

Council Chambers  
Tonawanda, New York  
May 19, 2015

A Regular Meeting of the Common Council

Present: Council President Zeisz

Present Councilmembers: Gilbert, Smilinich, Hall, Koch

Pledge of Allegiance and silent prayer led by Council President Zeisz

**COMMUNICATIONS FROM THE MAYOR**

A letter to the Honorable Assemblyman Robin Schimminger, dated May 8, 2015, requesting \$25,000 to purchase a new 4X4 pickup truck with a plow package for the Department of Public Works.

Ordered filed

**COMMUNICATION FROM CITY OFFICIALS AND CORRESPONDENCE**

The following monthly reports were received by the City Clerk:

April minutes of the Plumbing Board

April Activity Report of the Fire Department

April monthly report of the Building Inspector

May minutes of the Traffic and Safety Advisory Board

Comprehensive Revenue & Expenditure Control Report as of 5/19/15

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**

Anthony Bundy, 73 Highland Avenue ó In regard to item 12 that you will be discussing this evening, I have a single concern on the frontage change. I am wondering why we are going so drastic from, it was 60 plus 15 all the way from 60 plus 6 for additional residences. Are we looking at a high rise somewhere in the City.

Council President Zeisz ó No, it has nothing to do with that.

Anthony Bundy ó Are we looking at a brand new apartment building? Because this will significantly change the demographics of the neighborhood.

Council President Zeisz ó How will it change the demographics?

Anthony Bundy ó As well there is another item in here that states reduction and square footage per apartment or per dwelling. It means you can cram more people into a smaller space.

Council President Zeisz ó That is correct.

Anthony Bundy ó You have seen the type of family homes that surround Highland School and if this is regarding that I would like you to seriously consider, most especially the decision of the variance board that had come down as well. The variance board agreed that it never should have come to them in the first place and I believe that we should take that into consideration and the court and the board stated that it would significantly impact the demographics of the area.

Council President Zeisz ó Let me just ask this question. Now the building has been taken care of.

Anthony Bundy ó Actually it has not.

Council President Zeisz ó It has been taken care of a lot better than it could have been. Do you remember what Kibler High School looked like? What I am saying is what do you suggest for that property?

Anthony Bundy ó Is it my job to make suggestions for property?

Council President Zeisz ó I am just asking becauseí

Anthony Bundy - í .it is the only decision on the plate. I mean obviously it is out of our hands but if it is going to be converted into a different type of use. It is an R-2 dwelling now. It should have been an R-1 all along. R-1 is educational only which is considerably limited as what can be developed there. We are stuck with an R-2 with an owner who has not maintained it throughout the winter. I had to take my snow blower so my neighbors could walk the streets.

Council President Zeisz ó I understand that. I am talking about a building though, if the windows were broken and there was no heat and then eventually kids started getting into it, animals started to get into it.

Anthony Bundy ó I have a neighbor's house that is just like that now. Do you expect me to do something about that too?

Council President Zeisz ó I am not expecting you to do anything I am just sayingí .

Anthony Bundy - í .ya, you are asking me what to do with the building.

Council President Zeisz ó I just want your opinion.

Anthony Bundy ó I cannot offer any viable solution for the building aside from people that when it went up for auction there were other people interested in the building and this realtor that was working very very closely with People Inc. bought it out from under them. Maybe there were other ideas. Hopefully if these notes make it on to the website some people will come forward with ideas. That is all I have to say.

Council President Zeisz ó Thank you.

Dan Kancar, 109 Mullen Street ó I can't let this go by. My sister is mentally handicapped and she belongs to People Inc. and People Inc. have multiple homes and



sudden and unexpected accidental destruction of a garbage packer owned by the City, including preliminary costs and costs incidental thereto and in connection with the financing thereof. The estimated maximum cost of said purpose is \$200,000.

