

Council Chambers  
Tonawanda, New York  
April 7, 2015

A Regular Meeting of the Common Council

Present: Council President Zeisz

Present Councilmembers: Gilbert, Smilinich, Hall, Koch

Pledge of Allegiance led by Council President Zeisz

Prayer led by Associate Fire Chaplain Rick Oates

***Mayor's Proclamation  
Amanda Hansen Foundation Day***

**COMMUNICATIONS FROM THE MAYOR**

**COMMUNICATION FROM CITY OFFICIALS AND CORRESPONDENCE**

The following monthly reports were received by the City Clerk:

February minutes of the Board of Appeals

March minutes of the Board of Appeals

March Monthly report of the City Clerk

March minutes of the Traffic and Safety Advisory Board

March minutes from the Shared Municipal Services Incentive Task Force

Referred to the Committee of the Whole

Ordered filed

*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.*

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- *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.*

**COMMENTS BY THE PUBLIC ON RESOLUTIONS**

Mark Dennis Zahm, 33 Grove Place ó On item #8, what exactly is the purpose of Commissioners of Deeds? What do they do and how much are they paid?

Council President Zeisz ó Well, they are not paid but what a Commissioner of Deeds can do is they can go around the City, they can verify someone's signature. They can't verify identity, but they can verify that someone's signed. So another words, if I am carrying

petitions, it allows me to do two things. As a member of the Democratic Party, I can carry petitions from my party. As a Commissioner of Deeds, I can carry petitions for other parties but all I'm really doing as a Commissioner of Deeds is verifying someone that the person in front of me has signed it. A Notary is verifying that person in front of me is Jane Doe and signed it.

Roger Puchalski, 478 Adam Street ó On item #9, is one, I still have this anxiety about things that appear here that are in print that Friday, Saturday, when you can get the agenda on line, those are not on line, so this part, I don't believe was on the information that was posted. I believe that the purpose of posting information is so that the public could read it, develop any questions they may want to have and when it's only here the day of the meeting, that opportunity is lost. So, is it my understanding that you're borrowing \$100,000 for the five year plan? Is that what this is?

Council President Zeisz - That's what it's for, it's for the Comprehensive Plan.

Roger Puchalski - Is this different than the City's Master Plan?

Council President Zeisz - Same thing.

Mayor Davis - It's the same thing. And because we're doing the LWRP, a lot of the information that goes into updating the LWRP, the Local Waterfront Revitalization Plan, because we're currently updating that, a lot of the information that goes into that, also goes into the Comprehensive Plan. So it's actually going to be cheaper for us to redo the Master or Comprehensive Plan, whatever you want to call it, at the same time that we're updating the LWRP because they're both blueprints for what the public sees the City looking like in 20 years, both the waterfront and our community. There will be public hearings on the Master Plan.

Roger Puchalski ó I've seen part of the old one which probably sat on the shelf and is so outdated and so useless, right? The old one is pretty much useless. You're paying \$100,000. Is there anything that's going to say that in three years, that won't be outdated?

Mayor Davis ó If it's done correctly, it won't be useless. Normally, a comprehensive plan is good for about 15 to 20 years.

Council President Zeisz - And the problem we have is if you don't update it, when you try to go out for different grant monies, they say without an updated plan, they're not gonna even consider you.

Mayor Davis - That's how other communities are very successful in receiving grant monies because they have updated comp plans or their LWRP's are in place. Cheektowaga just updated theirs and I believe it was at a cost \$200,000, so it's cheaper, like I said, because we're doing it in conjunction with the LWRP.

### **MOTIONS AND RESOLUTIONS**

73. By the Council seconded by the Council  
Resolved, that the Common Council minutes from March 17, 2015, be accepted as filed.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz  
Nays: None

Resolution declared adopted

74. By Councilmember Gilbert seconded by Councilmember Smilinich  
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of gas service installation for the Young Street Pump Station Emergency Power Project be made to National Fuel, at a cost not to exceed \$5,952.70.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

75. By Councilmember Smilinich seconded by Councilmember Gilbert  
Resolved, that Mayor Rick Davis is authorized to execute a Lease Agreement between the City of Tonawanda and Waterbike Adventures, LLC for the Canal and Ellicott Creek and be it further

Resolved, that Waterbike Adventures, LLC is authorized to install a kayak launch facility at its own cost within the rental space are for the purpose of renting kayaks to the general public and that any individual who owns their own kayak may use the kayak launch free of charge as is outlined in the proposed Lease Agreement.

Councilmember Gilbert ó The kayak launch, that's just re-affirming. He's had that down there for a couple of years, correct?

