

A Regular Meeting of the Common Council

Present: Council President Koch

Present Councilmembers: Gilbert, Smilinich, Rautenstrauch, Toth

Pledge of Allegiance

Prayer led by Associate Fire Chaplin Rick Oates

**Presentation of \$3,000 check to the Vietnam Veterans Association Chapter 77
for the Helicopter Memorial Fund from the Tonawanda City Officials.**

**Mayor's Proposed 2017 Operating Budget
and Five Year Capital Plan Message**

In my first budget, 2015, I needed to focus on getting our finances back on a fiscally responsible track. I did this by avoiding any one shot revenues (such as taking from our Fund Balance) that had been proposed in previous budgets but could not be sustained by being conservative on revenue estimates and being sure that expenditure estimates were appropriate. We succeeded. In 2016, I followed through with this fiscally responsible budget approach that was sound and effective. My 2017 proposed budget continues my fiscally sound and honest approach to governance that still enables our outstanding city services to be provided at current levels.

The budget process for me always begins in January. That's when I sit down with our City Treasurer and my Administrative Assistant to review the previous year's budget and start looking at the next year's budget. When this 2017 proposed budget was first handed to me, it included an 11.4% tax increase. Working hard with all my department heads and the City Treasurer, we were able to get that number to where it is today, The **General Fund Budget for 2017** carries a **2.99%** increase in the City property tax rate from **\$17.23 to \$17.74 per \$1,000 of assessed valuation**. This represents a \$50 increase on taxes on the average assessed home of \$100,000. Property taxes represent 54% of the revenue used to fund our 2017 operations of **\$21.2 million**.

General Fund Revenue Summary

The same two key items affect this budget as they did last year. First, NYS Per Capita Revenue Sharing is projected to be \$2,602,104. This is what New York State has allocated to the City in its 2015 and 2016 Budgets, despite inflation. In effect, therefore, the State is reducing its State Aid to municipalities. It is clear that New York State has diminished the impact of Revenue Sharing to Local Governments, while at the same time imposing property tax caps and mandating comprehensive multi-million dollar sewer improvement projects via consent order. For years the State continues to throw wads of money at failing School Districts while decreasing our State Aid. That needs to change this year. **Second, as with 2016, the 2017 budget does not include an appropriation of fund balance or tax stabilization funds to offset the property tax levy.** The City Treasurer and I both agree that this is a fiscally sound approach and is a positive statement from what had been allocated from reserves to balance prior year budgets and is a most necessary reflection that the overall City finances need to be protected to maintain a sound financial position.

General Fund Expenditure Summary

The 2017 Budget anticipates the City's contribution to the New York State Retirement System to be \$1.7 million. This is an increase of approximately \$59,000 from the 2016 budget. Generally this is attributable to small contribution rate increases and projected employee salaries.

The proposed 2017 budget attempts to maintain current levels of service while attempting to control budgeted overtime expense in the four largest departments.

Total salaries in the General Fund budget approximate **\$9.5 million**, of which Police and Fire comprise **\$5.06 million**. Contractual agreements with all collective bargaining units expire at the end of 2016. Employee benefits total **\$6.9 million**. Personnel costs account for approximately **\$16.4 million**, or **77%** of total general fund expenditures. Health Insurance costs in the 2017 budget are projected at **\$4.04 million**. The proposed budget anticipates the potential retirements of approximately 4 employees in 2017. The City must continue to work collectively with current employees and retirees to control the cost of health insurance. Of note here, to maintain the City's annual operating budget within the confines of the NYS Real Property Tax Cap, would require a large reduction in City services. We don't see that as a feasible option and we believe you would not want that to happen either.

General Fund Debt Service for 2017 is approximately **\$1.5 million**. The proposed tax levy of \$11.3 million should leave the City within approximately \$2.7 million (22% below) of our Constitutional Tax Limit, and in excess of \$19 million (44% below) our Constitutional Debt Limit.

