

Agenda  
Council Chambers  
Tonawanda, New York  
December 19, 2017

A Regular Meeting of the Common Council

Present: Council President Koch

Present Councilmembers: Gilbert, Smilinich, Rautenstrauch, Toth

Pledge of Allegiance led by Council President Koch

Prayer led by Associate Chaplin Dave Nedell

Council President Koch asked the Clerk to read the published notice of Public Hearing for the Rezoning of 661 Main Street

City Clerk Syposs ó Legal Notice, Notice of Public Hearing, Common Council, City of Tonawanda.

Notice is hereby given that a Public Hearing will be held at 7:00 P.M. on Tuesday December 19, 2017 in the Council Chambers at Tonawanda City Hall, 200 Niagara Street, Tonawanda, NY, regarding a rezoning ordinance entitled "Rezoning of the property located at 661 Main Street from C-(Commercial Resale) to C-M (General Commercial Services District)" at which time and place all interested persons and citizens may appear and will be given an opportunity to be heard in support of or in opposition to the proposed rezoning of 661 Main Street.

The proposed ordinance has been filed with and is in the custody of the City Clerk at 200 Niagara Street, Tonawanda, New York, and may be examined by any interested person during regular business hours.

This was mailed to all the abutting property owners and published on the 8<sup>th</sup> of December.

Council President Jenna Koch opened the Public Hearing and called for comments.

**NOTICE OF PUBLIC HEARING**

<b><u>HEARING DATE:</u></b>	December 19, 2017
<b><u>HEARING TIME:</u></b>	7:00 PM
<b><u>LOCATION:</u></b>	TONAWANDA CITY HALL COMMON COUNCIL CHAMBERS 200 NIAGARA STREET TONAWANDA NY 14150
<b><u>APPLICANT:</u></b>	Terence T. Calway 332 Hampton Pkwy Kenmore, NY 14217
<b><u>PROPERTY DESCRIPTION:</u></b>	661 Main Street Tonawanda, New York 14150 SBL# 53.37-1-1

**RE-ZONING REQUEST:** TO RE-ZONE 661 MAIN ST FROM C-2 (COMMERCIAL RESALE) TO C-M (GENERAL COMMERCIAL SERVICES DISTRICT)

Mercedes Calwick ó 121 Hartwell Rd, Buffalo, NY I just ask that the property be rezoned, it is currently pending a sale and the person that is purchasing the property would like to use it as an automotive repair facility which it currently cannot be used for. Since the 1930s when this was built, it has always been a repair facility until my father purchased the property about seven or eight years ago and that was when it was rezoned so we are just asking that it be rezoned to what it was before.

Council President Koch ó Any other comments or questions regarding the rezoning of 661 Main Street? Any other comments or questions? Hearing none, I declare this public hearing closed.

Council President Koch ó Wel now move forward. Id like to call up Mandy and Mayor Davis.

Mayor Rick Davis ó this year we had 29 homes enter into the House lightening contest which was the most we have had in quite a number of years. Without further adieu, the best lightening went to Jason Balling who could not be here tonight but their home is located on Niagara Street so drive by and take a look. The most Holiday Spirit went to Cheryl Lepsch and the Mayors award went to Mr. Phil Shields

