

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 Chaplain Rick Oates

Council President Koch ó I will now turn the meeting over to the Mayor for the Public Hearing:

MAYOR'S PUBLIC HEARING

A LOCAL LAW #2 - 2017 – COLD WAR VETERANS EXEMPTION

Mayor Davis ó Back in 2007, the City adopted the Cold War Veterans Tax Exemption for Military members owning a home here in the City and back when it was adopted there was a ten year shelf life on that exemption. Recently, Governor Cuomo signed into law that the Cold War Exemption would be infinite moving forward so we are, in keeping with the times honoring our Veterans moving forward with making this tax exemption indefinitely for the life of the Veteran so at this moment I will take comments or questions on the Cold War Veterans Tax Exemption.

Mayor Davis ó Any questions or Comments? Hearing none I declare this Public Hearing closed.

COMMUNICATIONS FROM THE MAYOR

Letter to Richard Barnard thanking him for service to the Traffic and Safety Board

Communication to the Common Council with recommendations for Non Union Employees//Department Heads Salary Increases

Ordered Filed

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

Communication from the Common Council to Mayor Davis recommending Four Man Shift Change in Fire Department due to over budget overtime costs.

Treasurers Year to Date Overtime Report as of 11/13/2017

October Activity Report of the Fire Department

Communication from Council President Koch to Mayor Davis regarding \$10,000 appropriation in the 2016 Budget Message with questions on status and expenditures.

Email response to Council President Koch from Charles Rech, Administrative Assistant in response to questions on \$10,000 appropriation regarding legal restrictions on said appropriations expenditures.

Letter to the Traffic and Safety Board and the Common Council from Jack Gallagher requesting consideration for one side parking restriction on Tussing Lane from Dexter Street to Clarence Harder Drive for safety purposes.

Petition from Terence T. Calway 332 Hampton Pkwy, Kenmore to rezone 661 Main Street, Tonawanda

October Minutes of the Civil Service Commission

Communication from City Treasurer Joseph Hogenkamp regarding the BENLIC Property Tax and Maintenance & Foreclosures Proceeds Distribution Policy for 2017

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.
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Council President Koch- We will not be going into Executive Session and Resolution #4 (#260) City Clerk Syposs.

City Clerk Syposs ó We will be adding Capital Plan as presented for 2018 through 2021.

Council President Koch- At this time we will take comments on the resolutions

Roger Puchalski, 478 Adam Street- Regarding Item number 4, the budget, I think the lack of a legitimate budget hearing for this budget is not just about one mistake. There have been numerous violations of this City's Charter and the budget is full of pitfalls and runaway spending. The City Charter states the Mayor shall communicate with the Council, the first meeting of February each year, a general statement on the affairs of the City in relation to its finances, government and improvements. The Mayor did not give an address regarding the city's finances this year according to the minutes or in 2016 or in 2015. The last time there was a state of the City address, according to the minutes, was 2014.

Council President Koch ó We had one in 2016.

Mayor Davis ó And 2015.

Council President Koch ó It is posted on the City's web site.

Roger Puchalski ó There was none this year. The City Charter states that regular meetings of the Common Council shall be held at such times by resolution as it designates. The October meeting, there was no resolution passed by the Council to change the November meeting which included the budget hearing. The Charter requires the publication of a public notice of the budget hearing. Not only did the public notice contain the wrong date but there was no resolution authorizing the publication of the

notice which requires the expenditure of City funds. So I don't know how you can have an item number four about a budget hearing which in three different ways, you violated the City Charter to get to that budget hearing. I believe these are serious breaches. Because there was no legal public hearing in my mind, I printed out a portion of the comments that people made on the community Facebook page and I'll present that to the City hoping that it puts it in the public record. With regards to the budget, I believe it is seriously flawed. There was a State Assembly Bill for the alienation of Veterans Park and it says that Veterans Park for the City has to dedicate the fair market value of that property. I believe the City's last appraisal for that property was over two hundred thousand dollars, yet in this budget, you intend to sell it for one hundred thousand dollars. I believe that is improper if not illegal in costing the taxpayers over a hundred thousand dollars. The millions of dollars for boat docks is also troubling when the city only has half of its funding. There is nothing in the current Comprehensive Plan or LWRP that calls for docks. I attended the sessions on the river and Ellicott Creek. Boardwalks, not docks were discussed. The city has no marketing study to determine the need and there is no public outcry in the envision Tonawanda survey. In the city's own application to the Greenway Commission for the Pavilion, it called for boardwalks, not docks. Both the City and the County had floating docks which have been removed. The Greenway Commission has given us the Pavilion and hundreds of thousands of dollars in cost overruns. It's given us the million dollar toilet, that's where the Greenways Dock proposal belongs. The median income for someone in the City of Tonawanda is 45 thousand dollars. That means half the households, not individuals make (inaudible)