The proposed **Sewer Fund Budget** is approximately \$2.2 million. A three percent rate increase from \$5.44 to \$5.60 per thousand gallons is *recommended* to fund this budget increase. This will increase the minimum annual charge from \$217.60 to \$224.00 annually. Fund transfers to the General Fund to reflect the cost of Sewer related services remain at \$395,000. *The Sewer Fund began 2016 with a fund balance of \$477,759.* The City's cost to the Town of Tonawanda for sewage treatment is projected to be \$950,000 annually. The City continues to progress through its comprehensive ten phase Sanitary Sewer remediation projected under consent order from the NYS DEC, an overall investment of approximately \$25 million. We are working with the NYS Environmental Facilities Corporation (EFC) to finance these improvements at 0% interest. This capital improvement is reflected significantly throughout the 2017 to 2021 five year capital budget. The City must anticipate future mandatory improvements to our sewage treatment system that will be dictated by federal/state environmental regulatory authorities. *While the EFC Grant helps offset over \$13 million in additional future bonding costs to taxpayers, this will dictate future sewer rate increases and stresses the importance to maintain an overall sound financial position.*

2017-2021 Capital Budget Summaries

The Five Year Capital Improvement Budget reflects a cumulative total of \$18.54 million in Sewer Remediation projects. Annual street paving projects and sidewalk replacements are approximately \$1,000,000 annually. 2017 includes remediation work and improvements to the Koenig Alley parking lot area for future development, expansion of docks along the Niagara River and Ellicott Creek, Rails to Trails capital improvements, Niagara River sheet pile construction, vehicle and equipment replacements, and building improvements. *All projects identified in the capital plan require further scrutiny by me and the Common Council to determine their fiscal feasibility based upon their impact on future budgets as well as their ability to be funded through grants and not through municipal bonds.*

The Capital Plan is a valuable planning tool which identifies and prioritizes the projects and capital needs identified and determined as important by our management team. It also gives us the opportunity to aggressively go after grants to help alleviate these projects off the backs of our City taxpayers. As with the Operating Budget, the Capital Budget must be fiscally sound and we must also be aware of debt service costs generated by these proposed items and projects. Too often, the Capital Budget may be looked upon as a %credit card+where project costs are put off until a future date. And, like a %credit card+, when the bill does come due, there is a problem. We are being diligent in making sure we are not allowing the City to fall into that trap.

Overall Summary

There are two new items listed on this year's budget that I'm very excited about. The first one is Neighborhood Beautification. The City has made great strides in the last few years with distressed properties. We've partnered with the Land Bank to invest over \$500,000 in our neighborhoods and we're aggressively going after a Zombie Property Grant that will allow us to further identify homes that are falling thru the cracks, but we need to do more. Our residents have some great ideas as to the beautification of their neighborhood. \$2,000 will be made available to each

Council District and myself and the Councilmember will decide which beautification project(s) will be implemented in their neighborhoods.

The second new item is our Volunteer Assistance Program. Over the years we have seen many worthwhile clubs and organizations fold due to a lack of funding. Many others struggle to stay afloat. Many of the organizations assist our city residents in their greatest time of need. \$10,000 will be made available for these various volunteer programs. Every year they will submit their requests to me and the Council for consideration. This is a way of Paying it Forward and allowing our organizations to do what they do best— helping our residents.

The City currently maintains a relatively stable and improving financial position. The 2014 Annual Report of the State Comptroller's office designated the City as "Susceptible to Fiscal Stress." In 2015 the City's evaluation improved to "No Designation." This is something that I'm very proud of and is a reflection of the hard work and commitment of everyone at every level of City government. The annual operating budget commits 77% of its expenditures to personnel related costs. New York State mandates an annual property tax cap that in general limits increases to 2% or the rate of inflation, whichever is lower. It is incumbent upon the leadership of the City to make responsible decisions in both the short and long term with regard to the level of services it can continue to afford to provide at the same level the public is accustomed to. In the absence of a significant reduction in services, the ability of the City to operate within the confines of a two percent property tax cap is unrealistic. This dilemma is being faced by all local municipalities. The City of Tonawanda has gotten ahead of many of those municipalities, facing the situation head on. We are very proud of that approach.

Every budget deliberation process and presentation to the Common Council is a challenging attempt to continue to provide an exemplary level of City services at the least expense to the property taxpayer. This budget does just that. I want to thank our City Treasurer, my Administrative Assistant, and all my department heads again for all their input into this budget. I also want to thank our city employees who continue to work hard every day and provide services that I believe are second to none. Thank you and God Bless.

COMMUNICATIONS FROM THE MAYOR

Request from Paul Pietrowski, President of Tonawanda United Veterans Council requesting closure of the Renaissance Bridge, November 11, 2016 for the Annual Veterans Day Observance

Letter from Buffalo Launch Club, General Manager expressing their appreciation for Medical Assistance rendered by the Tonawanda Fire Department, saving the life of one of their members at event at Long Homestead on Sept 10, 2016

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

The following monthly reports were received by the City Clerk:

September Report of the Traffic and Safety Board

Traffic and Safety Review of the Tim Horton's Plaza/618 Delaware

Copies of Report from Envision Tonawanda

Treasurers September 20, 2016 Niawanda Park Pavilion Summary of Expenditures and Revenues

