
that Authenticate Blockchain.

Ayes: Alderman DiBernardo, Tylec (2)

Nays: Alderman, Schmigel, Zadzilka, Pecoraro (3)

CARRIED.

III. Clerk-Treasurer

August 11, 2021

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

Re: East Hill Foundation Grants – 2022

Dear Honorable Body:

We have been advised that the grants for the 2022 year have been approved by the East Hill Foundation for area non-profit organizations, as required under their PILOT

agreement with the City of North Tonawanda. As you know, the grants must total \$50,000, per the agreement dated July 1, 2012. These payments represent year 10 (January 1, 2022 to December 31, 2022) pursuant to Section 3 of the Agreement. The 2022 grants and recipients are attached for your information.

Should you have any questions, please do not hesitate to contact me.

Sincerely,
Donna L. Braun
City Clerk-Treasurer

MOVED by Alderman Zadzilka **SECONDED** by Alderman Tylec
That the Common Council hereby receives and files the aforementioned communication from East Hill Foundation, subject to review by the City Attorney.
Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

IV.1 Engineer

August 4, 2021

Honorable Arthur G. Pappas, Mayor
And Common Council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120

**Re: Project 2019-03: North Tonawanda Bike Path Connection to the Empire State Trail
PIN 5763.51, Comptrollers Contract #D040338 – Acceptance of the Federal Aid Local Project Agreement**

Dear Honorable Body:

The New York State Department of Transportation (NYSDOT) has requested that the City of North Tonawanda (City) enter into a Federal Aid Local Project Agreement, which details the commitment of both agencies to participate in the administration and funding of the various phases of the Bike Path Connection to the Empire State Trail Project.

As such, I am requesting that the Council adopt a resolution that the City authorizes the Mayor to sign the enclosed Federal Aid Local Project Agreement with the NYSDOT for a total of \$482,500. This amount is both the Federal and non-Federal share of the cost of the above project's Construction/Construction Inspection phase. The City must commit to pay, in the first instance, 100% of the Federal and non-Federal share of the cost of this project's phase. The NYSDOT will then reimburse the City as the project is progressed. Please find the resolution attached.

Very truly yours,
Chelsea L. Spahr, P.E.
City Engineer

MOVED by Alderman DiBernardo **SECONDED** by Alderman Tylec
That the Common Council at a regular meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 p.m. on August 17, 2021, approves the Resolution Authorizing the Implementation, and funding in the First instance 100% of the Federal-Aid and State "Marchiselli" Program-aid eligible costs, of transportation Federal-Aid project, and appropriating funds therefore and it reads as follows:

WHEREAS, a Project for the City of North Tonawanda Bike Path Connection to the Empire State Trail, P.I.N. 5763.51 (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 Construction/Construction Inspection phases of the Project PIN 5763.51 which is estimated to be \$482,500

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

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

RESOLVED, that the City of North Tonawanda Common Council hereby authorizes the City of North Tonawanda to pay in the first instance 100% of the federal and non-federal share of the cost of the Construction/Construction Inspection phase of the work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$482,500 is hereby appropriated from expenditure line 001.3310.0481, Bike Path Extension DOT_Wilson_Greenway and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of North Tonawanda shall convene 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 Marshiselli 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

Subject to further review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)

Nays: None (0)

CARRIED.

IV.2 Engineer

August 4, 2021

**Honorable Arthur G. Pappas, Mayor
And Common Council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120**

**Re: Project 2019-03: North Tonawanda Bike Path Connection to the Empire
State Trail
PIN 5763.51, Comptrollers Contract #D040339 – Acceptance of the Federal
Aid Local Project Agreement**

Dear Honorable Body:

The New York State Department of Transportation (NYSDOT) has requested that the City of North Tonawanda (City) enter into a Federal Aid Local Project Agreement, which

details the commitment of both agencies to participate in the administration and funding of the various phases of the Bike Path Connection to the Empire State Trail Project.