Council President Koch ó Roger, you have ten more seconds so if you could wrap that up.

Roger Puchalski ó Well, thank you.

MOTIONS AND RESOLUTIONS

257. By the Council seconded by the Council
 Resolved, that the Common Council minutes from November 8, 2017 be accepted as filed.

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

Resolution declared adopted

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

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

Resolution declared adopted

259. 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

260. By Councilmember Toth seconded by Council President Koch
 Resolved, that this Common Council adopt the General Fund, Water Fund and Sewer Fund operating budgets for the fiscal year commencing January 1, 2018, making appropriations to conduct City Government and further be it

Resolved, that the Budgets were presented at a Public Hearing on November 8, 2017 and are hereby adopted and that the several amounts as set forth be and are hereby appropriated for the objects and purposes specified in the 2018 operating budgets on file in the office of the City Clerk.

Total General Fund Budget

Property Tax Levy	\$ 11,905,032.00
Taxable Assessment	\$639,154,000.00
Property Tax Rate per \$1,000 Taxable Assessment	\$ 18.626235

Total Water Fund Budget \$ 222,560.00.00

Total Sewer Fund Budget \$ 2,116,604.00

Capital Plan as presented 2018-2021

Councilmember Toth ó I just want to residents that are in attendance tonight, to be on record that my sponsorship of this resolution by no means supports the budget. I’ve been against the override and I will be voting no on the budget tonight. This was to get it on the table to make sure that we voted on the budget.

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

Resolution declared Defeated

261. By Councilmember Smilinich seconded by Councilmember Gilbert
 Be it resolved that permission is granted to The Main Street Program to close Main Street from Young St/ Niagara Street to Broad Street from 2:30 P.M. till 11:00 P.M on December 1st, 2017 for “A Wonderful Time” Celebration.

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

Resolution declared adopted

262. By Councilmember Smilinich seconded by Councilmember Rautenstrauch

Resolved, that the 2017 General Fund Budget be amended to account for expenditures associated with the emergency replacement of the roof at the Senior Citizen facility..

EXPENSE 001-5020-0208	Engineering Impr Roof Replacement	ADD	\$50,000
EXPENSE 001-5142-0100	Snow & Ice Salaries	SUBTRACT	\$(12,500)
EXPENSE 001-5182-0452	Street Lighting	SUBTRACT	\$(7,500)
REVENUE 001-0001-2701	Refund Prior Years Expense	ADD	\$(30,000)

NET BUDGET EFFECT -\$0

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

Resolution declared adopted

263. By the Council seconded by the Council

WHEREAS, it is the mission of the Buffalo Erie Niagara Land Improvement Corporation to confront and alleviate the problems distressed properties cause to communities by supporting municipal and regional revitalization efforts and strategically acquiring, improving, assembling and selling distressed, vacant, abandoned, and/or tax-delinquent properties; and

WHEREAS, section 1616(i) of the New York State Not-for-Profit Corporation Law provides that New York Land Banks, including the Buffalo Erie Niagara Land Improvement Corporation, may tender a preemptive bid at In Rem tax sales in an amount equal to the total amount of all municipal claims and liens which were the basis for the judgement and in the event of such tender by a land bank, the property shall be sold to the land bank regardless of any bids by any other third parties; and

WHEREAS, the bid of the land bank shall be paid as to its form, substance, and timing according to such agreement as is mutually acceptable to the plaintiff and the land bank wherein the obligation of the land bank to perform in accordance with such agreement shall be deemed to be in full satisfaction of the municipal claim which was the basis for the judgment.