Treasurers 2016 Overtime Report as of 9/22/2016

Letter from Firefighter Robert M. Hassett announcing his retirement on October 25, 2016

Letter from Sanford Belsky announcing his retirement as Plumbing Inspector effective September 25, 2016

Letter from Firefighter Michael R. Young announcing his retirement on October 25, 2016

Letter from Council President Jenna Koch to Richard Barnard requesting the Traffic and Safety Board take a second look at the request for handicap parking spots in the city lot off Broad Street

September Minutes from the Board of Appeals meeting

City Clerk September Monthly Report

Building Inspector Monthly Report for September

Referred to the Committee of the Whole
Ordered filed

COMMENTS BY THE PUBLIC ON RESOLUTIONS

Roger Puchalski, 478 Adam Street- Regarding the tax cap again. I would like to remind the council that according to Erie County's latest statistics that are online. The sample comparison of tax rates for homes valued at \$150,000. City of Tonawanda residents pay more than any municipality in the county. And the only one, West Seneca, has a higher tax break, only one. So if we put apples to apples and oranges to oranges, people in the City of Tonawanda pay more than if you live in Amherst, Orchard Park, East Aurora for the same \$150,000 home and that is based just on the city's taxes. I think it is incumbent on the council not to just keep going through raising this and thinking it doesn't have an impact. Because you can also look at the flipside and see how many people in this city are below the poverty level. How many 80 year olds are on Social Security and keep paying these tax increases. And if you don't think it is possible, the Town of Cheektowaga supervisor just released a press release today saying that she's going to reduce taxes in the Town of Cheektowaga by nearly 2% come in underneath the tax cap. She mentioned how she had a citizens group that met with the mayor, with the department heads and they saved \$700,000 by that alone. The other way they got to reduce the budget was by getting in more grants and having commercial development. So I hope that the council takes a look at that before they keep jacking up taxes here. That were already top of the kingdom and there ain't no place to go from there. The other item is, the last item on the agenda, or whatever agenda you have is regarding Little League Drive. I don't understand why you are designating the city attorney to sign an agreement and what this resolution is all about. But I don't like the idea that on Friday you get the city's agenda and it's on there. If you look at the city's agenda online today that is not on there. If you come here to City Hall it is a totally different thing. I think, I understand there is a problem with the City Clerk, but having three different agendas, one that doesn't even have the Little League Drive resolution on it which is currently on the city's website makes it really hard for the public to take a look and see what's happening at a meeting and decide whether or not to come and voice their opinion. I think that this Little League Drive obsession with the council needs to come to a close one of these days.

Council President Koch- Mr. Trabucco, could you please come up.

City Attorney Trabucco- One of the reasons why maybe that there was some mix up on that resolution being on the website or not on the website was because I actually prepared that resolution on Thursday after having some discussions with the Mayor as to what the contents of the agreement might say. I then cleaned it up on Friday and what happened was I was waiting for approval before it actually went on to the website. That's all that happened. As far as that resolution it does not provide for me to sign any agreement on behalf of the city. I don't have authority to do that. That agreement indicates that. What the resolution states basically is the intention of the council to transfer land to David Homes for purposes of that sub division development. In the event and contingent upon the mayor negotiating a contract with certain terms that are delineated there, with the understanding that those terms and that agreement should be in place by April 1st. and would then have to be approved by the council and be approved by me, as to form and content of the substance. That's what that resolution states.

Jay Holler, 157 Elmwood Park West- Relax folks. Boy this is a tense operation. No wonder people have heart attacks; thank God we have a Fire Department with all those good services. I am Jay Holler and I live at 157 Elmwood Park West for a long time. I'm here tonight because I'm just interested in where the city is going and what is happening. I appreciate the budget report. I think it is very comprehensive. There's a lot of good stuff in there and I thank you for that. First of all, I want to thank Joe Hogenkamp for his year to year work for this city. Really, he has a wonderful pencil. More organizations should have a pencil like he uses in his office. Because he has saved this community many, many dollars over the years just by good practices that he has put in place. I want to thank Joe for that. I want to thank our department chair people also for the work they do in this city. We've had a wonderful summer here and basically a safe summer. I think it was good because they made good decisions in terms of how we are going to use our personnel. The Parks Department, Joe Warthling one of the projects I really appreciated it. I come from having coffee out on Niagara Falls Boulevard and many times come down Ellicott Creek. For years I saw this mess in the front of the industrial part of the city. I'll tell you, what a difference. More things like that make a difference. You bring more pride back into the community. Thanks a lot for that. Of course, our Fire Department. I used their service once. I can't say enough about the guys that come out. The training they've

