

**THE HONORABLE BODY**  
**Council Chambers**  
**Municipal Building**  
**North Tonawanda, New York 14120**  
**Tuesday, December 5, 2023**  
**6:30 P.M.**

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

**PLEDGE OF ALLEGIANCE**

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**ROLL CALL**

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

**Absent: None**

**Also Present: Mayor Austin J. Tylec**  
**Edward Zebulske, III**

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**AUDIENCE PARTICIPATION**

**Sonia Dusza, 123 Miller Street** – Is concerned about getting information out about Public Hearings to the public, and liked that the city is forming a Fire Advisory Committee.

**Karl Bauer, 278 River Road** – Commended the Council on forming the Fire Advisory Committee but did not agree with the veto of the HR Consultants.

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**APPROVAL OF THE MINUTES OF THE REGULAR SESSION NOVEMBER 21, 2023**

**MOVED** by Alderman Marranta                    **SECONDED** by Alderman Loncar  
**That the minutes of the regular session held November 21, 2023 be approved as circulated and filed in the office of the City Clerk.**

**Ayes: Alderman Schmigel, Lavey, Loncar, Marranta, DiBernardo** (5)

**Nays: None** (0)

**CARRIED.**

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**PROOF OF PUBLICATION PUBLISHED 11/18/2023**

- 1) **Legal Notice – Public Hearing to Discuss the City’s Economic Development Programs and the submission of an application to the NYS Office of Community Renewal’s Program – Dir. Community Development**

**PROOF OF PUBLICATION PUBLISHED 11/25/2023**

- 1) **Legal Notice – Public Hearing to discuss the Erie Canal Bicycle Path Extension Project – Dir. Community Development**

**MOVED** by Alderman Schmigel                    **SECONDED** by Alderman Lavey  
**That the Common Council hereby receives and files the aforementioned Proof of Publications.**

**Ayes: Alderman Schmigel, Lavey, Loncar, Marranta, DiBernardo** (5)

**Nays: None** (0)

**CARRIED.**

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I. Mayor

November 21, 2023

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

Re: Mayoral Veto of Council Amendment #4 to 2024 Budget

Dear Honorable Body,

At a Special Session of the North Tonawanda Common Council held in the Council Chambers at 6pm on Tuesday, November 14<sup>th</sup>, 2023 your Honorable Body passed several Amendments and a 6.5% Tax Increase for the 2024 Budget.

1. In accordance with the mayor's authority under Section 2.023 of our City Charter, I wish to exercise my veto on the Council's Approved 2024 Budget Amendment #4 to remove \$30,000 for Human Resource Services (001.1430.0410), and furthermore recommend modifying our projected 2024 Sales Tax Revenue Line from \$10,400,000 to \$10,430,000

Last year, my office and the City Attorney recommended funding a Full-Time Human Resource Position for the 2023 fiscal year to ensure we comply with all mandatory State, Federal, and Local Employment Laws/Policies related to the hundreds of City Employees. Upon the Common Council's decision, that proposed funding was cut in half (40,000) for 2023 and recommended we hire an outside HR Specialist on a monthly retainer as a trial, which began halfway through this year. With their services the last 6-months we uncovered and began rectifying several compliance issues including gaps in annual Sexual Harassment Training, no Sexual Harassment Policy, no Infectious Disease Policy, no Lactation Accommodation Notice, COBRA Initial Rights Notices, Employee Notice Posting, and more. In addition, this Human Resource Company is finalizing an extensive Employee Handbook we never had in place, assisted in employee disputes as a third-party agency, and continues to assist with various HR items no one in City Hall has the expertise with.

While we have uncovered areas on non-compliance within the City, and rectified many of them, there are still many areas where the City requires assistance to bring departments and policies into compliance to avoid legal liability, potential fines, and penalties. The City's contracts are silent on many of the basic laws, requirements and regulations which leave the City open to litigation, claims and liability that could exceed the HR expenses of \$30,000.

