THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, May 16, 2023
6:30 P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT DIBERNARDO

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:	**President DiBernardo** **Alderman Schmigel, Lavey, Loncar, Marranca**
Absent:	**None**
Also Present:	**Mayor Austin J. Tylec** **City Attorney Edward Zebulske III**

AUDIENCE PARTICIPATION

Tom Maziarz, 174 Goundry Street – Had questions on the Gateway Harbor Contract.

Darleen Bolsover, 1337 Sweeney Street – Had questions on the City Code change to Chapter 76 Sidewalks

---

APPROVAL OF THE MINUTES OF THE REGULAR SESSION MAY 2, 2023

MOVED by Alderman Schmigel SECONDED by Alderman Marranca
That the minutes of the regular meeting held May 2, 2023 be approved as circulated and filed in the office of the City Clerk.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

PROOF OF PUBLICATION PUBLISHED 4/29/2023

1) **Legal Notice – Public Hearing for the Rezoning of 475 Division Street from a C2 to C1 – Clerk-Treasurer**

2) **Legal Notice – Estoppel Notice for the 2023 Serial Capital Bond – Clerk-Treasurer**

PROOF OF PUBLICATION PUBLISHED 5/2/2023

1) **Legal Notice – Completion of the 2023 Tentative Assessment Roll – City Assessor**

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

COMMUNICATIONS FROM CITY OFFICIALS

#1. Michelle Bernas

May 1, 2023

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

Council,

This morning, I am writing this email to let you know of my resignation as a North Tonawanda Planning Commission Member. While I was honored to be asked and was looking forward to learning and contributing in any way I could, I was regretfully mistaken about the amount of available time I would have on my personal calendar. Thank you for the opportunity.

Michelle Bernas

MOVED by Alderman Marranca SECONDED by Alderman Loncar
That the Common Council hereby receives and files the letter of resignation from Michelle Bernas from the Planning Commission.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

II.1 Attorney

May 8, 2023

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

Re: Abandoned Alley – 38 Manhattan Street

Dear Honorable Body:

The owners of the property at 38 Manhattan Street are preparing to sell their property. As a part of the paperwork involved in the sale, it has come to their attention that a small portion of the land footprint (10' by 29' at the back) was omitted from their deed and is still listed as belonging to the City of North Tonawanda. Attached is a map indicating the portion of the property in question.

Should your Honorable Body concur, please pass a resolution to add this 10-ft. piece of property to their deed for 38 Manhattan Street, in order to correct this omission and to facilitate the sale of property, subject to further review by the City Attorney.

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

MOVED by Alderman Lavey SECONDED by Alderman Schmigel
That the Common Council hereby approves the abandoned alley (10' by 29' at the back) of 38 Manhattan Street be added to their deed.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

II.2 Attorney

April 19, 2023

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

Re: Proposed Amendment to the North Tonawanda City Code
Re: Chapter 76-7 and 76-8; Maintenance of Sidewalks

Dear Honorable Body:

Below for your consideration is a proposed amendment to the North Tonawanda City Code, Section 76-7 Maintenance of Sidewalks and the elimination of Section 76-8 which will then be redundant. This modification is recommended as a result of changing case law relative to injuries on sidewalks and appears below:

76-7 SIDEWALKS TO BE KEPT CLEAN AND IN GOOD REPAIR

Each owner of any premises fronting or abutting on any street shall repair, keep safe and maintain all public sidewalks abutting the premises, including but not limited to keeping all improved portions thereof – whether made of stone, asphalt concrete, brick or another type of paver, or any combination of same – free and clear of snow, ice, dirt, refuse, obstruction or other hazard. Any such owner shall be liable for any injury or damage by reason of omission or failure to repair, keep safe and maintain such sidewalk, or negligence in performing those functions.

76-8 (Omitted)

If your Honorable Body concurs, please pass a resolution to amend the North Tonawanda City Code, Section 76-7 Maintenance of Sidewalks and a resolution removing 76-8 – Snow and Ice Removal.

Thank you for your consideration in this matter.

Very truly yours,
Edward A. Zebulske III
City Attorney

MOVED by Alderman Loncar SECONDED by Alderman Lavey
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 May 16th, 2023 approved the City Code change for Chapter 76 Sidewalks Section 76-7 and Section 76-8 to read as follows:

76-7 SIDEWALKS TO BE KEPT CLEAN AND IN GOOD REPAIR

Each owner of any premises fronting or abutting on any street shall repair, keep safe and maintain all public sidewalks abutting the premises, including but not limited to keeping all improved portions thereof – whether made of stone, asphalt concrete, brick or another type of paver, or any combination of same – free and clear of snow, ice, dirt, refuse, obstruction or other hazard. Any such owner shall be liable for any injury or damage by reason of omission or failure to repair, keep safe and maintain such sidewalk, or negligence in performing those functions.