had and what they can do to keep a person going, especially handling the anxiety of a possible heart attack or whatever. Thank-you Fire Department for that. Also, back here this group here, the Vietnam Vets Organization; I remember many of them in school when they were young kids and I was a young teacher. It broke my heart when they went to war in Vietnam because no one knew what was going on over there or why it was going on. Many of them came back. We lost a few of our local kids but fortunately these guys came back. I know they are scarred in many ways just being in that environment. They came back and they have a mission. Their mission has not only affected the Tonawanda Corp but people all over Western New York. This Vietnam Group, I just can't say enough about them. If I had gone to Vietnam I don't know if I would have got back. I probably would have cried myself to death over there. They did a wonderful job. I want to thank Paul Pietrowski for his leadership. You could see that as a student in school that he had those qualities. When he left Tonawanda he did come back and raised a beautiful family. He has taken the initiative to take care of that volunteer organization really into the third world so to speak.

He also is going to be honored as a Distinguished Graduate in the City of Tonawanda at the high school next month. Congratulations to him on that. Well deserved. My other question from the budget, you were talking about revenue resources, revenue resources I see it between all the lines in your budget. I'd like to see us come up with some revenue sources in the City of Tonawanda. I always looked at a board of education or a city council as a team, sitting down together, the chief executive, the mayor, and making decisions to move ahead in the city. I think you have to lose your identity in different wards and so forth and say this is best community. Who else speaks for the community besides you people. Other people speak to you about what they want but what does the community want? I think we need some development. We got to put some more because you're going to the Fund Balance all the time. You're doing a marvelous job with that but many times the budget rolls around you go to the department chiefs and so forth can we do this can we do without this. So I would just hope and pray that the City Council, you know, you're doing a wonderful job but you need some closure on some of these projects in the city. Put some revenue back into the till. So poor Joe doesn't have to get keep finagling getting down at that office down the hall. I know what he goes through. I dealt with those issues too. So other than that, I want to thank you for the wonderful summer in the City of Tonawanda, I want to thank you for the volunteer work in working in these organizations. God bless you all! Thank-you.

The Tonawanda Common Council, in an effort to conduct business in a timely fashion and maintain an open line of communication with the public, welcomes comments on resolutions and other City business.

- Persons wishing to speak and be recognized by the President of the Common Council are to be courteous, respectful, non-repetitive and brief.
- All questions and/or comments should be addressed to the President of the Common Council.
- Please state your name and address clearly for inclusion in the Common Council minutes. In the event any person wishes a response outside the confines of the Common Council meeting, please leave all necessary contact information with the City Clerk after the meeting.
- Persons may address the Common Council during (2) separate sessions of the meeting for a total of 30 minutes per session. Once prior to the resolutions and also after the resolutions prior to Common Council comments.
- Individuals may speak a total of (3) minutes per speaker per session. The President of the Common Council will adhere to this (3) minute guideline in an effort to allow everyone an opportunity to speak who wishes to do so.
- The President of the Common Council reserves the Council's right to limit or expand upon these limits as he/she may deem necessary and prudent.
- Usage of cell phones other than for emergency is prohibited during all Council Sessions.

MOTIONS AND RESOLUTIONS

226. By the Council seconded by the Council
Resolved, that the Common Council minutes from September 20, 2016, be accepted as filed.

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

Resolution declared adopted

227. By Councilmember Gilbert seconded by Councilmember Toth
Resolved, that the reading of resolutions #2 ó 13 be waived.

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

Resolution declared adopted

228. By Councilmember Smilinich seconded by Councilmember Gilbert
Be it Resolved, that at the request of the Tonawandas United Veterans Council, that the Renaissance Bridge be closed to traffic on Friday November 11, 2016 from 10:30 A.M. until 11:30 A.M. for the Annual Veterans Day Observance.

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

Resolution declared adopted

229. By Councilmember Rautenstrauch seconded by Councilmember Toth

Resolved, that Key Bank is named as an authorized depository institution of City funds, and that the City Treasurer be authorized and directed to execute the required deposit collateral and other documents as may be required to effectuate the transition of existing City Accounts from First Niagara Bank to Key Bank.