### **Award of Holiday House Decorating Contest**

Most Holiday Spirit- Cheryl Lepsch

Mayors Choice- Phil Shields

Best Lights- Jason Balling

### **Holiday Pole Decorating Contest**

- Mayor Davis : on top of our House lightening contest, we had a wonderful idea come out of the Main Street Program to decorate light poles in our Central Business District and I believe we had over 30 poles that were decorated. One was a Charlie in the box, another one was the famous leg lamp from A Christmas Story and the kid whos tongue was sticking to the pole. There were a lot of good entries and we had to pick a few unfortunately, could only pick a few so the **People's Choice goes to American Legion Post 264 and is accepted by Commander Dan Misner**
- Mayor Davis ó the second award was Councilmember Smilinichs award so Ill have her come up and announce who it was.
- Councilmember Smilinich - I chose this pole because it was adorable, it lit up all night plus they did a giving Christmas area so my award goes to **Team Up to Clean Up**. Brian called me as he could not be here tonight so I will take it to him.
- Councilmember Gilbert ó this year I picked **Billygan's Caf** for their pole, they used a lot of pie tins and decorated them, it was pretty ingenious so I asked the guys who work for me and my wife who is my boss which ones they would pick so we came to this decision for my award. Nancy Karcher is here to accept my award. Congratulations.
- Councilmember Smilinich ó This whole idea for this pole decorating came out of the Main Street Program and the idea for it just ran like wildfire. I wish we had more poles so thank you Nancy (Karcher) for all the work you did and helping us prepare the poles because she is also on the committee. You did so much I just wanted to thank you.
- Mayor Davis ó the **Special Recognition Award goes to Christine's Wild Imagination** and that one was a fun one. They could not be here tonight but we will get their award to them.
- Mayor Davis ó the **Mayor's Choice Award goes to Kid's Ability** which was the tongue stuck to the pole so Nancy is going to accept for them.

### **COMMUNICATIONS FROM THE MAYOR**

Communication from Niagara River Greenway supporting the Tonawanda Waterfront Dock Expansion Project

Communication to Mayor Davis from Office of New York State Comptroller with notification that City of Tonawanda has been selected for an Audit.

Letter to Sam Scinta Jr. reappointing him to the Board of Appeals effective January 1, 2018 and expiring December 31, 2023

Communication to Leo Meyer thanking him for his service to the Tonawanda Housing Authority Board

Letter to Ralph Abramo appointing him to the Tonawanda Housing Authority Board effective January 1, 2018 and expiring December 31, 2022  
 Letter to Jim Weber reappointing him to the Planning Board effective January 1, 2018 and expiring December 31<sup>st</sup>, 2022  
 Letter to Linda Foels reappointing her as Director of the City Youth Board effective January 1, 2018 and expiring December 31, 2018  
 Letter to Tanya Chafee reappointing her to the City Youth Board effective Jan 1, 2018 expiring December 31, 2020  
 Letter to Caitlin Rech reappointing her to the City Youth Board effective Jan 1, 2018 expiring December 31, 2020  
 Letter to Kirstyn Davis reappointing her to the City Youth Board as a Student Liason effective January 1, 2018 and expiring December 31, 2018

**COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE**

November Minutes of the Civil Service Commission  
 November Activity Report of the Fire Department  
 November Minutes of the Board of Appeals  
 Communication from William Harmon requesting reappointment as Plumbing Inspector  
 Communication dated December 6, 2017 to the City Clerk from the Erie County Water Authority with Extract of Minutes amending Authority's Tariff effective Jan 1,2018  
 Communication dated December 8, 2017 to the City Clerk from the Erie County Water Authority enclosing a complete copy of Authority's Tariff effective January 1, 2018  
 Communication from the Tonawanda Civil Service Commission regarding Plumbing Inspector Jurisdictional Change which Changes position to Competitive Civil Service  
 Treasurers December 16, 2017 Overtime Report  
 December Minutes of the Traffic and Safety Board  
 Treasurers Comprehensive Revenue and Expenditure Control Report as of 12/19/2017  
 November Report of the Building Inspector.  
 November Minutes of the Plumbing Board

Referred to the Committee of the Whole  
 Ordered filed

**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.

Cheryl Lepsch- 65 Harriet Street ó I just want to make a comment on the foster permit that you're going to be voting on tonight. For the first time, a year ago, I became a foster

to a dog that was from a mill breeder and I can't tell you the gratification that I got from doing that but it can get extremely expensive so I want to say thank you for not charging people to be fosters for these dogs because it will deter them from doing it and we definitely need fosters. I am not fostering now but I do want to comment on the amount of dogs in the apartment buildings. I really think something needs to be looked at as far as that goes. We have an apartment at the end of my street, used to be an old school so you can imagine how many apartments are in there. Imagine every apartment in there having two dogs. It gets to be a lot and being a neighbor down the street when you have those dogs and they are not cleaning up the mess, I just think it is something that needs to be looked at.

