

Council Chambers
Tonawanda, New York
January 6, 2015

A Regular Meeting of the Common Council

Present: Council President Zeisz
Present Councilmembers: Gilbert, Koch
Excused: Smilinich, Hall

Pledge of Allegiance led by Council President Zeisz

Prayer led by Rick Oates

Mayor's Proclamation
Helen Mullaney Day

COMMUNICATIONS FROM THE MAYOR

There were no communications from the Mayor.

COMMUNICATION FROM CITY OFFICIALS AND CORRESPONDENCE

The following monthly reports were received by the City Clerk:

August, September, October and November minutes of the Plumbing Board
December minutes of the Board of Appeals
December monthly report of the Building Inspector
December monthly report of the City Clerk
Referred to the Committee of the Whole
Ordered filed

A letter from Kim Connolly, Professor of Law at SUNY Buffalo Law School dated January 5, 2015, thanking the City for their efforts in working with the SUNY Buffalo Animal Law Pro Bono Project and its partners to help address the very important matter of community cats in Tonawanda.

Referred to the Committee of the Whole

Letters and e-mails from numerous residents expressing their support of the TNVR Trap/Neuter/Vaccinate/Return of feral/free roaming cats.

Referred to the Committee of the Whole

An award from the New York State Department of Taxation and Finance ó Office of Real Property Tax Services, recognizing the City of Tonawanda for its efforts to provide property owners with fair and equitable assessments on the 2014 roll.

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.

- *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.*

COMMENTS BY THE PUBLIC ON RESOLUTIONS

Peter Reese, 49 Sterin Avenue, Buffalo ó I grew up in Tonawanda, I graduated from Tonawanda High in 1962. I am here tonight to speak in favor of the Trap and Vaccinate and Return ordinance passing. When I was growing up, we always thought we were smarter and better than the people from North Tonawanda, we probably weren't, but we liked to think we were. Three months ago, TNVR was illegal in North Tonawanda, it is legal today. It's never been illegal in the City of Tonawanda because the City leaders have been pretty wise but passing this ordinance will make it clear that TNVR is the best practice and it's what people should do, and in fact, it's an endorsement of the status quo. Thank you.

Joseph Smith, 4456 Rushford, Hamburg ó I am a law student, here on behalf of the animal (inaudible) project and also here with Professor and the Vice Dean Kim Connelly of the law school and I am just here to speak on behalf of the trap-neuter-vaccinate-return resolution as well, thanking the Council for their efforts in recognizing the importance of this resolution to the community and these animals. We appreciate the work you've done thus far and obviously urge your support the passage of the law tonight. So, if you have any questions, if not, thank you very much, appreciate it.

Audience member ó I am with Feral Cat Focus of Western New York and I am here to tell the City of Tonawanda that we have in the vicinity of approximately 55 to 60 caregivers now in Tonawanda who are practicing trap, neuter, vaccinate and return. It's working well, we've been working with the TNVR for approximately 12 to 13 years now. So we would like to also tell the Council that we are here to support, we are only going to be here, Feral Cat Focus, to help to rent traps to caregivers, work with caregivers on the proper way to deal with these cats and if you have any questions, we will be one phone call away. Thank you very much.

MOTIONS AND RESOLUTIONS

1. By the Council seconded by the Council
Resolved, that the Common Council minutes from December 16, 2014, be accepted as filed.

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

2. By Councilmember Gilbert seconded by Council President Zeisz
Resolved, that the reading of the following resolution be waived.

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

3. By Councilmember Gilbert seconded by Council President Zeisz
BE IT RESOLVED that the City of Tonawanda hereby adds a new Article to the City Code under Chapter 10 entitled "ANIMALS" as ARTICLE 3. CATS as follows:

Sec. 10-42. Purpose and intent of this article.