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 \$200,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, LESS the amount of any insurance proceeds actually received by the City as the result of the destruction of the previous garbage packer (such insurance proceeds being currently anticipated to be approximately \$100,000), said amount to be further offset by, 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 a class of objects or purposes described in subdivision 28 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is 15 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 that the proposed maturity of the obligations authorized by this resolution may 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 has determined that the purpose 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

120. By Councilmember Gilbert seconded by Councilmember Hall  
Resolved, that the following be appointed Commissioners of Deeds for the City of Tonawanda, term to expire December 31, 2016: Janet M. Arnold, 42 Harriet Street; Kathleen L. Bacon, 766 Fletcher Street; Robert J. Blazina, 9 Fremont Street; Lynn M. Casal, 69 Grant Street; Janine L. Drmacich, 79 Ilion Street; Gaeton M. Godios, 13 Edith Street; Joyce A. Hogenkamp; Donna H. Holler, 30 James Street; Kathleen N. Holler, 30 James Street; Jonathan Juliano, 36 Clarence Harder Drive; Elizabeth A. Koch, 431 Adam Street; George E. Koch, Jr., 431 Adam Street; Jenna Koch, 431 Adam Street; Linda E. McGuire, 762 Fletcher Street; Christine M. Pillozzi, 82 Clinton Street; Gina M. Renda,

250 Gibson Street, Apt. D; Dennis J. Smilinich, 240 Grove Street; Jackie A. Smilinich, 240 Grove Street; and Robert J. Stuart, 65 Hill Street.

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

Resolution declared adopted

121. By Councilmember Smilinich seconded by Councilmember Gilbert  
Resolved, that amendments to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-158, Schedule VIII: Stop Intersections, be amended to remove the following:

<u>Stop Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Bellinger Drive	Both	Baker Terrace
East Niagara Street	Both	Douglas Street
Fletcher Street	Both	Bouck Street
Fletcher Street	Both	Franklin Street
Fletcher Street	Both	Kohler Street
Fletcher Street	East	Elmwood Park West
Niagara Shore Drive	Both	Creekmore Drive
Penarrow Drive	North	Harvington Road
Rogers Avenue	Both	Alliger Drive
Rogers Avenue	Both	Clark Street
Wheeler Street	Both	Enterprise Avenue
Wheeler Street	Both	Moyle Avenue

Councilmember Gilbert ó Just want to get this on the record with Captain Foels that especially on Douglas Street if the residents do not like it after a short period of time there, I would like to get that back on. I would like to do that as a study. O.K. Thank you Mr. President.

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

Resolution declared adopted

122. By Councilmember Smilinich seconded by Councilmember Koch  
Resolved, that an amendment to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-158, Schedule VIII: Stop Intersections, be amended to add the following:

<u>Stop Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Baker Terrace	West	Bellinger Drive

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

Resolution declared adopted

123. By Councilmember Smilinich seconded by Councilmember Hall  
Resolved, that an amendment to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-160, Schedule X: Yield Intersections, be made to add the following:

<u>Yield Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Niagara Shore Drive	West	Niagara Shore Drive

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

Resolution declared adopted

124. By Councilmember Smilinich seconded by Councilmember Koch  
 Resolved, that amendments to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-196, Schedule XVIII: No Standing During Certain Hours, be made to remove the following:

<u>Name of Street</u>	<u>Side</u>	<u>Hours/Days</u>	<u>Location</u>
Hackett Drive	North	All/Tuesday, Thursday, Saturday and Sunday	from Hinds Street to Hamilton Drive
Hackett Drive	South	All/Monday, Wednesday and Friday	from Hinds Street to Hamilton Drive
Wadsworth Avenue	East	All/Tuesday, Thursday and Saturday	from Taylor Drive to Alliger Drive
Wadsworth Avenue	West	All/Monday, Wednesday and Friday	from Alliger Drive to Taylor Drive

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

Resolution declared adopted

125. By Councilmember Smilinich seconded by Councilmember Koch  
 Resolved, that amendments to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-196, Schedule XVIII: No Standing During Certain Hours, be made to add the following:

<u>Name of Street</u>	<u>Side</u>	<u>Hours/Days</u>	<u>Location</u>
Hackett Drive	South	Anytime	from Hinds Street to Hamilton Drive
Wadsworth Avenue	East	Anytime	from Taylor Drive to Alliger Drive

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

Resolution declared adopted

126. By Councilmember Smilinich seconded by Councilmember Koch  
 Resolved, that an amendment to the City of Tonawanda Code, Chapter 62, Traffic and Vehicles, Section 62-154, Schedule IV: One-way Streets, to add the following:

<u>Name of Street</u>	<u>Direction of Travel</u>	<u>Limits</u>
Rogers Avenue	South	from end to Fletcher Street