**MOTIONS AND RESOLUTIONS**

276. By the Council seconded by the Council  
 Resolved, that the Common Council minutes from December 5, 2017 be accepted as filed.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
 Nays: None

Resolution Declared Adopted

277. By Councilmember Rautenstrauch seconded by Councilmember Toth  
 Resolved, that the bills be allowed as audited and that the City Clerk draw warrants on the Treasurer for the various amounts.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
 Nays: None

Resolution Declared Adopted

278. By the Council seconded by the Council  
 Resolved, that the reading of the resolutions be waived.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
 Nays: None

Resolution Declared Adopted

279. By the Council seconded by the Council  
 Resolved, that the 2017 General Fund and Sewer Fund Operating Budgets be amended to account for various contractual agreements and increments due to retirements, replacements and anticipated retirements paid over the course of the fiscal year:

Account	Description		Adjustment
1.1210.100	Mayor Salaries	Subtract	(33,500)
1.1325.100	Treasurer Salaries	Add	2,825
1.1355.100	Assessor Salaries	Add	10,000
1.1357.100	Board Assessment Review	Subtract	(630)
1.1410.100	City Clerk Salaries	Add	3,800
1.1420.100	City Attorney Salaries	Add	545
1.1430.100	Retirements	Subtract	(164,745)
1.1440.100	Engineer Salaries	Add	3,950
1.1441.100	Exam Engineers Salaries	Subtract	(781)
1.1620.100	Municipal Bldg Salaries	Add	10,200
1.3120.100	Police Salaries	Add	118,000
1.3310.100	Elec/Signal Salaries	Add	6,075
1.3410.100	Fire Dept Salaries	Add	110,000
1.3510.100	Dog Control Salaries	Subtract	(200)
1.3620.100	Building Insp Salaries	Add	7,825
1.3621.100	Plumbing Ins Salaries	Add	2,890
1.5010.100	Hwy Office Salaries	Subtract	(4,200)
1.5110.100	Hwys/Bridges Salaries	Subtract	(16,000)



Whereas, the City desires to close the Street to allow for a review of the actual effects on traffic both on residential and business traffic and

Whereas, the City intends to issue an Request for Proposals for development of the area to generate tax paying properties,

Now, therefore be it resolved that Young Street from Delaware Street to Main Street be closed from January 1, 2018 through June 1, 2018 to allow for the above review and further

Be it resolved that the decision for a permanent closure will be made by May 1, 2018.

Councilmember Gilbert ó The idea behind closing Young Street has been a longstanding one that we've nurtured along and now Councilmember Smilinich and I and the Mayor along with Councilmember Rautenstrauch have taken the lead and we want to see where the businessø will be effected, good or bad. Alison will get a good gauge on that hopefully over the next few months that we'dl be able to see what the benefits will rise by bringing them down Main Street. Hopefully it will benefit all the businessø and bring more business down to that area. When we move forward, when we have the RFP to develop that area it will enhance it even more.

Councilmember Smilinich ó I'd like to add that Young Street is one of the few areas that we can develop in our downtown area and the people that Mr. Gilbert mentioned, we all want this to be family friendly. The first step has been the ice rink and when the RFPø go out we're hopefully going to lure in somebody that has the same vision that we have.

Councilmember Toth ó This has been something that has been talked about for a while and I'm still not completely convinced that it's a good idea. I have some reservations about the emergency services getting into the Towers with that street closed and I am also concerned that there are no real ideas for what we're doing down there before the street gets closed. This is akin to a developer digging a hole in the ground, leaving it for six months, not knowing what he is going to build. So, I'm not completely on board with this and I wish there had been a little bit more thought for all the talking that we did with the ideas of what we actually want to do with that property.

