

Agenda
Council Chambers
Tonawanda, New York
October 3, 2017

A Regular Meeting of the Common Council

Excused: Council President Koch

Present Councilmembers: Gilbert, Smilinich, Rautenstrauch, Toth

Pledge of Allegiance led by Councilmember Gilbert

Prayer led by Associate Chaplain Bill Miles

Mayor's Public Hearing for Local Law #1 – 2017

A Local Law authorizing the City of Tonawanda to impose a property tax levy in excess of the limit established in New York State General Municipal law Article 2, Sec. 3-c

*Mayor's Proposed Operating Budget and 5 Year Capital Plan
Message*

As per City Charter, I am submitting my 2018 Budget to Council to be used by them as a guideline for their deliberations. My budget, as is the case every year, is not set in stone. The Council now has the responsibility to review the Budget, examine its contents with department heads and others and to then amend and modify the budget as they may see fit.

My proposed **General Fund Budget** for **2018** carries a 4.99% increase in the City property tax rate from \$17.74 to \$18.63 per \$1,000 of assessed valuation or an increase of **\$91** a year for the average household. Property taxes represent **53%** of the revenue used to fund operations of **\$22.32 million**. The proposed 2018 budget projects State Revenue Sharing to remain constant at \$2.6 million. *In 2009, the City of Tonawanda received \$2.8 million of State Revenue Sharing Aid, which was reduced to \$2.655 million in 2010, then further reduced in 2011 to the \$2.6 million we have received for the last 8 years.* State Aid and Sales Tax combined account for **23%** of the revenue in the proposed spending plan to fund City services. The General Fund began fiscal year 2017 with an unassigned fund balance of \$1.8 million, approximately **8%** of total projected operating expenditures.

Property Tax Cap

Maintaining the City's 2018 operating budget within the confines of the NYS Real Property **tax cap** is totally unrealistic and would require a huge reduction in City services. Chapter 97 of New York State Laws for 2011 established a tax levy limit (generally referred to as the **tax cap**) that affects all local governments and school districts in New York State except New York City and the "Big Five" dependent city school districts. This legislation took effect in 2012. Property taxes levied by local governments generally cannot increase by more than 2 percent, or the rate of inflation, whichever is

lower. Any perception that the tax cap is a hard 2% is erroneous, as it can fluctuate from year to year depending on growth based economic factors. Even though the state continues to impose unfunded mandates on our and all its local governments, for fiscal year 2018, the State Comptroller's Office established the City's property tax cap at an increase over the prior year spending plan of approximately & only **1.84%**, or an increase in property taxes levied of approximately **\$208,000**. Inflation alone would eat up most of that increase.

General Fund Revenue Summary

NYS Per Capita Revenue Sharing for the City in 2018 is projected to be **\$2,602,104**, roughly the same amount it has allocated *for the last eight years*. It is clear that over the past eight years NYS actions have put significant pressure on local governments' property tax burden. They have severely diminished revenue sharing, while at the same time imposing property tax caps, numerous unfunded state mandates, encouraging the consolidation of local government services and mandating/imposing comprehensive multi-million dollar sewer improvement projects via consent order. The proposed 2018 budget includes a one-time appropriation of \$100,000 in fund balance and \$200,000 of designated tax stabilization funds to offset the property tax levy. The use of tax stabilization funds to offset the property tax levy must be authorized by Common Council Resolution.

General Fund Expenditure Summary

The 2018 Budget anticipates the City's contribution to the New York State Retirement System to be **\$1.67 million**. This is a decrease of approximately \$28,000 from the 2017 budget. Generally this is attributable to a combination of small contribution rate decreases offset by projected employee salary increases.

Importantly, the proposed 2018 budget maintains current levels of City services while attempting to control budgeted overtime expense in the four largest departments. Total salaries in the General Fund budget approximate **\$10.2 million**, of which Police and Fire comprise **\$5.62 million**. Contractual agreements with all collective bargaining units are negotiated through 2023. Employee benefits total **\$7.3 million**. Personnel costs, therefore, account for approximately **\$17.5 million**, or **78%** of total general fund expenditures. Health Insurance costs in the 2018 budget are projected at **\$4.4 million**. The City, meaning the Mayor, Council, department heads, bargaining units, employees and retirees must work together to control all costs, including the cost of health insurance. I believe we can and will do that. The proposed budget anticipates the potential retirements of approximately 3 employees in 2018. General Fund Debt Service for 2018 is approximately **\$1.625 million**.