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

Resolution declared adopted

127. By Councilmember Hall seconded by Councilmember Gilbert  
**WHEREAS**, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation, more specifically, The Buffalo News, on May 8, 2015, in accordance with Section 2.047 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED**, that Chapter 82 entitled ZONING, Article 5: BULK REQUIREMENTS, DIVISION 1. GENERALLY, Section 82-241. Lot area, which now reads as follows:

(a) Minimum lot area shall be as follows:

(1) For dwellings and buildings of mixed occupancy:

a. R-1 single family residence districts: 7,500 square feet per dwelling unit.

b. In R-2 general residence districts: 6,000 square feet for the first dwelling unit plus 3,500 square feet for each additional dwelling unit.

c. In all other R districts and all C districts: 6,000 square feet for the first dwelling unit plus 2,500 square feet for each additional dwelling unit.

d. Attached dwelling units: In all districts, 4,000 square feet.

(2) For other principal buildings or uses: As regulated by the yard, open space and off-street parking requirements of this chapter.

(b) For lot area exceptions for existing small lots, see section 82-242(c). Shall be amended to read as follows:

(a) Minimum lot area shall be as follows:

(1) For dwellings and buildings of mixed occupancy:

a. R-1 single family residence districts: 7,500 square feet per dwelling unit.

b. In R-2 general residence districts: 4,000 square feet for the first dwelling unit plus 2,000 square feet for each additional dwelling unit.

c. In all other R districts and all C districts: 6,000 square feet for the first dwelling unit plus 2,500 square feet for each additional dwelling unit.

d. Attached dwelling units: In all districts, 4,000 square feet.

(2) For other principal buildings or uses: As regulated by the yard, open space and off-street parking requirements of this chapter.

(b) For lot area exceptions for existing small lots, see section 82-242(c).

**BE IT FURTHER RESOLVED**, that Article 5: BULK REQUIREMENTS, DIVISION 1. GENERALLY, Section 82-242. Lot width, which now reads as follows:

(a) The minimum lot width for dwellings and buildings of mixed occupancy shall be as follows:

(1) In R-1 single-family residence district: 60 feet.

(2) In all other R districts and all C districts: 50 feet for the first dwelling unit, plus 15 feet for each additional dwelling unit.

(3) Attached dwelling units: In all districts, 35 feet.

(b) The minimum lot width for other principal buildings or uses shall be as follows: As regulated by the yard, open space and off-street parking requirements of this chapter.

(c) Lot area and width exceptions for existing small lots are as follows:



(1) The lot width or area requirements of this chapter shall be automatically waived to permit the erection of a single-family dwelling or the restoration, enlargement (but not the creation of additional dwelling units), moving, repair or alteration of an existing dwelling on any lot of record which was owned separately and individually from all other contiguous tracts of land on May 27, 1968, or on the effective date of any subsequent amendment increasing area or width requirements, provided that dwellings are a permitted use in the district in which such lot is located.

(2) Vacant land or subdivision lots in the same record ownership on May 27, 1968, or on the effective date of any amendment increasing width requirements, having in the aggregate a continuous frontage resulting in a total lot width of 100 feet or more and less than 120 feet, may be divided into two lots of equal width so far as width requirements are concerned, and such requirements shall be waived as provided in subsection (c)(1) of this section for such purpose.

(3) If the frontage referred to in subsections (c)(1) and (2) of this section shall be contained in two or more districts, the provisions pertaining to the most restrictive district shall apply.

Shall be amended to read as follows:

(a) The minimum lot width for dwellings and buildings of mixed occupancy shall be as follows:

(1) In R-1 single-family residence district: 60 feet.

(2) In all other R districts and all C districts: 50 feet for the first dwelling unit, plus 6 feet for each additional dwelling unit.

(3) Attached dwelling units: In all districts, 35 feet.

(b) The minimum lot width for other principal buildings or uses shall be as follows: As regulated by the yard, open space and off-street parking requirements of this chapter.

(c) Lot area and width exceptions for existing small lots are as follows:

(1) The lot width or area requirements of this chapter shall be automatically waived to permit the erection of a single-family dwelling or the restoration, enlargement (but not the creation of additional dwelling units), moving, repair or alteration of an existing dwelling on any lot of record which was owned separately and individually from all other contiguous tracts of land on May 27, 1968, or on the effective date of any subsequent amendment increasing area or width requirements, provided that dwellings are a permitted use in the district in which such lot is located.