A local ordinance addressing feral and community cats will reduce the population of free-roaming cats, reduce annoyance caused to some people by feral or community cats, positively affect the health and welfare of feral and community cats, and reduce the problems sometimes associated with feral or community cats; and

The trap-neuter-vaccinate-return (TNVR) method is the only proven mechanism to stabilize and/or reduce existing feral and community cat populations and address potential disease concerns; and

The City of Tonawanda endorses TNVR policies as the model to stabilize and/or reduce existing feral and community cat populations, which would address potential disease concerns and increase the quality of life for both the citizens of the City of Tonawanda as well as the feral and community cat populations; and

Recent research shows that when TNVR is not possible, leaving the feral and community cat population undisturbed provides the best alternative; and

Approval for an effective TNVR program with the alternative of leaving the feral and community cat population undisturbed when TNVR is not possible is desirable; and

It is in the best interest of the City of Tonawanda to protect the health, safety, and welfare of feral and community cats as well as City of Tonawanda residents by setting the following standards for management of feral and community cats.

Therefore

Sec. 10-43. Definitions. For the purpose of this article:

- A. "At Large" means not confined, outside an area of escape such as a pen, corral, yard, cage, house, vehicle, or other secure enclosure, unless otherwise under appropriate human control.
- B. "Colony" means a group of one or more community cats.
- C. "Community Cat" means any cat that is:
 - (1) Homeless, stray, or at large, where the cat:
 - a. has been socialized to people, or is less than five weeks old;
 - b. could become feral as connection with humans is farther removed; and
 - c. in the case of cats older than five weeks, has a good potential to quickly become domesticated once again; or
 - (2) Feral, where the cat:
 - a. is not socialized towards humans;
 - b. is born in the wild or is the offspring of an owned cat; or
 - c. is a formerly owned cat that has been abandoned; or
- D. "Domesticated Cat" means a cat:
 - (1) that is social towards humans;
 - (2) that currently lives within the residence or on the property of a person or persons accepted as the cat's owner; and
 - (3) that is considered appropriate as a companion for humans.

- E. ōEar Tippingö means a straight-line cutting of the tip of the left ear of a cat while the cat is anesthetized.
- F. ōNeuterö means to permanently sterilize male cats to render them incapable of impregnating female cats by means of either surgery to remove the reproductive organs or chemical sterilization by which the cats are injected with a drug approved by the United States Food and Drug Administration for that purpose.
- G. ōSpayö means to permanently sterilize female cats to prevent estrus (heat) cycles and eliminate their ability to become pregnant by means of either surgery performed to remove the ovaries and uterus or chemical sterilization by which the cats are injected with a drug approved by the United States Food and Drug Administration for that purpose.
- H. ōSterilizeö means to spay or neuter a cat.
- I. ōTrap, Neuter, Vaccinate, and Return Programö or TNVRö means a program in which community cats are humanely trapped, evaluated, vaccinated, sterilized, and ear tipped by a veterinarian and returned to the trap location with the intent of controlling or reducing feline population and reproduction.
- J. ōVeterinarianö means a person licensed to practice veterinary Medicine in the State of New York.

Sec. 10-44. General Policy.

- A. TNVR of community cats shall be legal in the City of Tonawanda and interested citizens are encouraged to participate in and support TNVR activities on a voluntary basis.
- B. All persons who attempt to trap community cats for TNVR in the City of Tonawanda should be familiar with the guidelines supported by regional and national feral and community cat organizations, as well as the American Veterinary Medical Association (AVMA), regarding appropriate methods of TNVR.
- C. Socialized cats and all kittens subject to TNVR shall be eligible to be, but not mandated to be, re-socialized and put up to adoption.
- D. An ear tipped cat received by local shelters shall be returned to the Location where trapped unless veterinary care is required. A trapped ear tipped cat shall be released on site unless veterinary care is required.
- E. The Animal Control Officer or any designated person within the City of Tonawanda shall use appropriate opportunities to inform stakeholders about TNVR.
- F. Proof of ownership shall not be required to claim a community cat from a local shelter.
- G. It shall not be a violation of this section to determine that the best course of action for a particular cat, or cat colony, is to be left alone.