With respect to this expense, modifying our projected 2024 Sales Tax Revenue Line from \$10,400,000 to \$10,430,000 wouldn't require any changes to the proposed tax increase and remains a conservative assumption for projected revenue as the city has historically experienced annual increases in our sales tax revenue from the prior year.

As City Officials, it is our responsibility to have the best interest in our day-to-day operations, our employees' rights, and to protect the City from potential liability. However, the Common Council has sole authority to provide the funds necessary for us to do our jobs.

Defunding a Human Resource Service will leave us susceptible to compliance issues, and my office will hold the Common Council accountable for negligence if these funds are cut and Stat/Federal Policy mandates go unmet.

Based upon the reasons set forth above, I hereby veto the proposed Amendment #4 with respect to modifying our sales tax revenue, and do not approve same as presented by the Common Council.

Thank you for your consideration.

12-05-2023

Respectfully,  
Austin Tylec  
Mayor

**MOVED by Alderman Lavey                      SECONDED by Alderman Loncar**  
**That the Common Council hereby overrides the Mayor's Veto of the following item:**

**Veto #4 Remove the Human Resource 001.1430.0410                      \$30,000**

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

**II. Attorney**

**November 29, 2023**

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

**Re: Proposed Local Law No.2 for 2023 – Establishing Sewer Rates for 2024 and  
Thereafter**

**Dear Honorable Body:**

**Attached, for your consideration, is the proposed Local Law No.2, establishing new sewer rates for 2024 and thereafter for the City of North Tonawanda. The "aging" requirement has been met, and a Public Hearing was held on October 24, 2023.**

**Should your Honorable Body concur, please pass a resolution to adopt Local Law No.2 at this time, so as to move the process forward under General Municipal Home Rule Law §20(4). Should you have any questions, please do not hesitate to contact me.**

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

**MOVED by Alderman Marranta                      SECONDED by Alderman Schmigel**  
**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 December 5, 2023 approves the Resolution for Local Law No.2 of 2023 -A Local Law of the City of North Tonawanda, New York to Establish Sewer Rates for 2024 and Thereafter and reads as follows:**

**LOCAL LAW NO.2 FOR 2023**  
**ESTABLISHING SEWER RATES FOR 2024 AND THEREAFTER**

**Section 75-15 Establishment of Rates**

- a) The sewer rent for 2024 and thereafter is established according to a formula wherein the Capital costs for such sanitary sewer system are recovered one hundred percent (100%) from water consumption through the sewer fund, and the costs of operation and maintenance of the sewage treatment system are recovered one hundred percent (100%) from water consumption through the sewer fund.
- b) Billing Schedule, additional charges.
  1. A minimum charge of fifteen dollars (\$15.00) per quarter is established and the gallons of consumption used associated with minimum will be zero.
  2. The sewer rent rate for 2024 and thereafter for a meter consumption shall be five dollars (\$5.00) per thousand gallons of water consumption and shall be assessed and collected in conformance with the following schedule:

Billing Month

June  
September  
December  
March

- c) A ten percent (10%) surcharge shall be placed on all sewer rent account balances that are due in September and remain unpaid by mid-November of each year and shall be levied on the subsequent year real property tax bill.
- d) Multi-dwelling unit homes and apartments that have only one master water meter would be subject to the existing \$15.00 minimum sewer charge and would receive an additional minimum sewer charge of \$15.00 for each additional dwelling unit which does not have a water meter.

**Section 2.** This Local Law shall take effect immediately upon filing with the Secretary of State and Shall apply to the March 2024 billing and all billings until otherwise amended.