(2) Vacant land or subdivision lots in the same record ownership on May 27, 1968, or on the effective date of any amendment increasing width requirements, having in the aggregate a continuous frontage resulting in a total lot width of 100 feet or more and less than 120 feet, may be divided into two lots of equal width so far as width requirements are concerned, and such requirements shall be waived as provided in subsection (c)(1) of this section for such purpose.

(3) If the frontage referred to in subsections (c)(1) and (2) of this section shall be contained in two or more districts, the provisions pertaining to the most restrictive district shall apply.

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

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

Councilmember Gilbert ó The idea behind this rezoning is to make it easier to get something done at Highland School correct? So the alternative would be to have that building sit for ten plus years and become a blight on the community as well if it didn't pass. So, I just wanted to put that on the record that I am in favor of doing something with the building rather than make it worse on the community.

Councilmember Hall ó I too feel that way and that is why I sponsored this resolution. I agree with Mr. Kancar that handicap people need a place too. I have been through the old Junior High at Kibler and saw how bad it was and I don't want it to turn into that and that is why I am sponsoring this resolution.

Councilmember Koch ó Was this resolution presented to the Zoning Board of Appeals?

Council President Zeisz ó No.

Councilmember Koch ó So we have the Board of Appeals for a reason and I would just ask that before we vote on this that they review this resolution. So we have their recommendation.

Councilmember Hall ó I believe they already said no to this by the lawsuit that they fought.

Councilmember Koch ó But they have not seen this resolution.

Councilmember Smilinich ó Let me start off by saying that I have nothing against People Inc. My main concern with this is that we have spent almost \$5,000 to take this to the Appellate Courts. Considering that we won the case and now we are changing our minds. So in the appellate decision, it said that it was concluded that the application should be denied. That the variance would cause an undesirable change to the character of the neighborhood. That the variances are substantial and the petitioners hardship is self-created. Specifically there is substantial evidence in the record supporting the respondent's conclusion that granting the variances would cause increased population density from the presence of an apartment building in a neighborhood comprised of single family homes. So my question is, why did we go through all this legal stuff, when they had won, just to come back and change this. Are we putting ourselves in a position where there are other buildings in this City that could fall into this and also, deteriorate the neighborhood, as it said in the appellate decision? I will be voting no.

Council President Zeisz ó Mr. Trabucco would you like to comment?

City Attorney Trabucco ó Not really.

Ayes: Gilbert, Hall, Zeisz

Nays: Smilinich, Koch

Resolution declared adopted

128. By Councilmember Koch seconded by Councilmember Gilbert

**WHEREAS**, the City of Tonawanda is desirous of obtaining funds from the Department of Environment and Planning in the amount of \$325,000.00 under the Federal Housing and Community Development Act as amended.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Tonawanda does hereby formally request funding from the Department of Environment and Planning; and

**BE IT FURTHER RESOLVED**, that the City of Tonawanda does hereby authorize Rick Davis as the official to sign, submit and execute all applications, forms, and contracts between the City of Tonawanda and Erie County.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

129. By Councilmember Hall seconded by Councilmember Koch  
Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for the TNT Gateway Market and  
Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and  
Whereas, all details for the above named event must be coordinated with Amanda Lofft, Director of Parks and Recreation and the event chairperson, now, therefore be it  
Resolved, that permission be granted to the Swiftwater Business Association to hold the TNT Gateway Market on every Thursday evening from June 4, 2015 through October 1, 2015, from 5:00 P.M. to 8:00 P.M. and be it further  
Resolved, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than May 26, 2015.

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

Resolution declared adopted

130. By Councilmember Gilbert seconded by Councilmember Smilinich  
Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for the Ride for Missing Children and  
Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and  
Whereas, all details for the above named event must be coordinated with Police Captain Fred Foels and the event chairperson, now, therefore be it  
Resolved, that permission be granted to the National Center for Missing & Exploited Children to hold the Ride for Missing Children on Friday, May 29, 2015 and be it further  
Resolved, that any overtime that is incurred during this event will be paid for by the National Center for Missing & Exploited Children and be it further  
Resolved, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than May 26, 2015.

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

Resolution declared adopted

131. By Councilmember Hall seconded by Councilmember Gilbert  
Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for an Interdenominational Worship Service and  
Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and  
Whereas, all details for the above named event must be coordinated with Amanda Lofft, Director of Parks and Recreation and the event chairperson, now, therefore be it  
Resolved, that permission be granted to Immanuel Lutheran Church to hold their Interdenominational Worship Service on Friday, August 14, 2015, from 3:00 P.M. until dusk and be it further  
Resolved, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than August 3, 2015.