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

Resolution declared adopted

230. By Councilmember Smilinich seconded by Councilmember Gilbert

Resolved, that the 2016 General Fund Budget be amended to account Federal Grant Funds received and expended in 2016 from the United States Department of Homeland Security for Border Security Operation Stonegarden Program. (2014 Award \$10,375 #DHS -14-GPD-056-000-01 Funds to be expended and received in Fiscal Year 2016)

EXPENSE 001-3120-100	Police Department Salaries	ADD \$6,675
EXPENSE 001-3120-202	Police Department Equipment	ADD \$3,700
REVENUE 001-0001-4003	Federal Operation Stonegarden	ADD \$10,375
NET BUDGET EFFECT		-\$0

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

Resolution declared adopted

231. By the Council seconded by the Council

LOCAL LAW No. 1 ó 2016

A 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

BE IT ENACTED by the Common Council for the City of Tonawanda that proposed Local Law No. 1 of the year 2016 entitled:

A 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, which 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, 2017, 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 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, 2017, 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.

Be and it is hereby introduced before the Common Council of the City of Tonawanda, New York; and

BE IT RESOLVED, that copies of the aforesaid proposed Local Law No. 1 for the year 2016 be laid upon the desk of each member of the Common Council by the City Clerk in accordance with the NYS Municipal Home Rule Law.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

232. 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 Pink Warriors Wellness Night ó Color Me Pink Run

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 the Captain Fred Foels and the chairperson, now, therefore be it

Resolved, that permission be granted for The Pink Warriors Color Me Pink Color Run to benefit the American Cancer Society on Friday October 7, 2016 beginning at 5:30P.M. as per route submitted.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

233. By Councilmember Toth seconded by Councilmember Gilbert

Whereas, an application was received by the City Clerk to conduct a Pumpkin Day Event, educating children on gardening and selling items by Team Up to Clean Up at the Millstream Educational Community Gardens

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 Parks and Recreation Director Mandy Loftt and the chairperson, now, therefore be it

Resolved, that permission be granted for Team Up to Clean Up to hold this event on October 22, 2016 from 10:00. AM until 2:00 P.M.

Councilmember Gilbert- Just to talk about the Millstream Education Gardens. It has really taken off. People are allowed to rent plots so to speak so they can grow their own flowers and things. They painted things and they've added swings and benches and seats. They have a frog pond. It's lit up a little bit. There is a bridge to walk over. It's really turned into something very spectacular. I'm very proud of the whole group of the Team Up to Clean U and Mandy Sampson. It is a great addition to the city.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

234. By Councilmember Rautenstrauch seconded by Councilmember Smilinich

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 Change Order No. 4 be made to Mark Cerrone, Inc., at a cost not to exceed \$121,718.96.

Funding/Fiscal Impact: \$121,718.96 from the Capital Budget

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

235. By Councilmember Rautenstrauch seconded by Councilmember Toth

Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of Phase 5 Amendment No. 3 be made to GHD Consulting Engineers, LLC, at a cost not to exceed \$115,300.00.

Funding/Fiscal Impact: \$115,300.00 from the 2016 Sewer Bond

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

236. By Councilmember Gilbert seconded by Councilmember Smilinch

Councilmember Gilbert ó This is the resolution that allows the City Hall to have a generator for emergency purposes. Our generator right now is not capable of the standards.

AN AMENDING AND RESTATING BOND RESOLUTION, DATED OCTOBER 4, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JULY 5, 2016, AND AUTHORIZING THE ACQUISITION OF AN EMERGENCY GENERATOR FOR USE BY THE CITY, AT AN ESTIMATED MAXIMUM COST OF \$225,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$225,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, on July 5, 2016 the Common Council of the City of Tonawanda, Erie County, New York (the "City") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED JULY 5, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AUTHORIZING THE ACQUISITION OF AN EMERGENCY GENERATOR FOR USE BY THE CITY, AT AN ESTIMATED MAXIMUM COST OF \$150,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$150,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

And

WHEREAS, the City has not previously issued bond anticipation notes pursuant to the Original Bond Resolution and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

WHEREAS, due to an increase in the cost of the emergency generator, the Common Council wishes to modify the Original Bond Resolution for the primary purposes of increasing: a) the estimated maximum cost of the project from \$150,000 to \$225,000 and b) the amount of serial bonds authorized to be issued from \$150,000 to \$225,000, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Common Council now wishes to amend and restate (in its entirety) the Original Bond Resolution for the reasons identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

NOW THEREFORE,

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

SECTION 1. The purpose (hereinafter referred to as "Purpose") to be financed pursuant to this resolution is the acquisition of an emergency generator for use by the City (primarily for the police department and City Hall), including any preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$225,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds of the City in an aggregate principal amount not to exceed \$225,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such Purpose is to be paid by the levy and collection of taxes on all real property in the City, in an amount sufficient to pay the principal of such bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the Purpose is a class of objects or purposes described in subdivision 32 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is five years.