WHEREAS, it is anticipated that the Buffalo Erie Niagara Land Improvement Corporation will exercise its preemptive bid powers at the upcoming City of Tonawanda In Rem No. 13 tax sale; and

WHEREAS, agreements between the City of Tonawanda and the Buffalo Erie Niagara Land Improvement Corporation are necessary to outline the obligations of the land bank and the expected repayment, if any, of the City taxes which were the basis for the judgment.

NOW, THEREFORE, BE IT

RESOLVED, that the City, through its City of Tonawanda In Rem No. 13 tax sale, is hereby authorized to enter into agreements with the Buffalo Erie Niagara Land Improvement Corporation which outline the obligations of the land bank and the expected repayment, if any, of the City taxes which were the basis for the judgment consistent with the Property Tax and Maintenance and Foreclosure Proceeds Distribution Policy for 2017 which is attached hereto and made a part hereof - City of Tonawanda to be held on December 2, 2017; and be it further;

RESOLVED, that to the extent that such agreement results in the repayment of City taxes in the amount less than the amount of City taxes which were the basis for the judgement, pursuant to Article 11 of the Real Property Tax Law, the Enforcing Officer, Treasurer of the City of Tonawanda, is hereby authorized to cancel such past due real property taxes; and be it further,

RESOLVED, that certified copies of this resolution be forwarded to the mayor, City Attorney, City Treasurer, and the Buffalo Erie Niagara Land Improvement Corporation.

Councilmember Gilbert- Could we have Mr. Hogenkamp discuss this with us real quick and list the properties?

Council President Koch ó Absolutely.

Treasurer Joseph Hogenkamp ó The City has representation on the Buffalo Erie Niagara Land Improvement Corp ó it's a land bank where it has the authority to exercise what's called a "super bid" on properties that are in our tax foreclosure auction. We currently have about 12 properties on the list. Earlier this year we've passed resolutions authorizing 5 of those properties to be super bid by the Land Bank which means they're going to come to our auction and raise their paddle and they're going to get the property. Two or three years ago there were 3 properties, 465 Broad, 272 Kohler and 585 Morgan. I think the Land Bank did the City a huge favor and knocked the house down on Kohler and built a brand new house and it rehabbed the other two properties. The five properties that are on our list that we want the Land Bank to take is a vacant lot on Fuller, a house on Adam, a house on Maldiner, a house on Grove Terrace and a house on Enterprise so they're going to take these properties and rehab them put them back into productive reuse. What they are doing with a lot of these now because they have a big inventory of properties is doing a thing called a note mortgage. They will sell them for a bid price but hold the purchaser by virtue of a lien, to a certain dollar amount to bring property into code compliance and rehab it. They will have that lien against the property until the purchaser comes into compliance with the lien. It was a good experience last time; this resolution basically memorializes how the proceeds are going to be distributed when they sell the property. There's a portion of that money that will come back to the City by virtue of the policy. It is standard policy across all the governments that participate. There are four governments that participate and that is the County of Erie, The City of Lackawanna, The City of Buffalo and the City of Tonawanda. Towns in Erie County benefit from the fact that their tax levy is guaranteed by the County Government so in the

Town of Tonawanda, if you don't pay your tax bill, we as Erie County Taxpayers will write a check to the Town of Tonawanda and it will become our problem as Erie County Taxpayers to collect that property's taxes. That is why the City has representation; it is one of four foreclosing governmental units. It is not popular with these fix it up guys who come to these auctions to see the representative from the Land Bank come in a sweep five properties but we did well by it two or three years ago and we're gonna do well this time. We are hoping for the vacant lot on Fuller that we can maybe get a new house on that lot as opposed to a vacant lot with a storage truck on it. It's about maintaining and increasing the property tax value in neighborhoods by adding families that are going to support your schools and your business so I think it is a good thing, not all people think it's a great thing but this proceeds distribution policy, our adoption of that memorializes how the distribution is going to go, it's based on how much they sell it for compared to how much they have invested in it.

Council President Koch ó Thank you Joe.

Councilmember Smilinich ó What time (auction)?