Councilmember Gilbert ó Councilwoman Smilinich and I have worked on an RFP to develop that area and we are working on more events down at the Hub. I have talked to a promoter about doing a concert series with the help of the Legion. We're looking at keeping the ice rink there all winter season and using not for profits like our Football Clinic or Boy Scouts to promote that by selling hot chocolate, cookies, all winter long. Those are some of the ideas that are coming out of this.

Ayes: Gilbert, Smilinich, Rautenstrauch, Koch

Nays: Toth

Resolution Declared Adopted

283. By Councilmember Koch seconded by Councilmember Gilbert  
Resolved that the salaries and stipends for the officials listed below take effect on January 1, 2018:

Deputy City Attorney - \$23,643  
Assistant City Engineer - \$62,982  
Building Inspector - \$63,758  
Computer Services Stipend - \$10,000

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution Declared Adopted

284. By Councilmember Toth seconded by Councilmember Rautenstrauch  
Resolved, that the Mayor be authorized and directed to sign an agreement with Drescher & Malecki, LLP to perform the annual audit of City finances for the fiscal years ended 12/31/2017 thru 12/31/2019 for an annual fee not to exceed \$18,000.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution Declared Adopted

285. By Councilmember Gilbert seconded by Councilmember Smilinich

**WHEREAS**, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on December 8, 2017, in accordance with Section 2.047 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED**, that **Chapter 10 of the Code of the City of Tonawanda, entitled ANIMALS, Article 2. Dogs, Sec. 10-36. Number of Dogs Restricted; permit for keeping more than two dogs.**, which now reads as follows:

Not more than two dogs six months of age and older shall be kept, harbored or maintained on any premises, regardless of the number of owners, unless a permit authorizing such use of the premises has been issued by the city clerk upon approval of the animal control officer. Before granting approval, the animal control officer shall inspect the premises to determine if the facilities are adequate. This permit shall remain in force for the calendar year for which it was issued as long as the dogs being harbored are not a menace to public health, a nuisance in law or fact or obnoxious or offensive by reason of emission of odor or causing unusual and continuing noises.

Shall now read as follows:

**Chapter 10 of the Code of the City of Tonawanda, entitled ANIMALS, Article 2. Dogs, Sec. 10-36. Number of Dogs Restricted.**

Not more than three dogs four months of age and older shall be kept, harbored or maintained in any single family dwelling. Not more than two dogs four months of age or older shall be kept, harbored or maintained in any unit of a multiple dwelling residence.

**BE IT FURTHER RESOLVED**, that the following shall be a new Section included in Chapter 10 of the Code of the City of Tonawanda:

**Sec. 10-42. Foster Permit**

(a) It shall be unlawful for any person to foster or harbor any dog in the City without first obtaining a permit issued by the City Clerk upon approval of the Dog Control Officer.

(b) There shall be a limit of two dogs per residence that may be fostered on each permit.

(c) The fostering permit shall remain in force for the calendar year for which it is issued. The permit must be renewed on an annual basis.

(d) There shall be no fee for the fostering permit.

(e) Permit holders will be subject to inspections by the Dog Control Officer. The Dog Control Officer shall have the authority to terminate or revoke said permit to protect the public health and safety and/or animals subject to this Section.

**BE IT FURTHER RESOLVED**, that the following shall be a new Section included in Chapter 10 of the Code of the City of Tonawanda:

**Sec. 10-43. Dog Breeders**

(a) It shall be unlawful for any owner of, or any person harboring or fostering dogs to breed small animals without first obtaining a Breeders Permit from the City.

(b) The Breeders Permit shall remain in force for the calendar year for which it is issued. The permit must be renewed on an annual basis.

(c) The fee for the Breeders Permit shall be \$300.00 per year.