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

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

SECTION 6. The faith and credit of the City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall 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 shall 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 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 July 5, 2016 or within 60 days prior thereto 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 a reaffirmation of the City's original declaration (dated July 5, 2016) of its official intent to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

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

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

SECTION 11. The City hereby determines that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") are 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 the law which should be complied with as of the date of publication of this notice were not substantially complied with,

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

2. such obligations were 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 such Local Finance Law, in a newspaper having a general circulation in such City and hereby designated as the official newspaper of such City for such publication.

SECTION 15. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 16. This resolution is effective immediately.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

237. By the Council

seconded by the Council

AN AMENDING AND RESTATING BOND RESOLUTION, DATED OCTOBER 4, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), FURTHER AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON MARCH 17, 2015 AND AMENDED ON APRIL 5, 2016, AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT IN THE KOENIG ALLEY AREA IN THE CITY AND OTHER IMPROVEMENTS IN CONNECTION THEREWITH, AT AN ESTIMATED MAXIMUM COST OF \$1,500,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,500,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, on April 5, 2016 the Common Council of the City of Tonawanda, Erie County, New York (the "City") adopted an amending and restating bond resolution (the "April Amending Bond Resolution") entitled:

AN AMENDING AND RESTATING BOND RESOLUTION, DATED APRIL 5, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON MARCH 17, 2015, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT IN THE KOENIG ALLEY AREA IN THE CITY AND OTHER IMPROVEMENTS IN CONNECTION THEREWITH, AT AN ESTIMATED MAXIMUM COST OF \$1,000,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,000,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, the City has previously issued a bond anticipation note pursuant to the Bond Resolution adopted on March 17, 2015 (the "Original Bond Resolution") and the April Amending Bond Resolution but has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

WHEREAS, the Common Council now wishes to modify the April Amending Bond Resolution for the primary purposes of (a) expanding the scope of the project to include necessary waterline reconstruction identified during construction, (b) increasing the estimated maximum cost of the project from \$1,000,000 to \$1,500,000 and (c) increasing the amount of serial bonds authorized to be issued from \$1,000,000 to \$1,500,000, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Common Council now wishes to amend and restate (in its entirety) the April Amending Bond Resolution for the reasons identified above, and to

make other modifications to the April Amending Bond Resolution as may be consistent with law; and

NOW THEREFORE,

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

SECTION 1. The purpose (hereinafter referred to as "Purpose") to be financed pursuant to this resolution is a capital improvements project in the Koenig Alley area in the City, such work to include, but not be limited to, the replacement and installation of new water main, the reconstruction of the parking lot, the construction of one or more buildings to house rest rooms and locker rooms, a bicycle storage and repair area and various streetscape improvements associated with such capital project, including the construction of a walk path, all of the foregoing to include all preliminary work and necessary equipment, materials and site work and all preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$1,500,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds of the City in an amount not to exceed \$1,500,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such Purpose is to be paid by the levy and collection of taxes on all real property in the City, in an amount sufficient to pay the principal of such bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that such Purpose is an object or purpose described in subdivision 90 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is 10 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 such bonds.

SECTION 5. It is hereby determined that the proposed maturity of the obligations authorized by this resolution will 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 shall 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 shall 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 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 March 17, 2015 (or within 60 days prior thereto) 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 a reaffirmation of the City's original declaration (dated March 17, 2015) of its 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 complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

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 the law which should be complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication of this notice, or

(2) such obligations were 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 such Local Finance Law, in a newspaper having a general circulation in such City and hereby designated as the official newspaper of such City for such publication.

SECTION 15. Nothing in this amendment shall affect the validity of the Original Bond Resolution or the April Amending Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 16. This resolution is effective immediately.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

AN AMENDING AND RESTATING BOND RESOLUTION, DATED OCTOBER 4, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JULY 5, 2016, AND AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT IN THE CITY (PHASES 7, 8, 9, AND 10) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT #R9-20090408-23, AT AN ESTIMATED MAXIMUM COST OF \$11,847,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$11,847,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, on July 5, 2016 the Common Council of the City of Tonawanda, Erie County, New York (the "City") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED JULY 5, 2016, OF THE COMMON COUNCIL OF THE CITY OF TONAWANDA, ERIE COUNTY, NEW YORK (THE "CITY"), AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT IN THE CITY (PHASES 7, 8, 9, AND 10) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT #R9-20090408-23, AT AN ESTIMATED MAXIMUM COST OF \$9,200,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$9,200,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY TREASURER.

WHEREAS, the New York State Department of Environmental Conservation issued Order on Consent #R9-20090408-23 (the "Consent Order") requiring capital improvements to the City's sewer system; and

WHEREAS, the City has been in the process of undertaking this large required capital improvements project through a series of authorizing resolutions in phases; and

WHEREAS, in light of an attractive funding opportunity through the New York State Environmental Facilities Corporation ("EFC") the City has determined that there should be a single bond resolution covering the work anticipated for Phases 7, 8, 9, and 10, such work to be undertaken in the near future; and

WHEREAS, the City has not previously issued bond anticipation notes pursuant to the Original Bond Resolution and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

WHEREAS, the City has determined that it would be prudent at this time to increase the project cost in light of the extensive work that the City is required to undertake pursuant to the Consent Order; and

WHEREAS, due to the increase in the cost of the project, the Common Council wishes to modify the Original Bond Resolution for the primary purposes of increasing: a) the estimated maximum cost of the project from \$9,200,000 to \$11,847,000 and b) the amount of serial bonds authorized to be issued from \$9,200,000 to \$11,847,000, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Common Council now wishes to amend and restate (in its entirety) the Original Bond Resolution for the reasons identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

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

SECTION 1. The City is hereby authorized to undertake the next stages of a sewer system capital improvements project in the City (Phases 7, 8, 9, and 10) in response to the Consent Order, such work to generally include (but not be limited to) the reconstruction of and construction of improvements to the sewer system that may be necessitated by the Consent Order, including all preliminary work and necessary equipment, materials, and site work, as well as other such improvements as more fully set forth in, or anticipated by, Engineering Reports prepared with the assistance of the City Engineering Department from time to time in response to, or consistent with, the Consent Order, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$11,847,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$11,847,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of the Purpose 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 the Purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is 40 years.

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

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will 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 July 5, 2016 or within 60 days prior thereto) 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 a reaffirmation of the City's original declaration (dated July 5, 2016) of its 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 complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. To the extent applicable, the City Treasurer is hereby authorized to execute and deliver in the name and on behalf of the City a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the City Treasurer and the City Clerk and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 13. 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 14. 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 are 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 at 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 15. 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 16. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 17. This Resolution is effective immediately.

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

Resolution declared adopted

239. By the Council Seconded by the Council

Councilmember Toth- I have a comment Madam President. I notice some of the residents of the 4th ward are present they live in this area are here tonight. This is the resolution for the fourth ward and why the people are here tonight. Just so we are clear, this resolution is not handing over the keys to David Homes to put shovels in the ground, correct?

Mayor Rick Davis- Correct.

Councilmember Toth- We are going to continue to work together an agreement that we think is going to be feasible for the residents and we will make sure we address their concerns Correct?

Mayor Rick Davis- Correct.

Councilmember Gilbert- Madam President I would just like to thank the entire council for first putting this resolution up, and supporting it fully. It is a long time coming number one. I think it is twelve years overall that we have been working this far and this is the farthest we've gotten as a council no matter who's been up here. I applaud Mr. Toth for taking a stand in helping the mayor and meeting with David Homes during these negotiations.

WHEREAS, the City of Tonawanda, owns property commonly known as "Little League Development Property" located at 151 Little League Drive, Real Property Tax Parcel #38.81-1-10 and a portion of 777 Niagara Street, Real Property Tax Parcel #38.73-2-1.1 in the City of Tonawanda, known as Part of Lots 89 and 90, The (Two) Mile Reserve and Property consist of approximately 14 acres;

WHEREAS, on April 5, 2016 the Common Council designated David Homes as the preferred developer for the "Little League Development Property";

WHEREAS, it is the intention of the Common Council to transfer/deed these approximately 14 acres to David Homes for the purposes of development;

NOW THEREFORE, BE IT RESOLVED, that the proposed transfer to David Homes is contingent upon Mayor Rick Davis and David Homes, negotiating and entering into a "Land Acquisition Agreement/Contract for the Sale of Land for Private Development" which includes, but is not limited to - sale price of property, condominium status for real estate tax purposes, layout of development, site plan and style of homes to be built. Also, with the agreement that David Homes be solely responsible for any and all costs for the proposed development, including any and all costs associated with infrastructure; and

BE IT FURTHER RESOLVED, that the proposed "Land Acquisition Agreement/Contract for the Sale of Land for Private Development" must be completed and executed by Mayor Rick Davis and David Homes no later than April 1, 2017; and

BE IT FURTHER RESOLVED, that the proposed transfer to David Homes is contingent upon approval by City Attorney, Ronald C. Trabucco, of all of the terms of the proposed "Land Acquisition Agreement/Contract for the Sale of Land for Private Development".