Water & Sewer Fund Expenditure Summary

The proposed Water Fund Budget is a reflection of the City's complete elimination of its Water Department in 2004. Budgeted revenues for 2018 of **\$97,560** represent funds received from the Erie County Water Authority surcharge, *which is 49 cents per thousand gallons*.

The proposed Sewer Fund Budget is approximately **\$2.1 million**. A 2.7% rate increase from \$5.60 to \$5.75 per thousand gallons is *recommended* to fund this budget increase. This will increase the minimum annual charge by \$6.00/year, from \$224.00 to \$230.00

annually. The City's cost to the Town of Tonawanda for sewage treatment is projected to be **\$950,000** annually. The City continues to progress through its comprehensive ten phase Sanitary Sewer remediation projected under consent order from the NYS DEC, an overall investment which is projected to cost between **\$25 and \$30 million**. We are working with the NYS Environmental Facilities Corporation (EFC) to finance these improvements at **0% interest**. This capital improvement is reflected significantly throughout the 2018 to 2022 five year capital budget. The City must anticipate future mandatory improvements to our sewage treatment system that will be dictated by federal/state environmental regulatory authorities.

2018-2022 Capital Budget Summary

The Five Year Capital Improvement Budget reflects a cumulative total of **\$18.54** million in Sewer Remediation projects. Annual street paving projects and sidewalk replacements are approximately **\$1,000,000** annually. 2018 includes design work on the Fletcher Street Culvert and Rails to Trails capital improvements, potential boat dock expansion projects, and building and roof improvements.

In Conclusion

Every budget deliberation process and presentation to the Common Council is a challenging attempt to continue to provide an exemplary level of City services at the least expense to the property taxpayer. The 2014 Annual Audit from *the State Comptroller's Office*, which looked at the budget prepared by the previous administration, designated the City as "Susceptible to Fiscal Stress." In 2015 and 2016, my first two city budgets, the City's evaluation improved to "No Designation." While we have taken great steps to improve our financial stability, more needs to be done. All of us, my office, Council and departments need to keep pounding away.

In the absence of a massive reduction in services, the ability of the City to operate within the confines of a two percent property tax cap is as I said above, unrealistic. The property **tax cap** law in itself is flawed and represents another unfunded state mandate as well. It paints a broad brush across every municipality in NY State (**except** of course NYC and NY State for that fact) treating them all the same. There are services that we have to provide that other towns do not. We can't break off items like fire protection, lighting, garbage, etc and make those separate taxing districts like towns do. It also does not take into account infrastructure improvements. So the message from the state on that aspect is we don't care what needs to be fixed, just stay under this arbitrary, unrealistic number. Many, many other communities have also exceeded the tax cap and those that haven't are on their way to do so. The only reason why other communities at this point haven't exceeded the cap is because they have been taking millions of dollars from their reserves to help stay under the cap; that is fiscally unsound and that cash cow will soon run dry for them.

During the last 4 years we have done our part to help control costs here in the City. A **\$13 million** grant to help offset future sewer rate increases associated with another unfunded state mandate to eliminate infiltration in our sanitary sewers. **\$500,000** in assistance to purchase a new fire pumper and protective equipment for our fire department, spending only **\$200,000** of city taxpayer's money on the Intermodal Hub instead of \$1.4 million, partnering with the Town and Grand Island to share a City Assessor which has saved taxpayers approximately **\$320,000**, and the hiring of an Assistant City Engineer who has brought in **\$120,000** in revenue from a shared service agreement with Niagara County and over **\$100,000** in additional costs associated with the sewer project just to name a

few of the things we have tried to relieve the burden on taxpayers.

It's time for the state to now step up and assist its cities. We will continue to look to share services with other municipalities when it makes sense for both parties involved. I also look forward to sitting down with the unions to see where we can secure additional savings moving forward and in good faith. My pledge tonight would be any additional cost savings realized from those discussions not go into the General Fund, but to help offset any possible tax increase in 2019.