(d) Permit holders shall be subject to inspections by the Dog Control Officer. The Dog Control Officer shall have the authority to terminate or revoke said permit to protect the public health and safety and/or animals subject to this Section.

(f) The number of dogs authorized for breeding that may be kept in a residential or commercial dwelling shall be determined by the Dog Control Officer. The Dog Control Officer shall have the authority to impose any conditions of the permit he deems necessary to protect the public health and safety and/or the animals subject to this Section.

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

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

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution Declared Adopted

#### **COMMENTS BY THE PUBLIC AFTER RESOLUTIONS**

#### **COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS**

Councilmember Toth ó I just want to congratulate the Holiday Decoration award winners tonight and I also just want to wish the residents of the city a healthy and Happy New Year and want to thank them for allowing me to represent them for the last couple of years. I want to say good luck to the incoming Council. You're going to find it's a lot different being on this side of the table and Madam President, best of luck to you as well and you as well Mr. Mayor in the upcoming years and look forward to seeing what we can do in the City.

Councilmember Rautenstrauch ó I would like to congratulate the winners of the awards tonight and echo that sentiment. I'd also like to say that I appreciate the honor of serving our community for the past two years. It has truly been an honor to me, it's been a pleasure and I look forward to getting back into it some time in the future. I would like to say thank you to the Department Heads for being so welcoming and for the rest of the Council as well for welcoming me, for teaching me, guiding me in the right direction though all of this. Nobody left me hanging and I appreciate always having a response and an answer from everybody on a quick basis so I could get back to my residents. That being said, I would like to congratulate Mike and Dawn and Dave on your wins and I wish you luck in the next two years and continued luck to our Senior Councilmembers that are moving forward and our Mayor. Merry Christmas and Happy New Year to everyone. Thank you.

Councilmember Smilinich - I'm going to reflect on the time I spent in office and if I leave anyone out, I'm sorry. When I first ran my log was Change for the Future. Now we all know change is not readily accepted and sometimes a long process. I am happy to say

that I truly believe it is in full swing in Tonawanda. Thank you Mayor for appointing me to the Comprehensive Plan and the LWRP which gave the base and insight for be part of the future of Tonawanda. The documents which resulted from over four years of work by a diverse and very active committee led by Clark Paterson Lee, are the building blocks for years to come to obtain grants and effect growth in our City. You also appointed me as chairperson for the Downtown Revitalization and beautification Committee which laid the ground work for the Main Street Program and we received a grant for that. Now the Main Street Program is an LDC, a corporation to enhance the development of our City. The vision included closing of Young Street which we approved tonight. Thank you Mr. Rautenstrauch and Mr. Gilbert and the Mayor for listening to me and sharing in this vision and assisting in the plans for its future development over the past four years or so. We're going to see an ice skating rink which will be set up next week. That's a big step for our small little town.

Other achievements that I would like to mention that occurred during my tenure were appointing a developer for Little League Drive, new development on Delaware, we have the Hub, Remembering Viet Nam Monument, a Wonderful Night, and now we're going to have a New Years Eve ball drop. We've also made a lot of strides towards upgrading our infrastructure and waterfront. All this for our future.

Chief Strassburg, it was my honor to act as the liason for the Police Department. You have a wonderful, caring group to protect us and go way beyond. I can't say enough. Captain Foels, thank you and the members of the Traffic and Safety Advisory Board for patiently teaching me the ways of traffic and safety. I know it wasn't easy.

My only regret comes from serving on the SMSI Committee. We could not finalize for the City the swap of property of Clint Small for some acreage at the Little League Drive. Our vision for that, or the vision for some of us, was to move TFC into the old Clint Small Stadium and develop the TFC area into homes. So, we're not going to see that, I just hope that we don't see a vacant lot sit there forever or see more subsidized housing.

The future of Tonawanda is a never dying process. I hope that the new Council will think of all its residents and do the best they can to continue the forward progress. And, Mr. Gilbert, I left you my vision and you can be sure I will be calling you. Thank you very much.