Council President Zeisz ó Yes.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

76. By Councilmember Hall seconded by Councilmember Koch  
Resolved, that the following Certificates of Insurance and bonds for plumbers be accepted and filed and a license be issued for said plumbers to do business in the City of Tonawanda: Kevin G. Yaw (Kevin's Home Services) and David J. Kubinieć (Kubinieć Plumbing).

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

77. By Councilmember Hall seconded by Councilmember Gilbert  
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of Change Order No. 1 to the Phase 3 SSES Sanitary Sewer and Manhole Rehabilitation project be made to Kandey Company, Inc., at a cost not to exceed \$43,241.54.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

78. By Councilmember Koch seconded by Councilmember Smilinich  
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of Change Order No. 1 to the HVAC improvements and boiler replacement for the Tonawanda Public Library project be made to SmartEdge, at a cost not to exceed \$10,183.00.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

79. By Councilmember Hall seconded by Councilmember Koch  
Resolved, that the following be appointed Commissioners of Deed for the City of Tonawanda, term to expire December 31, 2016. Gina Butcher, 224 Gibson Street; Charles Gilbert, 196 Frederick Road; Lukas J. Kleppe, 197 DeKalb Street; Joseph P.

McNeill, 309 Hamilton Street; Marcia C. Saltarelli, 138 Klinger Avenue; Adam J. Shugg, 140 Minerva Street.

Councilmember Gilbert ó Since I am on there, I am gonna abstain from the vote.

Ayes: Smilinich, Hall, Koch, Zeisz

Nays: None

Abstain: Gilbert

Resolution declared adopted

80. By Councilmember Hall seconded by Councilmember Smilinich  
Resolved, that the reading of the following resolution be waived.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

81. By Councilmember Smilinich seconded by Councilmember Smilinich

**A BOND RESOLUTION, DATED APRIL 7, 2015, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AUTHORIZING THE PREPARATION OF A COMPREHENSIVE PLAN FOR THE DEVELOPMENT OF THE CITY, AT AN ESTIMATED MAXIMUM COST OF \$100,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.**

BE IT RESOLVED, by the Common Council (by the favorable vote of not less than two-thirds of all the members of the Council) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the preparation of a comprehensive plan for the development of the City. The estimated maximum cost of said purpose is \$100,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate amount not to exceed \$100,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvement is to be paid by the levy and collection of taxes on all real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that such purpose is an object or purpose described in subdivision 64 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is five years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will not exceed five years.

SECTION 6. The faith and credit of the City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation will be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there will annually be levied on all the taxable real property of the City a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Common Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of the sale of such bonds, and the renewals of such notes, are hereby delegated to the City Treasurer, the chief fiscal officer of the City. Without in any way limiting the scope of the foregoing delegation of powers, the Treasurer, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the City.

SECTION 8. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the City's official intent to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as qualified tax-exempt bonds in accordance with Section 265(b)(3) of the Code.

SECTION 10. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The City hereby determines that the purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act (SEQRA) is required.

SECTION 12. In the absence or unavailability of the City Treasurer, the Deputy Treasurer is hereby specifically authorized to exercise the powers delegated to the City Treasurer in this resolution.

SECTION 13. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the City is not authorized to expend money, or

(b) the provisions of law which should be complied with as of the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or

2. such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The City Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in a newspaper having a general circulation in the City and hereby designated as the official newspaper of the City for such publication.

SECTION 15. This resolution is effective immediately.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

82. By Councilmember Koch seconded by Councilmember Smilinich

Resolved, that the following rates for Policy Manual Group 8 Part Time and Seasonal Employees be established, effective January 1, 2015, the only changes implemented being seasonal hourly rates increased to the New York State minimum hourly wage as referenced below:

|         |                        |                      |        |
|---------|------------------------|----------------------|--------|
| Group 8 | Part Time              |                      |        |
|         | School Crossing Guards | 1 <sup>st</sup> Year | \$8.75 |

SEASONAL EMPLOYEES NEW RATES EFFECTIVE 1/1/15

| Group A   | 1 <sup>st</sup> Year | Hourly Rate<br>2 <sup>nd</sup> Year | 3 <sup>rd</sup> Year |
|---|----------------------|-------------------------------------|----------------------|
| Recreation Attendant<br>(Playground, Pool, Youth Ctr.)                  | \$8.75               | \$8.75                              | \$8.75               |
| Recreation Specialist<br>(Craft Instructor, Sports Assistant)           |                      |                                     |                      |
| Laborer ó seasonal<br>(DPW, Water, Signal, Fire, Recreation, City Hall) |                      |                                     |                      |