Everyone in this room loves the quick response time from our first responders, that parks are maintained and beautiful, that trash is picked up in a timely fashion (and just about every type of trash is collected), and roads are maintained, plowed and salted, and recreation and senior programs are so enjoyed, to name a few. What are the things our residents can and would be willing to live without? Balancing services and costs is tough. Council will now address these issues with their budget deliberations.

Comments

COMMUNICATIONS FROM THE MAYOR

A letter received from Paul Pietrowski to Mayor Davis asking that the Renaissance Bridge be closed on Saturday, November 11, 2017 at 10:30 A.M. and reopened to traffic at 11:30 A.M. due to the observance of the annual Veterans Day service

A letter from Mayor Davis to Assemblyman Robin Schimminger seeking funding for an LED informational sign in front of City Hall, construction of a Marine and Dive Operations Center and solar benches in NiaWanda Park.

Communication from Mayor to Common Council requesting that the Council pass legislation to make the Cold War Veterans Exemption permanent as recently passed by the State and signed by Governor Cuomo to avoid this expiring in 2018.

Communication from the Town of Tonawanda Office of Planning regarding the National Grid Electrical Substation ó 841 Two Mile Creek Road ó Site plan application

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

Traffic and Safety Advisory Board Meeting Minutes from September 25, 2017

Board of Appeals Meeting Minutes from September September 25, 2017

Building Inspector Monthly Report from August 1, 2017 to August 31, 2017

Building Inspector Monthly Report from January 1, 2017 to September 15, 2017

Letter from Linda Foels, President of Tonawandas Gateway Harbor requesting closure of Renaissance Bridge on October 14 from 5:30 P.M. to 8:00 P.M. due to the Annual Haunted Harbor event

E-mail communication between City Treasurer Joseph Hogenkamp and Anthony Biscotto NYS Courts in regards to courtroom facilities projects being considered

Referred to the Committee of the Whole

COMMENTS BY THE PUBLIC ON RESOLUTIONS

The Tonawanda Common Council, in an effort to conduct business in a timely fashion and maintain an open line of communication with the public, welcomes comments on resolutions and other City business.

- Persons wishing to speak and be recognized by the President of the Common Council are to be courteous, respectful, non-repetitive and brief.
- All questions and/or comments should be addressed to the President of the Common Council.
- Please state your name and address clearly for inclusion in the Common Council minutes. In the event any person wishes a response outside the confines of the Common Council meeting, please leave all necessary contact information with the City Clerk after the meeting.
- Persons may address the Common Council during (2) separate sessions of the meeting for a total of 30 minutes per session. Once prior to the resolutions and also after the resolutions prior to Common Council comments.
- Individuals may speak a total of (3) minutes per speaker per session. The President of the Common Council will adhere to this (3) minute guideline in an effort to allow everyone an opportunity to speak who wishes to do so.
- The President of the Common Council reserves the Council's right to limit or expand upon these limits as he/she may deem necessary and prudent.
- Usage of cell phones other than for emergency is prohibited during all Council Sessions.

MOTIONS AND RESOLUTIONS

1. By Councilmember _____ seconded by Councilmember _____

Resolved, that the Common Council minutes from September 19, 2017 and September 25, 2017 be accepted as filed.

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

2. By Councilmember _____ seconded by Councilmember _____

Resolved, that the reading of the resolutions be waived.

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

3. By Councilmember seconded by Councilmember

Resolved, that permission is given to Tonawandas Gateway Harbor to close the Renaissance Bridge on October 14, 2017 from 5:00 P.M. to 8:00 P.M. for The Haunted Harbor event.

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

4. By Councilmember seconded by Councilmember

Resolved that the Common Council hereby authorizes and directs Mayor Davis to submit the City of Tonawanda Dock Expansion Project to the Niagara River Greenway Commission for the purpose of determining consistency with the principals, goals, and criteria that define the Niagara River Greenway Plan.