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

Resolution declared adopted

132. By Councilmember Koch seconded by Councilmember Hall  
Whereas, the City of Tonawanda has previously and traditionally contracted out milling of the City of Tonawanda streets to outside contractors; and  
Whereas, the Town of Tonawanda is willing and able to mill various City of Tonawanda streets during the summer of 2015; and  
Whereas, it is beneficial to both parties to enter into a Shared Services Agreement pertaining to the milling of various City of Tonawanda streets, now, therefore be it

Resolved, that Mayor Rick Davis is hereby authorized and directed to execute the proposed Shared Services Agreement between the City of Tonawanda and the Town of Tonawanda regarding the milling of various City of Tonawanda streets, a copy of which on file in the Office of the City Clerk.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

133. By Councilmember Gilbert seconded by Councilmember Koch  
Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for the Cardinal O'Hara Hawk Walk and  
Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and  
Whereas, all details for the above named event must be coordinated with Police Captain Fred Foels and the event chairperson, now, therefore be it  
Resolved, that permission be granted to Cardinal O-Hara High School to hold their annual Hawk Walk on Friday, May 29, 2015, and be it further  
Resolved, that any overtime that is incurred during this event will be paid for by Cardinal O'Hara High School and be it further  
Resolved, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than May 22, 2015.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

134. By Councilmember Hall seconded by Councilmember Gilbert  
Resolved, that the Annual Firemen's Day Parade will be held on Saturday, June 20, 2015, at 2:00 P.M. and further be it  
Resolved, that the parade start at Payne Avenue and Thompson Street in North Tonawanda and disband at Broad Street and William Street in Tonawanda, with companies marching back to their respective company quarters.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

135. By Councilmember Koch seconded by Councilmember Smilinich  
Whereas, the City of Tonawanda Common Council, by resolution #22, dated February 17, 2015, previously determined that the Sewer System work under the Clean Water State Revolving Fund Project #C9-6672-05-00 that is being undertaken by the City to address the New York State Department of Environmental Conservation issued Order on Consent (Order) for the purpose of the mitigation of sanitary sewer overflow (SSO) discharges is a SEQRA (State Environmental Review Act) Type II action pursuant to 6 NYCRR Section 617.5 © (29) because it is an action "specifically required to be undertaken pursuant to a judgment or order"; and,  
Whereas, notwithstanding the prior SEQR Determination of this Common Council, the subject action is also properly considered a project that can be considered an action to undertake maintenance and repair or in-kind replacement not exceeding any thresholds under the SEQR regulations.  
Now, Therefore Be It Resolved, that the City of Tonawanda Council has determined that the proposed action is a project which constitutes the "maintenance or repair involving no substantial changes in an existing structure or facility", "replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site" unless such action meets or exceeds any of the thresholds in section 617.4(b) which are Type 2 actions as defined in 6 NYCRR Section 617.5 (c) (1) & (2).

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

136. By Councilmember Hall seconded by Councilmember Gilbert  
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the Phase 4 SSES Sanitary Sewer and Manhole Rehabilitation be made to Mark Cerrone, Inc., at a cost not to exceed \$2,088,000.00.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

137. By Councilmember Smilinich seconded by Councilmember Koch  
Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for a Basil Ford TV Commercial and

Whereas, the application is being reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and

Whereas, all details for the above named event must be coordinated with Amanda Lofft, Director of Parks and Recreation and the event chairperson, now, therefore be it

Resolved, that permission be granted to Basil Marketing Group to film a commercial in Niawanda Park on Wednesday May 20, 2015 with a raindate of Thursday, May 21, 2015, and be it further

Resolved, that any overtime that is incurred during this event will be paid for by the Basil Marketing Group and be it further

Resolved, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than May 20, 2015.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

138. 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 union issues and a potential lawsuit.

Ayes: Gilbert, Smilinich, Hall, 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

Dan Kancar, 109 Mullen Street ó The I didn't come to comment on that resolution that was on the docket but I had to say something. I am here today to ask the Common Council if they can ask the Board of Appeals to record all their conversations at their meetings, because when Mrs. Kossow does the minutes, if somebody speaks too fast, like I do, because I get nervous, or if they speak too low, she might not catch it. So I am asking if the Common Council could ask them to record the minutes so that way the City and the taxpayers have an accurate word by word play so both parties could read it and then if they ever had to take issue to the Supreme Court, under Article 78, they could go to court and show them exactly what was said, because there are a lot of things that are said, like the meeting that I went to on April 27, both my wife and I read the minutes like ten times, and there are a lot of things that they said and we said that were not in the minutes. And they were very important to our case, I felt, and they should have been in there. So I am asking the Common Council if they can pass that down to them and see if we can get that done.