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

83. By Council President Zeisz seconded by Councilmember Koch

Resolved, that in recognition and compliance with the õNew York State Open Meetings Lawö, 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 litigation.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz  
Nays: None

Resolution declared adopted

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#### **COMMENTS FROM THE PUBLIC AFTER RESOLUTIONS**

Mark Dennis Zahm ó I recently received my City taxes, \$1,488.52. It's approximately \$400 or so over my total property taxes the first few years that I owned my house. I understand everything goes up, except my Social Security. This effectively is going to put me out of the house. I know, don't cry, you'll all be glad to see me go but it is inevitable. What the City is losing, and I've spoken to this issue years back when I was able to work two jobs to keep up with these expenses, what it ends up doing is pushing out people who are the mainstay of this community, as I see it. Educated, law-abiding, tax paying, middle class people. You're losing us and it's to the detriment of this community. There's not much more I can say or do. To close things up and make the best of it and in due time get the hell out. I understand you're looking at your legacy, as well you should. I hope you can take pride in what you've done. I remember when you came up, looking for the votes, I said to you, "are you sure you want this?" Be careful what you ask for. We had a good laugh over that. The time is coming as I see in the paper, this is the end for you. I don't know what else to say. The only thing I would ask at this point, and with respect of that amount of money I'm paying the City in the last week or so, could they at least pick up the garbage at the foot Grove Place without having to be asked? That's City property and if this is the sort of pride that they take in this City, I'll be more than happy to get out when I go. I used to make it nice, I used to try and keep it planted and attractive for my neighbors or whoever came down and they very quickly stomped on that garden, the City did, by way of your assessor's tour and union regulations about I'm not a union employee so I shouldn't be doing that work. Now you've got a little shitbox down there, please clean it up. Besides, it attracts certain zoo-zoo, the brilliant art work that the Assessor seems to think accelerated the assessments. It's sick, sick, I'm sorry to say that because I took great pride when I bought that house and started out here and you managed to destroy that.

Dave Phaff, Representative of Mark Panepinto ó I work for Senator Panepinto and I just want to let you guys, bring you up to date on the budget and it just closed. We were able to restore more money to the NFTA, so hopefully we'll be able to restore the bus route

and para-transit. More money in CHIPS money, not as much as we asked for but we're getting a little bit of an increase in (inaudible) special money to help cope with the very tough winter. School districts actually did very well. We got rid of the City of Tonawanda, 63% on the gap elimination adjustment (inaudible) restored. Next year hopefully we'll get back to normal. And there's also a substantial increase in (inaudible) later be a little bit more money but not a ton. And there is Brownfield clean up money for another ten years, so that will help with some of the things you're trying to do with economic development. If the Mayor or Councilmembers have issues or questions, you should feel free to give us a call and be happy to fill you in. We are trying to find some pots of money to apply for grants for Police and other services. If you have any questions we're here.

### **COMMENTS FROM THE COUNCILMEMBERS AFTER RESOLUTIONS**

Councilmember Gilbert ó I just want to thank the Fire Department for their work on the accident and the fire that we had. One on Niagara Street and the St. Francis St. Clare Center. The Fire Department contained the St. Clare Center to one room and saved a lot of people a lot of heartache. The food pantry is there, the outreach program is there and by the Fire Department's quick and great work. It contained it to just one room and all the food was saved and there were some clothes that needed to be thrown out, so special thank you to those guys. I want to thank the Hansens, I saw they left. What they've done here in the City is outstanding and they should be, not just today, but the way they've helped out the City should be at least a week. Then, I kind of followed this (inaudible) kind of go on this law that's kind of going through the Senate. It's Mangolin-Kowski law, it passed the Senate, now four, five years in a row and it's got bogged down in the Assembly every year and it happens to end up on Robin Schimminger's desk every year, so I'm putting it on the record, I hope the Council supports it. This law needs to pass after four or five years and the way it's written, not any changes to it and I hope that Mr. Schimminger hears this and he votes to get that out and passed. Thank you.

Councilmember Smilinich ó I concur with the passage of the law. I do want to thank the Fire Department for their exceptional service in the past several weeks, I won't expand because Mr. Gilbert did. I'd like to remind everybody that the Library has a celebration, I think it's 100 years if I'm not mistaken, on April 15<sup>th</sup> from 5:00 P.M. to 7:30 P.M., so drop in and say hi to the folks at the Library. I'd like to thank Mr. Phaff, would you pass on to Senator Panepinto my thanks for his advocacy in the education loss. It's greatly appreciated. That's it.