Gilbert. Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

5. By Councilmember seconded by Councilmember

WHEREAS, David Home Builders, Inc. (öApplicantö) has filed a Petition and supporting documentation with the City Clerk on June 15, 2017 to amend the Zoning District Map regarding certain parcels of land commonly known as öLittle League Development Propertyö located at 151 Little League Drive, Real Property Tax Parcel #38.81-1-10 and a portion of 777 Niagara Street, Real Property Tax Parcel #38.73-2-1.1 in the City of Tonawanda, known as Part of Lots 89 and 90, The (Two) Mile Reserve and property consists of approximately 14 acres (collectively the öPremisesö); to allow for the construction of a residential project commonly referred to as the öRiverwalk Villasö (öProjectö) ; and

WHEREAS, said Petition was submitted to the Common Council for its consideration; and

WHEREAS, the Petition requests the rezoning of the Premises from zoning classification R-1 Single-Family Residence District to zoning classification R-2 General Residence District; and

WHEREAS, the Common Council requested the Planning Board to review the Petition and make a recommendation; and

WHEREAS, the Planning Board reviewed the request to rezone the Premises from R-1 Single-Family Residence District to R-2 General Residence District during its meeting on July 11, 2017 and August 8, 2017; and

WHEREAS, during its meeting on August 8, 2017, the Planning Board issued a recommendation by a unanimous vote that this Common Council approve the request to rezone the Premises from R-1 Single-Family Residence District to R-2 General Residence District, subject to two (2) conditions ó satisfactory completion of the SEQR Environmental Review and presentation to the Planning Board of fully engineered plans of project for their review; and

WHEREAS, pursuant to New York State General Municipal Law Section 239(m), the Petition and supporting documentation filed by the Applicant was referred to the Erie County Division of Planning for its review and recommendation; and

WHEREAS, the Erie County Division of Planning issued a Reply pursuant to New York State General Municipal Law Section 239(m) on August 24, 2017 indicating that the proposed action has been reviewed and determined to be of local concern and therefore makes no recommendation; and

WHEREAS, the Common Council has conducted a coordinated environmental review of the Project in accordance with the requirements of the State Environmental Quality Review Act (öSEQRAö); and

WHEREAS, on June 20, 2017, the Common Council classified the Project as a Type I action pursuant to SEQRA due the proximity of the Premises to City owned parkland; and

WHEREAS, during its meeting on June 15, 2017, the Common Council adopted a resolution determining it should act as the lead agency for the coordinated environmental review of the Project pursuant to SEQRA given that the Project requires approvals and permits from the City of Tonawanda including but not limited to an amendment of the zoning classification of the Project Site from R-1 Single-Family Residence District to R-2 General Residence District, the conveyance of land owned by the City of Tonawanda and Site Plan Approval; and

WHEREAS, on August 15, 2017, the City Clerk's Office issued a Lead Agency Solicitation Letter to involved and interested agencies expressing the Common Council's intention to act as the lead agency for the coordinated environmental review of the Project and a copy of the Amended Part 1 of the Long Environmental Assessment Form prepared by the Applicant with Attachments 1 to 6 and a full size copy of the Concept Plan for the Project; and

WHEREAS, none of the involved and interested agencies that responded to the Lead Agency Solicitation Letter dated August 15, 2017 within the thirty day comment period that expired on September 15, 2017 objected to the Common Council acting as the Lead Agency for the coordinated environmental review of the Project nor did any of the involved or interested agencies provide input indicating the Project may result in any potentially significant adverse environmental impacts; and

WHEREAS, the Common Council has reviewed Part 1 of the Full Environmental Assessment Form and supporting documentation provided by the Project Sponsor and has

also completed and reviewed Part 2 of the Full Environmental Assessment Form, which indicated the residential project will not result in any moderate or large environmental impacts; and

WHEREAS, the Common Council has identified the potential adverse environment impacts of the Project and thoroughly evaluated these impacts in connection with its coordinated environmental review of the Project; and

WHEREAS, the Common Council conducted a Public Hearing on September 19, 2017 regarding the proposed rezoning and provided all interested parties with the opportunity to comment on the requested rezoning of the Premises from R-1 Single-Family Residence District to zoning classification R-2 General Residence District; and

WHEREAS, the Common Council has determined that the requested rezoning of the Premises from R-1 Single-Family Residence District to zoning classification R-2 General Residence District is consistent with the City of Tonawanda Comprehensive Plan; and