76-8 (Omitted)

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

III.1 Clerk-Treasurer

May 5, 2023

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

Dear Honorable Mayor and Common Council:

Please be advised that I have received payment in full for back City, School and County Taxes, per their agreement with the City, for the following parcels:

185.07-3-1	**77 Division Street**	**Gary Wingrove**
185.31-2-53	**25 Payne Avenue**	**Diane Woods**

Therefore, please pass the necessary resolution withdrawing this parcel from the appropriate In Rem foreclosure proceeding.

Thank you for your cooperation.

Very truly yours,
Denise Proefrock
Assistant City Treasurer

MOVED by Alderman Marranca SECONDED by Alderman Loncar
That the Common Council hereby approves the removal of the following parcels:

185.07-3-1	**77 Division Street**	**Gary Wingrove**
185.31-2-53	**25 Payne Avenue**	**Diane Woods**

From the appropriate In Rem foreclosure proceeding for payment in full of City, School and County Taxes.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

III.2 Clerk-Treasurer

May 5, 2023

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

Re: Naming of Gratwick Riverside Park Shelter #2

Dear Common Council,

Gratwick Riverside Park is a 53 Acre Park situated along the eastern shore of the Niagara River in North Tonawanda. From 1938 until 1968 this site was used as a landfill for both municipal and industrial waste. The landfill was closed in 1968, at this time it was graded, covered, and seeded and opened as a park in 1969.

In the late 1980's the New York State Department of Environmental Conservation began the process of having the site remediated from the hazardous materials that were landfilled there. In 1991, with the original Record of Decision from the NYSDEC, the site was to have a clay prismatic cap, a sheet pile breakwater wall along the entire shoreline, along with a dedicated treatment facility on site with carbon columns to treat the groundwater which would have had a cost of approximately $20 million. This decision would have made

the land unusable, would not be able to use the land as a park and most importantly the view of the river would be eliminated on this 53-arce piece of land.

The City of North Tonawanda Hired Dale Marshall in 1990 as their City Engineer. Dale became instrumental in getting this plan revised to benefit the citizens of North Tonawanda. Dale's vision and persistence had the remedial plan changed to allow the site to be flattened, installing a clay barrier wall along the river, a groundwater collection trench and pump station to pump groundwater to the city's existing wastewater treatment plant with carbon columns to be treated and a permeable soil cap. With these changes, this cut the costs to $7 million, allowing the city to utilize our existing wastewater treatment plant for groundwater treatment and eliminating the need for a treatment facility solely for the Gratwick Site. This allowed Gratwick to remain a park and maintain the view of the Niagara River.

The remediation for the site was completed in 2001 and re-opened as Gratwick Riverside Park as you see today. Without the vision and the determination that Dale Marshall had for this site we would not have this beautiful park along the Niagara River for citizens to enjoy today and in the future.

Rob DePaulo and I are recommending that the North Tonawanda Common Council approve naming the newest Park Shelter "Dale Marshall Park Pavilion" in honor of his vision in transforming this area into our beautiful Gratwick Riverside Park. A dedication day will be announced in the near future.

Sincerely,
Donna L. Braun
City Clerk-Treasurer

MOVED by Alderman Schmigel SECONDED by Alderman DiBernardo
That the Common Council hereby approves of the naming of the newly constructed park shelter #2 at Gratwick Riverside Park to be named "Dale Marshall Park Pavilion".
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

III.3 Clerk-Treasurer

May 10, 2023

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

Re: Re-Zoning – 475 Division Street

Dear Honorable Body,

I respectfully request your decision on the proposed re-zoning of the newly sub-divided portion of 475 Division Street presented by owner Frank Budwey. The owner has petitioned the Council to change the new parcel from its present C-2 zoning to C-1 zoning, to allow the new parcel to be merged with the adjacent C-1 parcel known as 82 Mead Street. A public hearing was held on 5/9/23 and Planning Commission approval was granted on 4/3/2023.

The Building Inspector has reviewed and recommended this change.