Councilmember Hall ó I too would like to thank the Amanda Hansen Foundation and the family for all that they do in the City. It's greatly appreciated I know, by the people that need. About the accident and fire, first responders, always do the job, DPW I see them out trying to fill the pot holes in the street, removing the snow, we had a lot. Just goes to show that all our City departments do a good job, all the time. Thank you.

Councilmember Koch ó Thank you to the Fire Department and our first responders with the accident, fire, everyday you guys do a great job and you respond to that call, each and every time. Thank you. I can't say enough good things about the Amanda Hansen Foundation. It's been my privilege and an honor to call both Ken and Kim Hansen great friends. We've worked together since December 23<sup>rd</sup> when they installed their first furnace and since then, they've installed five other furnaces and one hot water tank. They're committed to make a very generous donation to the St. Francis outreach in memory of my grandmother and their daughter, and they're also going to supply the outreach center with CO2 detectors so that we can distribute them throughout the City. So, I can't say enough good things about Ken and Kim Hansen. It's truly an honor and I thank the Mayor for issuing this proclamation. We're very fortunate to have such a wonderful foundation that's actually based out of West Seneca whose roots have now stretched to the City of Tonawanda. Thank you. Almost eight years ago, the school district approached the City to discuss a possible land swap of four acres at Clint Small Stadium on Main Street with four acres at Little League Drive. Those requests barely went unanswered until this Council took office. Discussions between both wards, along with attorneys from both sides and a committee made up of both City and School officials, brought this issue to the foreground. The City passed two resolutions to get the



wheels turning so we can continue to move forward. In order to move forward and make this a reality the Council needs to have four votes. The school district has completed a Phase I which is a historical study of the land. There are some members of this Council that have requested a Phase II which is an environmental study. In an effort to proceed, I encourage the School District to invest the funds needed and quoted in order to complete the Phase II study. I'm hopeful that the School District will agree to the Phase II and move forward because this is a win-win for both the City and the School District and I also understand there is a deadline of April 18<sup>th</sup> for the School District to agree to do the Phase II or we move forward and if the School District does not agree to do Phase II, then the land swap deal is a dead issue. So hopefully, the School District is on board with Phase II. I would encourage you to reach out to the School Board and encourage them to raise or agree to do the Phase II. I think the last quote was \$5,000 and change, correct me if I'm wrong, but this is very important and I certainly don't want to see this issue go dead. That's all I have. Thank you.

Mayor Davis ó I also would like to echo the sentiments to our Fire Department for the fire at St. Francis for their speed. I was texting the Chief a little after 2:00 A.M. in the morning that night, asking for his updates. I'd also like to thank our Police Department and Erie County, on top of National Grid and Time Warner Cable for all their assistance with the accident on Niagara Street. Today we had an LWRP meeting, Local Waterfront Revitalization Plan meeting, and our contractor, Clark Patterson Lee has a Facebook page up and going, it's called City of Tonawanda Waterfront Plan. It is online now. I would highly encourage anybody that has a Facebook page to like it to get updates on meetings, topics, to discuss ideas that you may have for our waterfront moving forward. And our public meeting will be here at City Hall to really kick off everything on May 14<sup>th</sup> at 6:30 P.M. The 18<sup>th</sup> of April, Canal Clean Sweep, I hope we get a lot of people coming out to help make our City look even better. Currently, City Hall is lit up blue for Autism Awareness Month. We stand behind all of our City residents and their families that have to deal with this disorder on a daily basis. I'd like to thank Mr. Phaff for getting up and I'd like to thank the Senator for increasing state aid to the schools. The one thing that's important though, is to remember that we as a City support our city schools with the infrastructure and things of that nature, so I'm hopeful that in next year's budget that we can finally get a raise in the aid to municipalities that's remained frozen for I believe now, this will be the seventh year, to kind of help us deal with unfunded state mandates and the cost of doing business here in the City. And lastly, a bit of bad news but, we applied for \$780,000 to Greenway for Koenig's Alley for the inner mobile hub. They awarded us \$70,000 which was very disheartening. Pretty much the money's gonna go toward engineering of that site, with the hopes of leveraging that money and those plans to get money out of the State this Fall and get the rest from Greenaway next year. So, we were given lemons but we're hoping to make a little lemonade out of it and it kind of sets us back a bit, but we're not discouraged. We're just gonna keep trying harder to move forward with the project. Thank you.

Council President Zeisz ó I thank all of you for joining us tonight, have a great night, drive home safely, and we'll see you again. God Bless you.