Sec. 10-45. Implementation.

The Animal Control Officer or any designated person within the City of Tonawanda shall implement and administer this Article with the goal of reducing intakes and the eliminating humane destruction o cats via TNVR, in consultation with community cat welfare experts, including Alley Cat Allies, NYC Feral Cat Initiative,

Best Friends Animal Society, Neighborhood Cats, IndyFeral, and No Kill Advocacy Center.

Sec. 10-46. Severability.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such determination shall not affect the validity of the ordinance, other than the part declared to be invalid.

BE IT RESOLVED that the above Ordinance shall take effect upon publication in an official newspaper of the City of Tonawanda.

Councilmember Gilbert ó I just want to reiterate that this is a non-budget increase or anything like that. All we want to do is make it feasible for people and let them know that we stand behind the fact that they want to take care of these cats and that it's a good practice and it's something that everybody should take a look at and really find it in their heart to maybe do something to help these cats out. They do help the community chase the mice, the moles and hopefully the other big critters. So I just want to thank everybody for their support.

Councilmember Koch ó Recently, Erie County passed similar legislation urging municipalities to also consider TNVR. So this is a good thing and hopefully we'll get a report a year from now to see how successful this was and go from there.

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

4. By the Council seconded by the Council

Resolved, that the following certificates of insurance and bonds for plumbers be filed and a license be issued for said plumbers to do business in the City of Tonawanda: John A. Brundage (John A. Brundage/Drain Doctor, Inc.); Charles E. Carfley (A. Gareleck & Sons, Inc.); Michael Carney (M.J. Carney Plumbing Service); Paul N. Cecchini (Cecchini Plumbing); Anthony Christiano Jr. (Hertel Hardware & Plumbing Co., Inc.); Kenneth N. Clabo (Ken's Plumbing); Donald L. DiCarlo (Trademaster Contracting); Michael R. Dollendorf (Roy's Plumbing, Inc.); Kevin Fawcett (CEF Enterprises, Inc.); Mark Fremont (Mark's Plumbing, Inc.); Mark Gfroerer (Huron Plumbing); Frank Grandinetti Sr. (Grand Jude, Inc.); Joseph A. Grasso (Hollingworth Enterprises, Inc.); Barrett Greene (WNY Plumbing Co., Inc.); Daniel Greene (WNY Plumbing Co., Inc.); Donald V. Greene Jr. (Niagara Frontier Plumbing); Michael F. Higgins (Higgins/Mayers Plumbing Co., Inc.); Matthew Kandefer (Matthew Kandefer, Inc.); Dennis Kenney II (Great Lakes Plumbing); Richard A. Kuhns (RIC Plumbing Inc.); Scott Kuhns (RIC Plumbing Inc.); Dean Luongo (John W. Danforth); David Martin (Dave Martin Plumbing); John S. Militello (Kimil Construction, Inc.); David W. Muskopf (MLP Plumbing, Inc.); John T. Nuttle (Numarco Inc.); Louis J. Panepento (Penny's Hardware & Plumbing); William M. Petty (BP Plumbing); Paul Rosiek (G & W Plumbing & Heating); Todd Russo (Russo's Plumbing Heating & Cooling); Todd J. Schmigel (Joseph V. Schmigel & Sons); Herbert F. Schmit, III (Schmit Plumbing & Heating LLC); George E. Sorri (New Horizon Plumbing & Construction Co.); James R. Swanson (J.R. Swanson Plumbing); Mark Taylor (East Amherst Plumbing Co., Inc.); Christopher Tryjankowski (PCS Plumbing & Heating, Inc.); Joel Tucciarone (The Plumber/72 degrees of WNY); Gregory Zakrzewski (Aslan Plumbing & Mechanical Services, Inc.) and Thomas Zinzola (Zinzola Plumbing).