NOW, THEREFORE,

BE IT RESOLVED that the Common Council, acting in its capacity as the designated Lead Agency for the coordinated environmental review of the Project, issues a Negative Declaration pursuant to SEQRA based on its determination that the Project will not result in any potentially significant adverse environmental impacts; and

BE IT FURTHER RESOLVED that the Common Council approves the rezoning of the Premises commonly known as "Little League Development Property" located at 151 Little League Drive, Real Property Tax Parcel #38.81-1-10 and a portion of 777 Niagara Street, Real Property Tax Parcel #38.73-2-1.1 in the City of Tonawanda, known as Part of Lots 89 and 90, The (Two) Mile Reserve and property consists of approximately 14 acres, from zoning classification R-1 Single-Family Residence District to zoning classification R-2 General Residence District; and

BE IT FURTHER RESOLVED, that a copy of the Negative Declaration shall be filed with the City Clerk's Office and distributed to the involved and interested agencies and the Applicant; and

BE IT FURTHER RESOLVED that the Zoning Map shall be amended accordingly; and

BE IT FURTHER RESOLVED that this rezoning/ordinance shall become effective upon publication of its title in an official newspaper of the City of Tonawanda.

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

6. By Councilmember

seconded by Councilmember

Resolved, at the recommendation of City Engineer Jason J. LaMonaco, P.E., that award of the contract for Intermodal Hub construction phase services Amendment I be made to C&S Engineers, Inc., at a cost not to exceed \$44,202.05.

Funding/Fiscal Impact: \$44,202.05 from ECWA

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

- 7. By Councilmember seconded by Councilmember

Resolved that the residents be given permission to close Elmwood Park at the intersections of Fletcher, Hill, Grand, Catherine from 4:00 P.M. approximately 9:00 P.M. for their Halloween Event on October 31, 2017.

- 8. By Councilmember seconded by Councilmember

Resolved, at the recommendation of City Engineer Jason J. LaMonaco, P.E., that award of Change Order No. 5 to the Intermodal Hub construction contract is made to Milherst Construction, Inc., at a cost not to exceed \$11,065.85.

Funding Fiscal Impact: \$11,065.85 from ECWA

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

- 9. By Councilmember seconded by Councilmember

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation, more specifically, The Buffalo News, on September 22, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 62 entitled TRAFFIC AND VEHICLES, Article 5. TRAFFIC SCHEDULES, DIVISION 2. STOPPING, STANDING AND PARKING, Section 62-198. Schedule XX: Time limit parking of the Tonawanda City Code shall now include:

In accordance with the provisions of section 62-121, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

<i>Name of Street</i>	<i>Side</i>	<i>Time Limit; Hours/Days</i>	<i>Location</i>
Fletcher Street	South	2 hours; 9:00 a.m. to 6:00	From Rogers Avenue to

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendment shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Gilbert, Smilinich, Rautenstrauch, Toth
Ayes:
Nays:

10. By Councilmember seconded by Councilmember

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation, more specifically, The Buffalo News, on September 22, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 62 entitled **TRAFFIC AND VEHICLES, Article 5. TRAFFIC SCHEDULES, DIVISION 2. STOPPING, STANDING AND PARKING, Section 62-191. Schedule XIII Parking Prohibited at all times** of the Tonawanda City Code shall now include:

<i>Name of Street</i>	<i>Side</i>	<i>Location</i>
Roosevelt Street	South	From Main Street to a point 100 feet east thereof

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendment shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Gilbert, Smilinich, Rautenstrauch, Toth
Ayes:
Nays:

11. By Councilmember seconded by Councilmember

Resolved, that in recognition and compliance with the New York State Open Meetings law, this Common Council will meet in Executive Session in the Common Council Chambers for the purpose of pending exempt City business, and further be it

Resolved, that upon conclusion of the above stated business matters; the meeting shall again be open to the general public. The reason for the Executive Session is to discuss

Gilbert, Smilinich, Rautenstrauch, Toth

Ayes:

Nays:

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

ADJOURNMENT

12. By Councilmember _____ seconded by Councilmember _____
Resolved, that this Common Council adjourn until October 17, 2017.

Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Ayes:

Nays: