

Council Chambers
Tonawanda, New York
October 20, 2015

A Regular Meeting of the Common Council

Present: Interim Council President Gilbert
Present Councilmembers: Smilinich, Hall, Koch

Pledge of Allegiance led by Interim Council President Gilbert

Prayer led by Associate Fire Chaplain Dave Nedell

Public Hearing
2016 General, Water & Sewer Operating Budgets
2016 Capital Plan

Lynn Casal, 69 Grant Street ó I actually have two questions. I wondered why the fines and forfeitures is so much higher this year?

Mayor Davis - Because I had asked Judge Cassata to increase the fine amount for speeding tickets that were marked down to parking tickets. He did that midway through the year. This year we're going to hit half a million dollars in fines and fees this year so...

Lynn Casal- í that makes sense. I'm thinking, gosh they're gonna have people standing at every corner trying to give out tickets or somethingí

Mayor Davis- í no, the thinking behind it too was that we were making people go to school and the state was getting the money for them going to school so why not the City get it and just drop the school.

Lynn Casal - I was just afraid, if it was still the same, I didn't know it was raised, but that makes sense that if it wasn't raised, that if we didn't need that, I was thinking how are you gonna make up the difference. My other thing was the transfer from the water, the inner fund \$100,000, higher than last year? Can you explain that?

Mayor Davis- You're talkingí

Lynn Casal- í for the Water/Sewer operating budget.

Mayor Davis- The increase in \$100,000 is, for too long the City's paying for sewer land costs out of the General budget and not out of the Sewer budget. The General budget is paid for by select tax paying entities. The Sewer budget is paid by everybody. So, it is possible the Sewer budget should be coming out of the Sewer fund, not out of the General fund and those costs should be spread out amongst everybody and not just a select few. So, last year I could have actually increased it by the extra \$100,000 but I didn't want the Sewer fund to take a \$100,000 hit, but there are costs associated with \$20,000,000.00 worth of work that were doing and it's to help offset that cost.

Lynn Casal - Okay, thank you very much.

Interim Council President Gilbert - Anybody else?

Roger Puchalski 478 Adam Street ó Is there any particular reason why the Council's budget for printing is more than doubled from the previous year?

Interim Council President Gilbert- We are under orders that we have to print in a local subscription paper and by not having The Tonawanda News we had to go to the Buffalo News, and the Buffalo News rates are three to four times higher than the Tonawanda News rates were, so that's why there is such an increase in those costs.

Roger Puchalski- And you can't use Business First?

Mayor Davis- Senator Panepinto's representative, Dave Pfaff, has been working trying to figure out a way to where we can use a cheaper publication in order for us to publish local laws and public notices and things of that nature.

Dave Pfaff - I'm here for Senator Panepinto. This is a problem that everybody is facing. A lot of municipalities, school districts, we are trying to introduce a bill to try to change this. Obviously people like the Buffalo News will be fighting this. We are working to try to find a way to get around the requirement that all these public notices be published in a daily paper, which is the real sticky point. This goes back years and years when every town that had a local paper and it's a growing problem when people that are making money on it don't want it to change, but we are working on it, we are introducing legislation this year on that with the Mayor and we are working with the school districts and the other municipalities in the district to try and change this.

Interim Council President Gilbert - Thank-you Mr. Pfaff.

Roger Puchalski - Retirement cost of personnel and administration is quite a significant jump and it is almost three times what it was two years ago. What's it going to be next year, is this something that is going to level out or just continuing to jump exponentially?

Mayor Davis - No, this is the mass exodus before the new contract is up. So people are going, people that can get out, under this old contract are going to do so, and that's what you see. So the following year I will assume, and I think we've already kind of looked at the numbers, that it will be substantially less than currently for this upcoming year.

Roger Pulchalski - On the sewer rents, that's jumped up almost half a million dollars. The operating budgets of revenue, that gonna be generating the sewer rents, so what does that work out to per household?

City Treasurer Joseph Hogenkamp - I had a little conversation with the Mayor this morning about that. When we adopted last year's Sewer budget at two million fifty-two that was before we increased the rates fifteen percent. Subsequently, we increased the rates in 2015 budget by fifteen percent so that two million fifty-two is probably closer to \$2.3, \$2.4 million that were going to get (coughing) okay. The conversation that I tried to have last week was even though, I tried to say that even though the sewer fund is healthy and is doing well, that looking out into the future having to permanently finance twenty million dollars, we may want to contemplate raising the rates a little bit again this year. In my estimation it's harder to raise rates ten to fifteen percent every three or four years as opposed to a little bit every year. My proposal and my conversation with the Mayor was to increase the minimal charge which we all talked about last year. The reason that it's not reflected here is because it took us until probably February or March to get those rates approved this year. But the minimum charge for five percent would increase \$217.60 to \$228.00 which is \$10.40 per year. And again, with the money that is going to be invested, yes, of the three funds that you are looking at here, the Sewer fund is probably in the best shape of the three. We had to get it there because we know what's coming. Yes, it is a good thing that we are permanently financing twenty million through environmental facilities for zero percent interest, those are all big things. Regardless, we are still borrowing twenty million dollars. So, those rates are going to have to go up eventually a little bit at a time or a lot every now and then.

Roger Puchalski- The next question was about the debt. The debt service is going up from almost six million, to almost seven million so is that because we are borrowing more?

City Treasurer Joseph Hogenkamp - Oh yeah, it went from \$595,000. Yeah, that's just the debt schedules and the new debt that's being added on more principle than the old debt that is coming off. And that's going to continue to go up, and again, that's a \$100,000, \$200,000 a year on a two and half million dollar budget. It's not like it's a hundred on a ten million dollar budget. In the General those costs for that service at a hundred, two hundred grand on two and a half million are way more of a percentage impact if you try to fund them through the people that use the system, as opposed to trying to bury them in your General fund and dividing the whole six hundred million

dollars in taxable assessment when you've got a property tax cap that's \$87,000. It doesn't fly.

Roger Puchalski - The only other thing would be, I just don't understand why when you take a look at the different departments almost everything went up where the salary lines are except for the Dog Warden. They don't go up in the same percentages and I assume that some of its contracts. Police went up 3%, the Treasurer up 1.6%, the Assessor went up 3.0%, and the Clerk went up 2.0%, Highway office 5.4%. So, my suggestion would be cost of living with people out there that have to pay the taxes, they are getting a zero percent increase. If it isn't mandated by contract, then the increase in salaries should match the cost of living increases that the people are making. I just don't understand why there is so much variance in the salaries.

City Treasurer Joseph Hogenkamp- What I could say on that is within each department, sometimes there's changes between, I would say like in the Fire department. If you are replacing fifth year firefighters with first year firefighters, you still have the same number of bodies but there's a big gap between what the fifth year guy makes and the first year firefighter makes. There're a lot of dynamics that go into it and I can understand that sometimes a percentage might be more than the standard 3% if its right on 3%, it probably makes sense. You'd have to look at each one of those individuals. I didn't even look at what the Treasurer's budget is going up, but it's probably because whatever the raise that they gave me, whatever I got in this \$2,000 or whatever I make is probably less than 3%. I don't even know. Sometimes people that have been long on the job, there's more longevity to pay, there's more of those other kind of stipends that are going up. There're all kinds of dynamics, especially in big departments that contribute to that. Maybe the number we started with this year was lower than it should have been. I can give you the time to go over each individual department and maybe give you a better idea of why something is up 5%. It could be overtime. I have data that tells us how much our overtime is in every department. When we get down to adopting the budget, sometimes we kind of get a little more optimistic and say well, if we can knock that overtime down by \$25,000, we can save .25% and that can get me from 3.24 to 2.99. That's how sometimes it all goes. But, the reality is what the last five years of what that overtime was in that department, is probably what it's going to be that year. So I think this year there might be more built into the reality of what the numbers have actually been than maybe in previous years.

Roger Puchalski ó Last thing, the Mayor's budget for salary, I assume you are moving Veteran's affairs to the Mayor's line.

Mayor Davis ó That was the increase.

Interim President Gilbert ó Putting it where it should be.

Public Hearing
Local Law #1 ó 2015

Public Hearing
Local Law #2 ó 2015

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:

September minutes of the Board of Appeals
September Activity Report of the Fire Department
Clerk's Informal Minutes of October 6, 2015
Clerk's Informal Minutes of October 13, 2015

Comprehensive Revenue & Expenditure Control Report for the
City of Tonawanda as of 10/20/15
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

There were no comments by the public on the resolutions.

MOTIONS AND RESOLUTIONS

235. By Councilmember Koch seconded by Councilmember Smilinich
Resolved, that the reading of all of the following resolutions be waived.
- Ayes: Smilinich, Hall, Koch, Gilbert
Nays: None
- Resolution declared adopted
236. By the Council seconded by the Council
Resolved, that the Common Council minutes from October 6, 2015, be accepted as filed.
- Ayes: Smilinich, Hall, Koch, Gilbert
Nays: None
- Resolution declared adopted
237. By Councilmember Hall seconded by Councilmember Koch
Resolved, that the bills be allowed as audited and that the City Clerk draw warrants on the Treasurer for the various amounts.
- Ayes: Smilinich, Hall, Koch, Gilbert
Nays: None
- Resolution declared adopted
238. By Councilmember Smilinich seconded by Councilmember Koch
WHEREAS, Local Law No. 1 for the year 2015 for the City of Tonawanda, entitled ðA Local Law authorizing the City of Tonawanda to impose a property tax levy in excess of the limit established in New York State General Municipal law Article 2, Sec. 3-c

provides that:

It is the intent of this Local Law to allow the City of Tonawanda to adopt a budget for the fiscal year commencing January 1, 2016, that requires a real property tax levy in excess of the tax levy limit as set forth in General Municipal Law Article 2, Sec. 3-c.

This Local Law is adopted pursuant to subdivision 5 of the General Municipal Law Article 2, Sec. 3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a Local Law approved by a vote of sixty percent (60%) of said governing body.

The Common Council City of Tonawanda is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2016, that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Article 2, Sec. 3-c.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, individual, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

This Local Law shall take effect immediately upon filing with the Secretary of State.

was enacted by a resolution of this body on October 6, 2015; and

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

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

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

239. By Councilmember Smilinich seconded by Councilmember Hall

A Local Law authorizing the use of a Best Value Award methodology for purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article Eight of the Labor Law) may be awarded on the basis of best value, as authorized in Section 103 of the General Municipal Law and as defined in Section 163 of the Finance Law

provides that:

Section 1. Name of the Local Law

This law shall be known as: "City of Tonawanda Best Value Contract Award Law."

Section 2. Findings and Intent

The State legislature and Governor amended General Municipal law, §103 on January 27, 2012 to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts, including contracts for service work on the basis of best value. The State Legislation requires County's with a population of less than one million to pass a Local Law authorizing the use of the best value award process.

Enactment of this legislature provides additional procurement options to localities in ways that may expedite the procurement process and result in cost savings. The "best value" standard for selecting goods and services vendors, including janitorial and security contracts, is critical in efforts to use strategic sourcing principles to modernize the supply chain and ensure that taxpayers obtain the highest quality goods and services at the lowest potential cost, while also ensuring fairness to all competitors.

The Federal Government, approximately half of the states and many localities have added best value selection processes to their procurement options, in recognition of these advantages. With the increased complexity of the goods and services that municipalities must obtain in order to serve taxpayers, it is critical to consider selection and evaluation criteria that measure factors other than cost in the strictest sense.

Taxpayers are not well served when a public procurement results in low unit costs at the outset, but ultimately engenders cost escalations due to factors such as inferior quality, poor reliability and difficulty of maintenance. Best value procurement links the procurement process directly to the municipality's performance requirements, incorporating selection factors such as useful lifespan, quality and options and incentives for more timely performance and/or additional services.

Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investment of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality and customer service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting municipalities' needs, including such important goals as the participation of small, minority and women-owned businesses, and the development of environmentally-preferable goods and service delivery methods. Best value procurement will provide much-needed flexibility in obtaining important delivery methods. Best value procurement will provide much-needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services.

Section 3. Definitions

“Best value” means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offers that are small businesses or certified minority-or-women-owned business enterprises as defined in Subdivisions one, seven, fifteen and twenty of Section 310 of the Executive Law to be used in evaluation of offers for awarding of contracts for services.

Section 4. Requirements

A. Where the basis for award is the best value offer, the Purchasing Agent shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.

B. The Purchasing Agent shall select a formal competitive procurement process in accordance with guidelines established by the state procurement council and the County Procurement Policy and document its determination in the procurement record. The process shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for offerers to submit responsive offers; and a balanced and fair method of award. Where the basis for the award is best value, documentation in the procurement record shall, where practicable, include a quantification of the application of the criteria to the rating of proposals and the evaluation results, or, where not practicable, such other justification which demonstrates the best value will be achieved.