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

5. By Councilmember Koch seconded by Councilmember Gilbert

Resolved, that the following be appointed Commissioners of Deed for the City of Tonawanda, term to expire December 31, 2016.

They are: Holly M. Batt, Janice R. Bodie, Kathleen R. Greenawalt, Christine Hameister, Coleen Overholt, Laurie Schultz and Carleton R. Zeisz.

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

6. By Council President Zeisz seconded by Councilmember Koch
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 personnel of particular persons.

Ayes: Gilbert, Koch, Zeisz

Nays: None

Resolution declared adopted

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.*

COMMENTS FROM THE PUBLIC AFTER RESOLUTIONS

Joyce Hogenkamp, 241 Rogers Avenue ó I came to say thank you to Mayor Rick Davis and Councilwoman Koch for coming to the press conference that Senator Schumer held yesterday. That was work in progress from the time Tonawanda Coke was convicted. I started working on it, started pushing, started networking through all my contacts that I had made from Tonawanda Coke, yesterday was a culmination of getting him here. He was amazed and very pleased that our Mayor was there, our Councilwoman was there, that Mr. Caruana the Town Supervisor was there, in subzero freezing temperatures, outside, everybody's chattering, and we made it through approximately a half hour, forty-five minutes press conference. He was more surprised at the amount of residents that showed up from the area that bundled up and came out to see him. He said that was just outstanding and I told him when I had a few minutes that I got to speak to him alone, I said everybody has asked me, "why have you stayed in Tonawanda?" and I was able to look him in the face and say honestly to him, I stayed because of the people. My family is here, my friends are here, my neighbors are here, there is no other place like Tonawanda, the generosity, the comfort that you get when you're sick, when something happens is just truly amazing, it is the best place in the world to grow up, to raise a family and to live and work. I want to say from the bottom of my heart, thank you to the two of you for being there, supporting, I know it was last minute, you guys got the blurb that

came, it was that quick, I didn't want to put anything out there until I definitely knew he was gonna be here. You kind of hang on to that star that he's coming, he's coming, they kept telling me so until I got the definite I didn't put anything out there but again, thank you very much for your support. It meant a lot.

Dawn Whitehead, 11 Grove Street ó I live right across from the Historical Society and we had one of the large trees come crashing down Sunday afternoon with a power pole that came inches from my house and the two trees next to those are also dead and they're also weaving and swaying and about to come down, so when I was speaking to the policemen and the firemen, they told me it would be a good idea to come here today and motion to have those trees either cut down lower so they don't fall into my home or injure somebody. My children's bedrooms are on the front of the house. Those two trees are closer to my home than the other one was and if they fall into my home, literally, they're going to go through my house. I didn't know what else to do, so they told me that I should come here today.

Council President Zeisz - If, in the future you ever have an issue with anything with the streets, anything like that, you can call the Department of Public Works and share your concerns with them, and certainly come here or call your Councilperson, that is definitely appropriate, but DPW could have gotten out there and gotten on it to see. I mean all the trees have been reviewed throughout the City and they're basically broken out into one, twos and threes based on the condition. I can't speak to your particular trees, but I know that if you talk to DPW they can direct you to the Parks Department.

Dawn Whitehead ó The one that did come down took the power pole with it. Thank God there was nobody walking or we weren't outside with the kids, it was a pretty cold day on Sunday and it literally came inches from my neighbor's home and mine. Thank God, like I said, nobody was injured, no property was injured but it very well could have been a very dangerous situation.

Council President Zeisz - So you said you're at 11 Grove?

Dawn Whitehead - 11 Grove, yes.

Council President Zeisz - Well we just happen to have the head of the department sitting here, so I'm sure they'll get somebody over there to check them out, to check out those other trees, and hopefully to share some information with you. We have someone who's basically appraised all the trees to make determinations, so hopefully we can get that corrected.

Dawn Whitehead ó The top of those trees are definitely dead and I believe very dangerous so I'd like to get something done. Thank you.