Sincerely,
Donna L. Braun
City Clerk-Treasurer

MOVED by Alderman Lavey SECONDED by Alderman Marranca
That the Common Council hereby approves the newly sub-divided portion of 475 Division Street from a C-2 to a C-1 to be able to merge with 82 Mead Street.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

IV.1 Engineer

May 9, 2023

Honorable Austin J. Tylec, Mayor
And Common Council Members
City Hall
North Tonawanda, NY 14120

Re: 2022 Draft Annual Stormwater Report

Honorable Body:

The City of North Tonawanda, in partnership with Western New York Stormwater Coalition, would like to invite the public to review and comment on its draft 2022 Annual Stormwater Report in an effort to increase public awareness and encourage involvement with stormwater pollution prevention.

The Western New York Stormwater Coalition is a group consisting of representatives from Erie County, Niagara County, thirty-nine regulated municipalities and environmental consultants. The members meet on a bi-monthly basis to collaborate on shared projects that support their stormwater management programs.

The draft annual report highlights the best management practices that the City of North Tonawanda has implemented in its efforts to prevent pollutants from entering municipal storm sewer systems and local waterways. The draft annual report is available for review and comment in the City Engineer's Office, Room 9 on the second floor, City Hall, 216 Payne Avenue. A copy of the report is also available online at www.northtonawanda.org under the Stormwater Management Program heading. For more information, contact Chelsea L. Spahr, P.E. at (716)695-8565.

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

MOVED by Alderman Schmigel SECONDED by Alderman Marranca
That the Common Council hereby receives and files the 2022 Draft Annual Stormwater Report from the City Engineer.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

IV.2 Engineer

May 9, 2023

Honorable Austin J. Tylec, Mayor
And Common Council Members
City Hall
North Tonawanda, NY 14120

Re: North Tonawanda Stormwater Program Assistance Agreement

Honorable Body:

As part of the city's commitment as a member of the Western New York Stormwater Coalition beginning in 2010, the city has implemented a vigorous stormwater program to bring the city in compliance with the new stormwater regulations and requirements of the Federal and State Government with the assistance of Jaime M. Davidson, P.E.

The tasks of the consultant are to attend WNYSC Meetings, to prepare the annual stormwater report for submission to NYSDEC, to inspect and report on all City storm water detention facilities and stormwater management units, to assist the DPW in the annual inspection of the City's storm sewer outfalls to the Niagara River, and Tonawanda and Sawyer Creeks respectively, and to assist the City with SWPPP reviews and inspections. Additional tasks the consultant could help the City with are to update and revise the City's SWMP Plan, additional public education and outreach, illicit discharge detention and elimination, post construction stormwater management, and to coordinate and develop a pollution prevention/good housekeeping program for all municipal operations that includes, public works, water, wastewater and recreation departments and to ensure their compliance. These additional tasks are very important to stay in compliance and should be incorporated in the 2024 budget.

Accordingly, I respectfully request the Common Council approve the enclosed 2023 North Tonawanda Stormwater Program Assistance Agreement with JM Davidson Engineering, D.P.C., 935 Sheridan Drive, Suite 120, Tonawanda, NY 14150 in an amount not to exceed $8,250; authorizing the Mayor to sign said agreement subject to the review by the City Attorney.

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

MOVED by Alderman Marranca SECONDED by Alderman Loncar
That the Common Council hereby approves the enclosed 2023 North Tonawanda Stormwater Program Assistance Agreement with JM Davidson Engineering, D.P.C., 935 Sheridan Drive, Suite 120, Tonawanda, NY 14150 in an amount not to exceed $8,250; and directs the Mayor to sign said agreement.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

VII. Accountant

May 11, 2023

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 May 16th, 2023, 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 Lavey SECONDED by Alderman Marranca
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated May 16th, 2023, and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	$278,217.58
02	Water Fund	$31,332.33
04	Sewer Fund	$45,244.12
06	Capital Project Fund	$352,308.14
07	Trust & Agency Fund	$972.00
00	Final Total	$708,074.17

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

XIV. Dir. Youth, Recreation, Parks & Seniors

April 27, 2023

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

We are seeking approval of the amended agreement with Tonawandas Gateway Harbor Inc. The amendments will bring the agreement up to date, including removing verbiage that is no longer applicable and bringing policies and expectations up to date.

The Tonawandas Gateway Harbor is a not-for-profit board initially created by the City's of the Tonawandas for the purpose of promoting economic growth, tourism, recreation and cultural and historic heritage through use of Gateway Harbor Park. Their work provides great recreational opportunities for our community and draws thousands of people to the downtown district promoting economic growth to the downtown merchants as well as increasing our City's docking revenue during their events.