As such, I am requesting that the Council adopt a resolution that the City authorizes the Mayor to sign the enclosed Federal Aid Local Project Agreement with the NYSDOT for a total of \$133,000. This amount is both the Federal and non-Federal share of the cost of the above project's Construction/Construction Inspection phase. The City must commit to pay, in the first instance, 100% of the Federal and non-Federal share of the cost of this project's phase. The NYSDOT will then reimburse the City as the project is progressed. Please find the resolution attached.

**Very truly yours,
Chelsea L. Spahr, P.E.
City Engineer**

**MOVED by Alderman DiBernardo SECONDED by Alderman Tylec
That the Common Council at a regular meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 p.m. on August 17, 2021, approves the Resolution Authorizing the Implementation, and funding in the First instance 100% of the Federal-Aid and State "Marchiselli" Program-aid eligible costs, of transportation Federal-Aid project, and appropriating funds therefore and it reads as follows:**

WHEREAS, a Project for the City of North Tonawanda Bike Path Connection to the Empire State Trail, P.I.N. 5763.51 (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 Construction/Construction Inspection phases of the Project PIN 5763.51 which is estimated to be \$133,000

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

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

RESOLVED, that the City of North Tonawanda Common Council hereby authorizes the City of North Tonawanda to pay in the first instance 100% of the federal and non-federal share of the cost of the Construction/Construction Inspection phase of the work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$133,000 is hereby appropriated from expenditure line 001.3310.0481, Bike Path Extension DOT_Wilson_Greenway and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of North Tonawanda shall convene 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 Marshiselli 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

Subject to further review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)

Nays: None (0)

CARRIED.

V. Supt. Water/Wastewater

August 12, 2021

Honorable Mayor Arthur G. Pappas
And Common Council
216 Payne Avenue / City Hall
North Tonawanda, NY 14120

**Re: Approval of Payment Applications for WWTP Phase 1 Upgrade Project
(EFC- Funding Disbursement #11 and #12)**

Honorable Body,

I respectfully request that you approve the following Pay Application for work performed under the WWTP Phase 1 Upgrade Contract. Wendel Engineering and I have reviewed and approve this work.

STC Construction Pay App #11	\$87,233.75
STC Construction Pay App #12	\$43,367.50
Frey Electric Pay App #11	\$58,772.23
Frey Electric Pay App #12	\$58,662.50

The city does not have to issue purchase orders for payment at this time. This work is being funded through a NY State WIIA Grant and NY State Environmental Finance Center (EFC) loan.

With your approval Rotella Grant Management will submit this request to the EFC on the city's behalf. The EFC will then send us the funds to pay these contractors. Thank you for your time and consideration of my request.

Sincerely,
Jason W. Koepsell
Supt. Water/Wastewater

MOVED by Alderman DiBernardo **SECONDED** by Alderman Schmigel
That the Common Council hereby approves the following Pay Applications for work performed under the WWTP Phase 1 Upgrade Project Contract:

STC Construction Pay App #11	\$87,233.75
STC Construction Pay App #12	\$43,367.50
Frey Electric Pay App #11	\$58,772.23
Frey Electric Pay App #12	\$58,662.50

Council also gives permission to Rotella Grant Management to submit this request to the NY State Environmental Finance Center ("EFC") on the City's behalf, subject to review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)

Nays: None (0)

CARRIED.

VII.1 Accountant

August 11, 2021

Honorable Arthur G. Pappas, 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 August 17th, 2021, 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 Pecoraro **SECONDED** by Alderman Zadzilka
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated August 17, 2021, and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$340,108.40
02	Water Fund	15,176.33
04	Sewer Fund	56,849.94
06	Capital Project Fund	110,659.13
07	Trust & Agency Fund	<u>3,726.23</u>
00	Final Total	<u>\$526,520.03</u>

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

VII.2 Accountant

August 4, 2021

Honorable Arthur G. Pappas, Mayor
And Common Council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 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 amendment of fiscal year 2021 appropriations, based on the request of the Department Head, copy attached.

<u>Dollar Amount</u>	<u>Decrease/Increase Account</u>	<u>Increase Appropriation Account</u>
\$30,865	001.9060.0807 Medical Insurance	001.1315.0481 Accounting – Independent Audit
	\$11,720	
	\$19,145	001.1315.0480 Accounting – Operations

08-17-2021

Reason: New Independent Auditor contract higher, as well as conversion of payroll software, and professional service rendered.