Treasurer Hogenkamp ó 10:00 A.M. on December 2nd.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

264. By Councilmember Rautenstrauch seconded by Councilmember Smilinich

WHEREAS, Local Law No. 2 for the year 2017 for the City of Tonawanda, entitled, "A Local Law to amend Section 110-184 of the Code of the City of Tonawanda entitled "Cold War Veterans Exemption" was enacted by a resolution of this body on November 8, 2017; and

WHEREAS, Mayor Rick Davis has this evening held a public hearing concerning said legislation;

NOW, THEREFORE, BE IT RESOLVED, that should the Mayor approve said legislation as is required by law, the City Clerk is directed to notify New York Secretary of State of its enactment and approval.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

Mark Dennis Zahm, 33 Grove Place- With an eye to the inevitable tax increase that we will be subjected to, may we anticipate a proportionate increase in the quality of services that we will be paying for, 5% increase in the quality perhaps? It's not a rhetorical question.

Council President Koch ó The services are not changing.

Mark Zahm- They won't get any better even though we are paying more. That's one of the things we pay for is our services here.

Council President Koch- I think we have good services here.

Mark Zahm ó Just good?

Council President Koch -I think they are great, exceptional, outstanding, I can go on.

Mark Zahm- Over the summer, I contacted DPW on numerous occasions that they come down and clean up the foot of Grove Place, that is City Property. In the past, I took care

of it and all the neighbors loved it and then the assessing people came down and they had their way so I said no more. I'm not going to fix this property up. Would it be asking too much to have someone come down and I understand it requires manual labor. Get some rakes, shovels and clean the crap out of there and keep it clean. On behalf of everybody in the United States and on Grove Place, I make that simple request. Thank you.

Associate Chaplain Rick Oates- There is a free Thanksgiving Dinner which is a good thing to point people to if you know any neighbors or elderly or anyone who doesn't have anywhere to go at the Grove Street Christian Church. The group that does the breakfasts on Monday mornings. It's just a nice thing. Thanksgiving from 2- 4PM at the Grove Street Christian Church.

Jim Barber, President Tonawanda Professional Firefighters- The members of the City of Tonawanda Professional Firefighters Local 859 would like to publicly thank Mayor Davis for meeting with us to discuss the directive he received from the majority of the City Council. Together, we were able to find a solution to maintain the services and standards that the residents have come to depend on. For the remainder of this year and have agreed to continue those discussions and to find long-term solutions that will maintain those services and staffing (inaudible) The picture has been presented of mismanagement while working an overtime crisis in the Fire Department. When Chief Stuart presented his budget this time last year his request for overtime appropriations was significantly reduced. This action alone created a situation where the current overtime issue would occur. Using the budget requested by Chief Stuart and adding in the many items recently signed into the contract, the Chief requested is very close to the cost of the year to date. With two vacant positions in the department and a reduction in overtime appropriations needed to cover those positions the perfect storm was created to not be able to stay within the budget. Our local has a long standing history of working with the City and the Council to find creative ways to maintain services and reduce health insurance costs. The Council and the Mayor have been presented with revenue generating ideas that as of today nothing has been done or put into place. These ideas have the potential to provide long-term sustainable revenue source while helping to maintain the department staffing limits. The current staffing levels barely allow us to complete our mission of life safety, life preservation and limiting property damage. Any reductions in staffing will have a negative impact on the services provided and result in increasing safety concerns for our residents and firefighters. With the National trend and our local experience with dwindling volunteer members we should be looking at ways to add firefighters not cut them. While we are extremely disappointed that the Mayor was directed to violate our Collective Bargaining Agreement, we are thankful that Mayor Davis agreed to meet to avoid a situation that would have resulted in a legal battle which would have cost unnecessary funds. The members of Local 859 look forward to working with the Mayor and Council to provide the best services our residents have come to expect. Thank-you.

Council President Koch- Thank-you. Any other comments or questions?

Roger Puchalski, 478 Adam Street- I think there are a lot of questions about the budget that you didn't address. I'd like to know why you're timing me and no one else. Why does planting 100 trees one year cost \$20,000 and the next year \$10,000? Why should we spend a quarter million dollars on Rails to Trails? Why does our shared Assessor's Department cost \$15,000 more than Lackawanna's Assessor's Department? Why is there a steady stream of salary increases? Doubling of clothing allowances? New vehicle purchases? It's clear that the City can't differentiate with what it needs and what it wants. This process needs to engage the public and be more transparent, for example; the salary lines for the City Attorney and the City Treasurer have increased. It's not possible to tell the individual salaries for those individuals have increased. By the Charter the compensation rate for elected officials cannot change during their terms. The actions of the Mayor and the Council with regards to finances of the City and the integrity of the City Charter show a disregard for the role of law and a disrespect to the citizens of the City.