Respectfully submitted,
Alex Domaradzki
Dir. Youth, Recreation, Parks & Seniors

MOVED by Alderman Lavey SECONDED by Alderman DiBernardo
That the Common Council hereby approves the amended contract agreement with Tonawanda Gateway Harbor and the City of North Tonawanda.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

XIX. Building Inspector

May 1, 2023

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

Honorable Council,

I humbly ask the Common Council to approve Tolsma Landscaping Services, 4196 Sheridan Drive, Williamsville, NY 14221. To act on the city's behalf and abate grass and weed violations on private property during the 2023 growing season.

Tolsma Landscaping meets all the requirements published in our bid request.

Thank you for your attention in this matter.

Respectfully,
Robert DePaolo
Building Inspector

MOVED by Alderman Schmigel SECONDED by Alderman Lavey
That the Common Council hereby approves of Tolsma Landscaping Services, 4196 Sheridan Dr. Williamsville, NY 14221, for the Weed and Grass Cut contract for the City of North Tonawanda, for the 2023 Season.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

XXV. Monthly Reports

.1 Senior Citizen Center .2 Clerk-Treasurer .3 Police Department

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

COMMUNICATIONS FROM OTHERS

A.
United Veterans' Council of the Tonawandas

April 26, 2023

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

Honorable Council,

On Sunday, May 28, 2023, the United Veterans' Council would like to hold our Memorial Day service on the Renaissance Bridge. The service will start at 12 noon and will be over by 12:30. We are requesting that traffic to the bridge be closed at 11:30am and reopen at 12:45pm.

We would like Mayor Tylec to introduce City Officials in attendance and give a short speech.

The Veterans' Council after much discussion has decided to cancel the parade for lack of marching units and poor attendance along the parade route.

In Service to America,
Paul Pietrowski
President

MOVED by Alderman Marranca SECONDED by Alderman DiBernardo
That the Common Council hereby approves the closing of the Renaissance Bridge on Sunday May 28, 2023 from 11:30AM to 12:45PM for the annual Memorial Day Observance Service by the Tonawanda's United Veterans Council, directing the DPW to provide barricades for said event and the Police Department to assist with traffic.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)

Nays: None **(0)**
CARRIED.

B.
Columbia Hook & Ladder Co.

May 9, 2023

Hon. Mayor Tylec
And Common Council
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120

Dear Council and Mayor:

The members of Columbia Hook & Ladder Co. No.1 sadly request removal from the Volunteer Fire Roll the name of:

Thomas L. Pendleton

Brother Firefighter Tom Pendleton joined Columbia Hook & Ladder on August 5, 1953, and faithfully served in the volunteer fire service 69 years, 8 months, 22 days until he passed away on April 27th, 2023.

Respectfully,
David L. Evans
Recording Secretary

MOVED by Alderman Lavey SECONDED by Alderman Loncar
That the Common Council hereby approves the removal of Thomas L. Pendleton from the North Tonawanda Fire Rolls.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo **(5)**
Nays: None **(0)**
CARRIED.

C.
Richard Andres

May 2, 2023

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

Dear NT Common Council,

Once again, I am requesting your permission to hold the 4th of July Kids Parade. This has become an annual tradition in North Tonawanda and has drawn many families to two of the jewels of North Tonawanda, Pinewoods Park and the Hershel Carousell Museum. We are requesting we post no parking signs on Thompson Street from Niagara to Vandervoort and have the auxiliary police escort the parade and block traffic at all relevant intersections. We are also looking to have access to Pinewoods Park as a staging area. The parade will begin at 10 AM on July 4th.

Thank you for your consideration of this matter.

Sincerely,
Richard Andres
Niagara County Legislator

MOVED by Alderman Schmigel SECONDED by Alderman Marranca
That the Common Council hereby grants permission to close Thompson Street from Pine Woods Park to the Carousell Museum from 9:45am until 11am on July 4th, for the Children's Parade, and directs the Police Auxiliary to assist with said event.
Ayes: Alderman Schmigel, Lavey, Loncar, Marranca, DiBernardo (5)
Nays: None (0)
CARRIED.

AUDIENCE PARTICIPATION - None

ADJOURNMENT

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

Time of Adjournment: 7:12 P.M.

Respectfully submitted,

Donna L. Braun

Donna L. Braun
City Clerk-Treasurer