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

**IV. Engineer**

November 29, 2023

**Honorable Austin J. Tylec  
 And Common Council  
 City Hall / 216 Payne Avenue  
 North Tonawanda, NY 14120**

**Re: PIN 5760.75 – Great Lakes Seaway Trail Niagara River Waterfront  
 Multi-Use Trail – Connection in Gratwick Riverside Park**

**Dear Honorable Body:**

**The New York State Department of Transportation (NYSDOT) has requested that the City of North Tonawanda, (City) allow for a temporary easement within Gratwick Riverside Park to allow construction of a connection of their Great Lakes Seaway Trail, which will run through Wheatfield along River Road, to our existing bike trail.**

**As such I am requesting that the Council adopt a resolution that would ratify the agreement and designate the Mayor to execute closing papers on the City's behalf. Please find the affidavit of title and resolution attached.**

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

**MOVED by Alderman Schmigel                      SECONDED by Alderman Lavey  
 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 December 5, 2023 approves the Resolution for the Governing Body of the City of North Tonawanda Ratifying an Agreement of Adjustment and Release of Owner and Closing Papers on behalf of the City of North Tonawanda and it reads as follows:**

**RESOLUTION OF THE GOVERNING BODY OF THE  
 City of North Tonawanda  
 RATIFYING AN AGREEMENT OF ADJUSTMENT AND RELEASE OF OWNER  
 AND**

**AUTHORIZING Austin J. Tylec TO EXECUTE CLOSING PAPERS ON BEHALF OF  
the City of North Tonawanda**

**WHEREAS**, the State of New York has taken or is in the process of taking a portion of the land owned by the **City of North Tonawanda** through the process of eminent domain for the purpose of **constructing a multi-use trail along NY Route 265/384 (River Road) in the Town of Wheatfield and City of North Tonawanda, County of Niagara;**

**WHEREAS**, the State has offered to pay the **City of North Tonawanda** the sum of **One Dollar, Payment of which is Waived (\$1.00/PW)** for a portion of the **City of North Tonawanda's** property along **River Road (NY route 265/384)** as depicted on **Map 92**, as **Parcels 100 TE and 101 TE;**

**WHEREAS**, an agreement to accept said **\$1.00/PW** (an Agreement of Adjustment and Release of Owner) has been signed on behalf of the **City of North Tonawanda** by **Austin J. Tylec**

**WHEREAS**, the Common Council of the **City of North Tonawanda** is the governing body of the **City of North Tonawanda;** and

**WHEREAS**, the Common Council is meeting on this 5<sup>th</sup> day of December, 2023 after proper notice to consider this matter; and

**WHEREAS**, the **City of North Tonawanda** wishes to ratify the Agreement of Adjustment and Release of Owner and to appoint **Austin J. Tylec** as **Mayor** as the person to execute closing papers on behalf of the **City of North Tonawanda;**

**IT IS, UPON MOTION DULY MADE AND SECONDED,  
RESOLVED THIS 5<sup>TH</sup> DAY OF DECEMBER, 2023**

**THAT**, the Agreement of Adjustment and Release of Owner is hereby accepted and ratified;

**THAT**, **Austin J. Tylec** is hereby designated as the person to execute any and all closing papers with regard to this transfer to the State of New York.

**Certification of the Secretary of the Common Council of the City of North Tonawanda**

The undersigned Secretary of the Common Council hereby certifies that the foregoing resolution was made, seconded and approved by vote of the Common Council at a meeting held at 216 Payne Avenue, North Tonawanda, NY 14120 on the 5<sup>th</sup> day of December, 2023.

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

**VII. Accountant**

**November 30, 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 December 5<sup>th</sup>, 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 December 5<sup>th</sup>, 2023 and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$321,649.88
02	Water Fund	\$38,306.53
04	Sewer Fund	\$263,074.39
06	Capital Project Fund	\$48,367.14
07	Trust & Agency Fund	<u>\$57,279.43</u>
00	Final Total	<u>\$728,677.37</u>

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

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#### XVII. Traffic Safety

November 20, 2023

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

#### Traffic Safety Minutes:

The November 2023 meeting of the North Tonawanda Traffic Safety Committee was called to order at 1815 Hours. Roll call showed the following members present: R. Frank, J. Sikora, M. Lemke, A. DiBernardo, D. Grinnell, R. Brennan, N. Ferguson. The minutes from the previous meeting were read and accepted, the following new concerns/requests were discussed, and recommendations made.