Councilmember Gilbert ó I would like to congratulate everybody for their holiday awards. Seeing people that I've known for a long time and Cheryl and Phil winning, Nancy, you had a great tree out there, really cool.

It's been a longstanding tradition that we congratulate the new winners for the Council. Mike, Dawn, Dave, you all are going to do a great job, we've already had conversations, I look forward to working with you. I'd like to take a second just to thank the three people up here. It's not easy standing up, going door to door and putting yourself out there to run for political office. These three people did that and they did a very fine job at representing our city. Jackie and I have butted heads a few times but we've come to a great vision of what we think is a great stepping stone for the City. With the help of the Mayor and the Council and everybody here, the future is looking bright and I am exited for that. To Mr. Rautenstrauch, not always the most vocal person on the Council but you have always been there, to add in your two cents, the pie charts, to make sense of some of the graphics that our City Treasurer always puts out there. Please stay involved and I look forward to seeing you in your future endeavors. Councilman Toth, he and I go way back, we've grown up together. He was the one that used to beat me up when I was a little kid so it was nice to have him on the Council. He was always a steady hand, he had a vision that he and I might not have always seen eye to eye on all the time on but he stood fast and I respect him for that and I respect his ideals.

With that I would like to end the night with saying Merry Christmas, thank you all for being here and we'll see you all New Years Eve. Thank you

Mayor Rick Davis ó I would like to congratulate Jackie's husband Dennis (Smilinich) on being the Veteran of the Month as awarded by Senator Jacobs. Fine honor and he is a man that does a lot in our City, especially for our Veterans.

Last Thursday, Citizens Science Community Resource had their annual party and they honored Supervisor Emminger, Supervisor MacMurry and myself with a Community Resource award for our efforts in helping them obtain locations to do soil testing but we really should be the ones honoring them for their work and steadfast devotion to our City in order to hold Tonawanda Coke accountable for the pollution that our city has had to endure for many decades.

I'd like to thank the Underwater Squad and the Auxiliary Police for their steadfast dedication. They had their annual award dinner this weekend and they give countless hours to the City protecting residents and are a visible presence at our City events.

Grant for Niagara Street, we received a \$57,000 grant from Regional Development, a regional development council for a study looking into revamping our Niagara Street corridor all the way from Two Mile Creek to Main Street which is about 40% of what we need so we're hoping to leverage that money moving forward to get the rest of the money to complete that study.

I would like to wish Councilman Toth the best of luck moving forward and Councilman Rautenstrauch - I think tonight was his longest speech ever at a Council meeting dating back two years. I grew close with Sean over those two years and I wanted to show my appreciation for all of his efforts in dealing with the health insurance and dealing with the City's internet infrastructure so I got him a flask that he can put milk in and it says, "Sean, Thank you for your service - 2016-2017 and on the front it says NTR and that means, nothing to report.

Ms Smilinich - her, Ms. Koch and I all ran together four years ago and as Councilman Gilbert stated eloquently that we didn't always agree on things but I've always respected where she came from and her opinions on things. I want to thank her for being so involved on all of the Boards that I appointed her to whether she wanted to be on or not. I hope she stays involved moving forward much like Councilman Rautenstrauch. I got this for Jackie, a nice silver serving platter that says, "Jackie, thank you for your service 2014 to 2017". Thank you and wish everyone a Merry Christmas and Happy New Year.

Council President Koch - I would like to thank Sean, Jackie and Tim for your service and your commitment to our community. I've learned a lot from all of you and thank you to families as well because that is a commitment from them as well. I wish you all the best in your endeavors and the next chapters in your lives and stay in touch with us.

I would like to wish everybody a Merry Christmas, Happy New Year. Just a reminder, if you're joining us for our first meeting in January, we'll be meeting on Wednesday, January 3<sup>rd</sup> as City hall will be closed on Tuesday. Thank you for coming and drive home safe.