COMMENTS FROM THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Gilbert ó I just want to wish everybody, I hope you had a great holiday, that Santa was good to everybody and congrats to Helen on her many years of services to the City. Thank you very much for everything you've done. It's great to have the day named after you. Thank you.

Councilmember Koch ó Congrats Helen, good job. Thank you so much for your service, we appreciate it. Just a couple shout outs. I'd like to thank the Mayor for his assistance and many members of the community for hearing the plea from the St. Francis Food Pantry. Keep in mind that the Food Pantry serves 365 days a year and they were down on turkeys and they never received their donations from the Food Bank, so Christmas time was around and they didn't have food for the families and I'd like to thank the members of the St. Francis Food Pantry for reaching out to us and telling us that there was a need. So thank you, thank you to the Mayor, thank you to everybody in the community that helped out, we certainly appreciate it. Please keep them in mind, they're right in our backyard. Tops sometimes has buy one, get one free and you can pick one up and just drop it off to them, it would be very appreciated. Two days before Christmas, a gentleman by the name of Ken Hanson, he's the president of the Amanda Hanson

Foundation. He reached out to me, there was a City of Tonawanda resident that was down on their luck, they reached out to the foundation. Their furnace was shot, she is elderly, and has a disabled son, couldn't afford a new furnace, so two days before Christmas, the Amanda Hanson Foundation installed the furnace in their house and they are certainly grateful for that, so I'd like to thank Ken Hanson, in particular the Amanda Hanson Foundation for their work in the City of Tonawanda. They've also committed to install one more furnace, so if you know of a needy family that could use that, please let me know. It's certainly not every day we have a Senator come in to your hometown, to your City to speak to residents and I felt that his speech was very heartfelt and he was genuinely concerned for the residents and he pledged a push to bring funding and change and to do everything that he can to help us out. I know the Mayor and I have had several conversations with the Army Corps and met a brick wall, so hopefully with his assistance, and I can't say enough about Joyce with her perseverance and never giving up, it's a true testament. If somebody tells you no, we can't do it, keep on trying. Joyce said it perfectly, you have a plan, you stick to the plan, if that plan doesn't work, you have another plan but you don't ever give up. So I'd like to thank Senator Schumer for coming out to the City of Tonawanda and pledging his support towards this so we can resolve this and hopefully get this cleaned up. Last but not least, I want to wish all the elected officials that were sworn in this year all the best of luck, I certainly look forward to working with them.

Mayor Davis ó We received an Excellence In Equity award and my hats off to Dave Marrano and his office for the outstanding job they do, day in and day out, to receive an award like this, so thanks Dave for all your efforts. I'd also like to thank the Council for the TNVR. Feral cats are a huge problem in many communities and this will help hopefully control our feral cat population here in the city. Mr. Oates said, I'd like to ask everybody to keep that young man's family in your thoughts prayers and thank everybody that was out today in the search and recovery mode to try to find that young man and bring the family some peace. Lastly, it wasn't an 85 degree day yesterday for the press release, it's probably the coldest I've been in a very long time I think I lost the tip of my ear to frostbite, but I can't thank Senator Schumer enough. Joyce and I, it's been 10 years since we started working on the Tonawanda Landfill and we finally got a heavy weight in our corner and it's not so much about the quality of life, that's huge, it's not so much as closure for the residents, it's also that the Town can't properly cap the landfill, so the residents have to deal with the dust and deal with the noise, on top of not knowing exactly what is in their backyard, so this is a huge step, not popping the champagne corks quite yet, but this is a huge step in the right direction and hopefully when the Army Corps does decide to release their proposed plan, the only recommendation will be to clean it up.

Council President Zeisz ó The only thing I wanted to say is, I've known Ms. Mullaney for a couple years, since I was a kid and she's a wonderful woman and it's great to see people that have given of themselves for the community get recognized. Congratulations. I thank all of you for coming tonight, have a great night, drive home safely and we'll see you again. God Bless you.