1. In October, Jeffrey Swick requested that we look at changing the city ordinance so that motor homes can't park in the street for multiple days. Swick recommends a law that states: "No motor home or RV may be parked on any city owned street or city owned parking lot or city park for more than three days without written permission from the Mayor's Office". The committee forwarded this to the City Attorney's Office (Nick Robinson), who advised the committee to submit this proposal to the Common Council.
2. Member Meisenburg received a request for "No Parking" signs on one side of the street at the dead end of Leonhardt Street. There was a problem with fire trucks and DPW garbage trucks getting to the dead end. Member Meisenburg, Sikora and Frank spoke with the neighbors towards the dead end and came up with a compromise to what side of the street would be posted "No Parking". The south side of Leonhardt Street was posted "No Parking" for safety reasons.
3. Member Sikora received a request from James Hart (NT School Grounds Supervisor) to have the crosswalk on Courtside Drive (Spruce School) line up with sidewalk on the other side of the street. Sikora, Meisenburg and Frank met with Hart. Meisenburg added crosswalk signs for the time being and will build a

sidewalk cutout on the south side of Courtside drive in the spring. This change in the spring will make the crosswalk and signs line up properly.

4. Councilman Joseph Lavey received a request from Ron Laraba to look at placing "No Parking" signs on one side of Old Falls Boulevard between Lockport Avenue and Niagara Falls Boulevard. The committee spoke with some neighbors who informed us that part of the problem may stem from a house that was recently getting their driveway poured so now the vehicles from that house have been parking in the street. This street is narrow just as most are in the city, so there are times you have to wait to pass a vehicle if two vehicles are parked across from each other. The fire department stated that they have had no issues getting down the street. Placing these signs on one side of the street would cause some neighborhood problems as not everyone would agree on what side of the street to place them on, usually we place them on the fire hydrant side. There have been no recent accidents. The committee has agreed to leave this street the way it is and monitor it.
5. The Clerk's Office received a request from 661 Oliver Street for a terrace parking permit. This permit was issued in 2022. The committee grants the permit long as the vehicles are not parked on the sidewalk.
6. Member Lemke received a request for a four way stop at Thompson Street and Main Street due to a recent car accident. The committee monitored this in the past and found that having a four way stop caused vehicles to back up into River Road. The committee has talked to Joyce Santiago (Mayor's Office) about this issue, and she has inquired about placing this intersection into a grant revitalization project in 2024/2025. The committee believes that the safest thing to do right now is to make this a four-way stop with stop signs. The committee is looking for approval from the Common Council.
7. Kevin Hodgson requested more patrols in the area of Erie Avenue and Walck Road for vehicles going through the red lights. Member Frank has advised the traffic officer to monitor this intersection.
8. The Clerk's Office received a request from 268 Shartle Place for a terrace parking permit. The committee checked the residence to find that the terrace is grass. The residence has a driveway and a small side yard. The committee does not believe this is a hardship and therefore the terrace parking permit is denied.
9. Member Frank received a request to put up more "20 MPH" signs around Ohio School. Member Meisenburg installed more signs. There was also a speeding complaint regarding some of the teachers and parents around Ohio School. These drivers in question were advised to slow down by the traffic officer, who will continue to monitor the school zones.
10. NT School Superintendent Woytila requested "Pedestrian Crosswalk" signs at Drake Drive and Warner Avenue due to the parents and children crossing the street to go to Drake School. Member Sikora and Frank monitored the Drake School zone areas. Member Meisenburg will add some better signage around the Drake School to make it safer for the parents and children.
11. Chris Duck requested that the "School Zone" flashing lights be put back up on Nash Road near the North Tonawanda Intermediate School. The committee agrees that the flashing lights help, although the expense for this is not in the budget this year. Member Meisenburg will look at this request again in 2024.
12. Janet Wilhelm requested "Slow" signs on Ganson Street to help with the speeding vehicles. Wilhelm states that there are a lot of children in the area. The committee believes that there are a lot of children on numerous streets, therefore the committee designates these types of signs for schools, parks, playgrounds, and daycares. This request has been denied. The traffic officer has been advised to monitor Ganson Street for speeding vehicles.





estimated that the 2024 Microenterprise assistance program would assist 8 businesses and the creation of 20 new employment positions.