Lynn Casal, 69 Grant Street ó Where do we stand on Spaulding Park and do we have anyone inquiring about moving into the area?

Mayor Davis ó Pyramid is marketing the property as of three months ago, and they have had a few bites on it but nothing solid as of yet. They continue to do what it is that we hired them to do, which is market the company both locally and internationally.

Lynn Casal ó The reason that I am asking is because I opened up my sewer bill and almost had a heart attack. It went up 15% and what other ways are we thinking of raising revenue in the City? If we don't do the housing to get more revenue by taxes, we haven't gotten anything from Spaulding, what are we doing to raise revenue?

Mayor Davis ó Marketing Spaulding is one of them. We are looking at and we are going to have to discuss Little League tonight. The land swap, if that goes through then that will be another piece of property that the City has to be able to market for development.

Lynn Casal ó We have to do something ASAP, we can't keep raising taxes and not bring in more revenue.

Mayor Davis ó The Sewer Fund, too, is a stand alone fund that we were talking more than \$20,000,000 worth of obligation.

Lynn Casal ó 15% in one year is a lot for a resident to bare. I just want to make sure that we are doing everything we possibly can to get more revenue into the City.

Adam Sereno, 107 Linwood Avenue ó For those who missed the pre-meeting, I would like you to repeat why the fire engine resolution, to bond it, was removed for tonight so it can be noted in the public record.

Council President Zeisz ó Well, number 1, I felt the entire Council should be a part of the discussion on whether or not to move ahead to bond a \$400,000 piece of equipment. So, that is one reason why it was held. Another reason why it was held, and its not unprecedented, it is something that has been done over the years, is when you have a situation where you have a purchase that is going to cross Councils, a new Council and an old Council. In a situation like this, it only takes three people to go ahead and start the process of getting a new pumper. But when you get the new pumper, it takes four people to pass the bond to pay for it. So, one of the concerns that I have and one of the things I have tried not to do over the years, is have a situation where we say go ahead, and the next Council says we're not paying for that. That could very easily happen. The other thing that I brought up, which is the most important thing, is that the financial where withal of the City at this time to move ahead to bond another piece of equipment. Ever since we went to the Capital Plan a number of years back, the mind set seems to have become to just bond it. Before you know it, the obligations have gotten bigger and bigger, and the fund balance has gotten smaller and smaller. I understand that everyone

needs equipment. There is no question about that. But, going back many years, there were a number of years that we did nothing. We didn't bond anything or buy anything because the City couldn't afford it. There has to be a time when we have to say that we have to wait another year, or we have to wait two more years. It is just the way it is, and if that means we have to get by, because it already started last budget. It is going to start becoming more and more apparent, it's either jobs or we do without some things. We can't really afford less people to do the work. We need the people to do the work. I don't have any problem saying that. People can say whatever they want that I'm not running again. I can tell you right now that I sit right up here and say it, whether I'm running or not, because it's the truth and until this Council, future Councils start to accept the fact that things have to change, then things will never change and people will just think that we are just going to buy whatever it is they need us to buy.

Nancy Paschen, 5 Main Street ó I have proof that the fire truck was in an accident last Thursday. I saw the fire truck coming down Niagara with lights and siren going. Now why can't the Police do something with all this traffic that's going by. Everybody has to stop for the Fire Department and the ambulance, and everybody has to stop for the cars to go by. Come on. When I first learned how to drive, I was told that you are supposed to pull over to the right and let the emergency vehicles go by. Now the cops are waiting for the cars and Police and everything and the ambulance and they stop at the signal and they wait for the cars to go by before they go by. I mean, come on, let's get on the ball here.