Warm regards,
Jeffrey Zellner
City Accountant

MOVED by Alderman DiBernardo SECONDED by Alderman Schmigel
That the Common Council hereby authorizes the City Accountant to make the following
Budgetary Transfer of fiscal year 2021 appropriations, based on the request of the
Department Head:

<u>Dollar Amount</u>	<u>Decrease/Increase Account</u>	<u>Increase Appropriation Account</u>
\$30,865	001.9060.0807 Medical Insurance	\$11,720
		001.1315.0481 Accounting – Independent Audit
		\$19,145
		001.1315.0480 Accounting - Operations

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

X. Police Chief

August 8, 2021

Honorable Arthur G. Pappas, Mayor
And Common Council Members
City Hall
North Tonawanda, NY 14120

Dear Honorable Body:

Would you please reappoint Dayle Truty, 1746 Sweeney St., North Tonawanda, NY 14120 as Commissioner of Deeds for the City of North Tonawanda beginning September 6, 2021 and ending September 5, 2023.

Would you please reappoint Daniel J. Wilczek, 2468 Osprey Lane, Niagara Falls, NY 14304 as Commissioner of Deeds for the City of North Tonawanda beginning September 18, 2021 and ending September 17, 2023.

Respectfully,
Thomas E. Krantz
Chief of Police

MOVED by Alderman DiBernardo SECONDED by Alderman Tylec
That the Common Council hereby approves the reappointment of Daryl E. Truty, 1746
Sweeney Street, North Tonawanda, as a Commissioner of Deeds for the City of North
Tonawanda, effective September 6, 2021 and expiring September 5, 2023 and Daniel J.
Wilczek, 2468 Osprey Lane, Niagara Falls as a Commissioner of Deeds for the City of
North Tonawanda effective September 18, 2021 and expiring September 17, 2023.

Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

XXV. Monthly Reports

.1 Senior Citizen Center .2 Clerk-Treasurer

MOVED by Alderman Pecoraro SECONDED by Alderman DiBernardo
That the Common Council hereby receives and files the aforementioned Monthly Reports
Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Niagara Frontier Boat Racing

August 6, 2021

City of North Tonawanda
Honorable Mayor Arthur G. Pappas
216 Payne Avenue
North Tonawanda, NY 14120

Dear Mayor Pappas,

I hope this letter finds you and your family well. It's hard to believe that we've missed two years at Gratwick. It has been quite a challenge not only for our local communities but the entire world. Hopefully we can get back to somewhat normal lives.

On that note, I am once again asking for the use of Gratwick Riverside Park to conduct our Thunder on the Niagara. We are requesting Saturday and Sunday August sixth and seventh 2022. We plan on setting up of the park on Friday morning August fifth. Fireworks again on Saturday evening. We will have all the fencing removed and park back to normal by noon on Monday August eighth.

I'd also request that the boat launch ramps be closed from noon on Friday till 8pm Sunday.

I'd like to schedule a meeting with your department heads to review the city permits and address any other concerns that they may have. I'd like to meet with them as soon as possible so that I can address any issues. With an event of this size we need at least a year in advance to properly plan.

Thank you,
Gary Roesch

MOVED by Alderman Schmigel SECONDED by Alderman DiBernardo
That the Common Council hereby grants permission to the Niagara Frontier Boat Racing Association to hold their Annual Thunder on the Niagara August 6th and August 7th, 2022. Items other than dates needed for said event are contingent on the Department Heads and the City Attorney approvals.
Ayes: Alderman Schmigel, DiBernardo, Zadzilka, Tylec, Pecoraro (5)
Nays: None (0)
CARRIED.

AUDIENCE PARTICIPATION:

Mark Swogier, 346 Goundry Street - Polkas in the Park was cancelled and is rescheduled for August 27th at 5:30 pm. And thanked the council for their help with the event.

ADJOURNMENT

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

Time of Adjournment: 9:30 P.M.

Respectfully submitted,



**Donna L. Braun
City Clerk-Treasurer**