The attached resolution would authorize the City to submit a grant application not to exceed \$300,000; would authorize the Mayor, pending review by the City Attorney, to execute all documents with OCR related to the CDBG program; and would further designate the Mayor as Certifying Officer responsible for the federal environmental review process related to the project.

I respectfully request this Honorable Body consider approving the attached resolution.

Kindest regards,  
 Laura Wilson  
 Dir. Community Development

**MOVED** by Alderman Marranca      **SECONDED** by Alderman Lavey  
 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 December 5, 2023 approves the Resolution for Authorization to submit a Grant Application to the New York State Office of Community Renewal for Block Grant Funding and reads as follows:

**AUTHORIZATION TO SUBMIT A GRANT APPLICATION TO THE NEW YORK STATE OFFICE OF COMMUNITY RENEWAL FOR BLOCK GRANT FUNDING**

**WHEREAS**, the City of North Tonawanda is seeking \$300,000 in funding for the Community Development Block Grant (CDBG) Microenterprise Assistance Program from the New York State Office of Community Renewal (OCR)

**WHEREAS**, the Microenterprise Assistance program provides grants up to \$35,000 for qualifying businesses located within the City of North Tonawanda

**WHEREAS**, the CDBG Microenterprise program will meet the CDBG National Objective of assisting low-to-moderate income individuals through job creation

**WHEREAS**, Lumber City Development Corporation (the "LCDC") is assisting in the facilitation of the Project And grant administration activities, and has requested that the City provide the OCR funding to the LCDC for the purpose of making grants to microenterprise businesses.

**WHEREAS**, the Project will result in substantial benefit to the City in form of an estimated 20 new full-time equivalent employment positions, assistance to 8 local businesses, and

**WHEREAS**, the City has held a public hearing to obtain citizens' views regarding the CDBG program as administered by OCR and the Project

**NOW THEREFORE BE IT RESOLVED**, that the Mayor is hereby authorized to submit a grant application on behalf of the City of North Tonawanda in the approximate amount of \$300,000 to the OCR to support the Project, and be it further

**RESOLVED**, that the Mayor is hereby authorized to execute a grant agreement between the City and the OCR and all related documents associated with the OCR grant, including entering into a grant agreement with the LCDC for the implementation of the Project and administration of the OCR grant, all such documents to be subject to review and approval by the City Attorney, and be it further

**RESOLVED**, that the Mayor is hereby designated as the Certifying Officer responsible for all activities associated with the federal environmental review process to be completed in conjunction with the Project.

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

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**COMMUNICATIONS FROM OTHERS**

A.  
Columbia Hook & Ladder Co.

November 30, 2023

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

Re: Volunteer Firefighter 50-Year Exemption

Dear Council and Mayor:

The members of Columbia Hook & Ladder Co., No 1 Inc., respectfully request a 50-Year Volunteer Firefighter Exemption be granted to, and the Certificate be prepared, for:

James C. Driskel

He joined December 5, 1973, and continues to assist in some Fire Company Events.

Very truly yours,  
David L. Evans  
Recording Secretary

MOVED by Alderman Lavey                      SECONDED by Alderman Loncar  
That the Common Council hereby grants an Exemption Petition to James C. Driskel for  
50-Years of service as a North Tonawanda Volunteer Firefighter.

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

Nays: None (0)

CARRIED.

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**AUDIENCE PARTICIPATION - None**

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**ADJOURNMENT**

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

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Time of Adjournment: 7:08 P.M.

Respectfully submitted,

*Donna L. Braun*

Donna L. Braun  
City Clerk-Treasurer