C. The solicitation shall prescribe the minimum specifications or requirements that must be met in order to be considered responsive and shall describe and disclose the general manner in which the evaluation and selection shall be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the City in its determination of best value.

The Purchasing Agent shall develop procedures that will govern the award of contracts on the basis of best value. These procedures shall be included in the City

Procurement Policy and reviewed annually by the City Legislature in conjunction with its annual review and approval of the City's Procurement Policy.

Section 5. Severability

If any clause, sentence, paragraph, subdivision section or part of this Law or application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order of judgment shall be rendered.

Section 6. Effective Date

This Local law shall take effect immediately upon filing with the New York State Secretary of State.

was enacted by a resolution of this body on October 6, 2015; and

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

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

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

240. By Councilmember Hall seconded by Councilmember Smilinich
Resolved, that the 2015 General Fund Budget be amended to account for the Federal Grant Funds received from the United States Department of Justice to purchase bullet proof vests for the Police Department.

Expense 001-3120-202	Police Department Equipment	Add \$2,837
Revenue 001-0001-4007	Federal Grant for Police Vests	Add \$2,837

Net Budget Effect: -0-

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

241. By Councilmember Koch seconded by Councilmember Smilinich
Resolved, that the Common Council hereby authorizes the Mayor of the City of Tonawanda to sign and submit an application for the project noted below and execute a contract with Erie County Community Development Block Grant (ECCDBG) program for the following project upon approval of ECCDBG: Sanitary Sewer Lining 6 2016.

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

242. By Councilmember Koch seconded by Councilmember Hall
Whereas, a Project, for the Rehabilitation of the Culvert carrying Niagara Street over Two Mile Creek, in the City of Tonawanda (City), Erie County, PIN 5757.57, (the Project) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal Funds and 20% Non-Federal Funds; and

Whereas, the City of Tonawanda desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) phase of the project PIN 5757.57; now, therefore be it

Resolved, that the Council hereby authorizes the City to pay the Non-Federal share of the cost of the Preliminary Engineering (Design I-VI) phase of the Project or portions thereof, with the Federal share of such costs to be applied directly by the New York State Department of Transportation (NYSDOT) pursuant to Agreement; and it is further

Resolved, up to an additional \$66,584.23 is hereby made available to cover the cost overrun described in NYSDOT September 23, 2015, letter to the City of Tonawanda; and be it further

Resolved, that the Mayor is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's funding of the local share of Federal-Aid Eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and be it further

Resolved, that certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary agreement in connection with the Project; and be it further

Resolved, this resolution shall take effect immediately.

Councilmember Koch: It says "Whereas, a Project, for the Rehabilitation of the Culvert carrying Niagara Street over Two Mile Creeö, can we just add the ök?"

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

243. By the Council seconded by the Council

Resolved, that Jack Gallagher is hereby appointed Chairman of the newly formed Board of Ethics.

Ayes: Smilinich, Hall, Koch, Gilbert

Nays: None

Resolution declared adopted

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- *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

There were no comments from the public after the resolutions.

COMMENTS FROM THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Smilinich ó I have nothing.

Councilmember Hall ó I have nothing.

Councilmember Koch ó Thank-you Mr. President. The Mayor and I, along with several citizens, we attended a meeting held by the Army Corps to discuss plans regarding the landfill. They had announced that they extended the comment period until December 14, so I would encourage all the residents to get their voices heard and vote on the alternative plans for the landfill.

Mayor Davis- Thank-you Ms. Koch for mentioning that. We don't need to go into more detail but there will be a link, if there isn't already, for the Army Corps website to be able to look at the three different plans proposed and where to send your public comments. Halloween, 5:30 P.M. to 8:30 P.M. on Halloween night. Please be safe and hand out big candy bars. Haunted Harbor, I would like to thank our Parks and Rec, DPW, and our Youth Board was there. Kids look forward to it every year, weather cooperated which in turn lead to a big turnout. So I'd like to thank everybody that, year in and year out, puts that on for our kids. Election Day, I'd like to wish everybody running the best of luck! It takes a lot to run for public office, to be sitting up here, put yourself in the public eye. My hats off to everybody that decides to run for public office right here in the City.

Acting Interim Council President Gilbert ó I just have one thing to add as we adjourn for tonight is that our next Common Council meeting will be on Wednesday, November 4th due to the election on the 3rd. After that, I thank everybody for coming and get home safe.