Jason LaMonaco, City Engineer ó The County actually did a formal public hearing, so this is more of an informal to let everybody know that the Phase II Stormwater annual report is available for review on website and in my office if you have any questions on that. The Stormwater Management Plan is also in my office. Just briefly again, so people remember, there are many controls that the City is required to follow. It is a program divided into public education outreach, public involvement and participation, a list of discharge detection elimination, construction site stormwater run off control, post construction stormwater management, and stormwater management of municipal operations. Bottom line, to make it really simple, is just to try to remind everybody that anything that washes down your driveway or goes down the street, ends up in a storm drain. What ends up in those storm drains does not get treated. It goes directly to any receiving water body. So if you have extra paint, oil or soap or fertilizers and want to get rid of it, don't dump it down the storm drain, because what you're really doing is your dumping it straight into a creek. Just a notice that we are accepting comments.

Mayor Davis ó I just want to comment. Anybody who knows Jason, knows he loves to talk about stormwater. He has to, as a requirement, he has to get up at a Council Meeting to give the eloquent speech that he just got done giving.

Jason LaMonaco ó I would do it every Council Meeting if I could.

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

Councilmember Gilbert ó All I have tonight is that I want to say congratulations to the Middle School Band and Chorus who went to Springville and they took first place in their competition. The High School musical took three or four awards for their Addams Family. I want to congratulate the cast and crew. We had the opening day ceremonies at Little League Drive. It was a great day. I know Councilmember Koch and the Mayor were there. The Mayor threw a wild pitch, which we will let him digress on that later. It was a great day and I want to thank everyone who came and had a great time.

Councilmember Smilinich ó You have 25 minutes to still go vote at the school for the budget if you haven't been there. Quick, run. That's all that I have today.

Councilmember Hall ó I personally would like to thank Captain Foels and Chief Strassburg. I came to them with a problem and got my answer tonight. It was acted on quickly and appropriately so thank you to you two. Second, with the fire engine resolution, I for one will be sponsoring to put it back on and I understand everything that you were saying, but this has been put off for three years already. It takes another year after we OK it to receive it and the years that we didn't bond anything is actually what

put us in this mess, because that's more and more things that are going to be needed the following year. So I, for one, will be putting this resolution back on.

Councilmember Koch's Tomorrow is our Council on the Corner and it starts at 5:00 P.M. and we will be meeting with the seniors from 5:00 to 6:00 P.M. and from 6:00 to 7:00 P.M. we will be meeting with the community to discuss issues. So come on down to the Senior Citizens Center. It will be the fifth Council on the Corner. Last week the Mayor issued a proclamation declaring May as Senior Citizens' Month. I would like to thank the Mayor and Doreen for allowing me to present the proclamation. Last week there was a Consent Degree filed in Federal Court stating that Tonawanda Coke will pay nearly \$42,000,000 in fines and upgrades, etc. Including in those funds are \$1,000,000 that are basically up for grabs for local projects for municipalities, so it is my hope that we can put a strong proposal together to go after those funds. I know the comment period is coming up quickly. It's thirty days so we will act quick and hopefully we can bring something home.

Mayor Davis's For those who weren't at the Informal Session, tomorrow I will be signing the first phase of solar here in the City. I am very excited to move forward with Montante Solar on this project and anything we can do to save taxpayers money is a bonus. Zombie legislation was passed. For those of you who don't know what it is, it's a good thing for the City. Right now we are really restricted on properties that kind of sit in limbo here in the City because of State legislation. I want to thank the senator and assemblymen for their help in getting this passed. It gets some of the lenders on board that will self report properties in every municipality that are kind of in this situation to help us address blight here in the City. I thank them for their support. Simmers/Crane looks to open by the end of June as long as they don't have any delays with a ribbon cutting ceremony sometime in August. Twin City Memorial Highway will be renamed, and properly so, to Twin City Viet Nam Veterans Highway on Thursday at 11:30 A.M. I hope that this long coming honor gives people pause to honor the sacrifices that our men and women who went to Viet Nam made then and now. Memorial Day celebrations noon on Sunday on the Renaissance Bridge followed by a parade that will head from the corner of Broad and Main up to our City Cemetery at 2:00 P.M. LWRP meeting, I thought went very well. Just as a snap shot, when the Town of Tonawanda did theirs a few years back, they had thirty-seven people show up and they are considerably larger than ours. We had thirty people at the meeting. A lot of great ideas. I know that there were some people that were bummed out that they couldn't attend the meeting but we will be coming to your favorite summer City event, so please look for us and please check out the LWRP page on Facebook. Lastly, Councilmember Gilbert, three pitches any time, any where.

Council President Zeisz's Thank you to everyone tonight for coming. Have a great night, drive home safely and we'll see you again. God bless you.