Council President Koch- Thank-you Roger. Welcome back.

Roger Puchalski- I just want to add when someone comes up from the public to talk there is no need, if you want to address an issue that's fine. I don't want to go home today and get a call from The Buffalo News reporter like I did the last time at 10:00 P.M. The reporter calls me up and says, "Were you in the room when the Mayor made his comments?" and I said no. Do you know that he called your comments stupid? Do you want me to comment on it?" He said no. I don't think that's right and think that is bullying and I think that is intimidating. I think that should stop. By the way, I'm leaving because I don't want to hear the Mayor's comments.

Council President Koch- Thank-you Roger. Any other comments? Mr. Gilbert.

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Gilbert- We're having a moving forward after discussions with the Mayor and a couple of sponsors we are looking forward to having a New Year's Eve event. The Mayor will expound on that and Councilwoman Smilinich was involved. That's it for me tonight. Thank-you.

Councilmember Smilinich- Remember next Friday is "It's a Wonderful Night". There's going to be more than twenty vendors, that's crafters and food people. A little parade by carolers from Main Street to Clinton Park. The "Lighting of the Tree" and then return back to the downtown area. So come and have a wonderful time. It's start at 5:00 P.M. and goes until 10:00 P.M.

Councilmember Rautenstrauch- I just do want to thank all the residents for the e-mails and phone calls today as far as the situation with the Fire Department and thanks to the Mayor and the Fire Department. I have nothing else.

Councilmember Toth- I just want to real quick speak about the budget. When we were given the Mayor's proposed budget we were out \$400,000 that we were looking into (inaudible) it was left up to those to come up with ideas. Two weeks ago came back with some ideas that weren't overly significant but at least we told the residents that we tried to trim something out in the end. I was a little disappointed that we couldn't make an honest effort to try and whittle money down. Hopefully, the next council that comes in can stay on top of that and try and get the finances of the City back in order the way they should be. Other than that, Thanksgiving is coming up on Thursday and Happy Thanksgiving everyone.

Mayor Rick Davis- I would just like to add that regardless of whether the council passed or voted down the budget tonight, my budget would have taken effect. There's a point of cutting for the sake of cutting and then there's a point of cutting where it would have affected services. I can tell you this, that the budget I gave to the council, if you would have cut \$10,000 out of it you would be affecting services in one way shape or form in the City. Today, I had the honor of presenting in front of the Greenway Commission for the Dock Expansion Program here in the City. It was unanimously given the green light to go ahead. I look forward to presenting to the Steering Commission in January when the \$500,000 will be up for grabs. I would like to congratulate Mike Young on winning the election and I look forward to working with him next year. It's already been said, "It's a Wonderful Night" don't forget about the "Clinton Park Lighting and Santa Claus at 7:00P.m. and our Fire Department as always will make sure that he gets there safe and sound. Councilman Gilbert talked about New Year's, in the final stages trying to plan something but it looks like we will have a Ball Drop New Year's at the "Rockin at The Hub on New Year's Eve" from 9:00 P.M. to 1:00 A.M. Music will be the jazz band and an 80's Cover band, food provided by Smoke On the Water, drinks provided by the Legion and some fireworks. So, come on down and ring in the New Year! Lastly, I hope everyone has a happy and safe Thanksgiving.

Council President Koch- I would also like to congratulate Mike Young. I do look forward to working with you as well. I'd like to wish everyone out there a wonderful Thanksgiving. I hope you and your family have a safe and happy holiday. This Saturday is Small Business Saturdays. So please stop out and support our area merchants. In addition, on December 2 there is going to be an opiate seminar from 2:00 P.M. to 4:00 P.M. at 80 Clinton Street, guest speakers will be on hand to discuss the opiate epidemic

that faces our community. To reserve your spot call 444-6099. In addition, you will see some barrels around the community, one at City Hall for "Rockin' with Santa". Please consider an unwrapped gift for children ages 0-16. With that said I would like to make a motion to adjourn. Have a great night!