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

Resolution declared adopted

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

Ronald Malec, 20 Sharon Drive- concerning the project on Little League Drive, I understand that the mayor and some members of the board feel that this community needs development. We probably do and there is a great big empty lot that's not being developed where the old Spaulding Fibre was Which certainly would involve a lot more income from the city than I hear sixty homes with a concentration and Public Works would be involved and Sanitation and everything else. You just completed the Budget Proposal for 2017, if those homes had been there do you have any idea how much that would have lessened the impact or increased the impact on our budget? Do you know?

Mayor Davis- If the homes were to be built right now?

Ronald Malec- What would be the positive or negative impact?

Mayor Davis- It would be a positive impact. It really depends on how much they would have been sold for and how much they would be assessed right now. Joe, I don't know if you have an estimate?

Councilmember Gilbert- Everything is hypothetical. We don't know. We can't talk hypothetical.

City Treasurer Joseph Hogenkamp- Let's say, whatever it is assessed at. On a \$200,000 home it would probably generate \$3,400.00 in taxes. Every house on there, if there was somebody who didn't get an exemption and fully assessed at \$200,000 at about \$3600.00 so let's say you have twenty. Saying that, it's not always that simple or that uncomplicated.

Ronald Malec- What about providing services for these homes? Loss of land and green space?

City Treasurer Joseph Hogenkamp- I don't know that the services would cost you anymore, I don't think we would have to hire more Police or hire more laborers or anything like that to accommodate for 60 more homes.

Council President Koch- Did that answer your question?

Ronald Malec- I notice we have the annual down in New Orleans Festival on Niagara Street. Where we try to make one of the structures, two of the structures to look just like some shack in New Orleans that has been destroyed by floods. That is Old Man River. They wrapped these up in plastic. It looks downright disgraceful. I don't know how much money they make. But they could certainly be (inaudible). The mayor is talking about beautification in the budget. That certainly is not beautification. It's about as ugly as you can get. Thank-you.

Ron Pillozzi, 82 Clinton Street- When you talk about revenue coming into the city. That being said before I left office is this subsequent to spending twenty- one million dollars taking care of Spaulding Fibre, You made sure that we had all of the in ground utilities there. So it's ready right now. So my question is where do we stand? What's going on? You look at the Town of Tonawanda and I see the mud flats. You go by Great Lakes Orthodontics and they are adding on. What's happening here? We have property that we already had ready to go.

Mayor Davis- We've actually had over ten companies interested but because of the overlay district a lot of these places were metal recycling, a dirt bike track, all of those uses would not have fit into the fabric. Now we have a few that are interested that we're in competition with the Riverview property. The mud flats I believe that was those two buildings that went in there were going on three years that those deals were in the works.

Ron Pillozzi- We have put tremendous amounts of money into the infrastructure. Just to even get that.

Mayor Davis- Right.

Ron Pillozzi- We don't.

Mayor Davis- No we don't. Like I said they continue to show it numerous times and we've had numerous possibilities to be able to develop it but because of the intended use for it. Darling Construction was another one. They were looking at the property. What they wanted to use it for was against the overlay district. I actually found them a home on Fillmore. They are adding on to Fillmore. It is a more adaptive use for what they wanted to use it for the area.

Ron Pillozzi- Ok, also obviously the past project would be to knock down, just so everyone knows, the residence were going to be responsible for street maintenance, garbage pickup and (inaudible)

Roger Puchlaski, 478 Adam Street- Back to Little League Drive, it's nice that two council members and the mayor who has spoken to the developer pat themselves on the back. In the fourteen plus years since this project started not once has the City Council had a public hearing to ask the public what it wants? Envision Tonawanda did a survey and there is no majority of the residents in the entire city that want that property to be developed for housing. They had other ideas. This council refuses to, doesn't even listen to the public. So you, it would be nice instead of talking to the developers that you would talk to the people who pay the taxes get their fair share one day. Not to say it's just okay for developers but to say what we want on a particular piece of property.

Council President Koch- I just want to comment. We are not at that point for a couple of reasons. I think if you know me, and you know this council you would know there will be a public hearing. When there is actually something to present to the public.

Roger Puchlaski- You are on a train your going in a certain path your talking to developers, housing, housing, housing. Nobody has gone and talked to somebody about a recreation facility, a sports complex, or anything else. So all you keep doing is coming back to the same thing, and then you are going to come to the people and we are going to have a public hearing. Do you want this housing development? Well none of the other alternatives were ever explored very myopic.

Council President Koch- Right now, there is an interested developer who is going to submit a plan on Little League Drive. Once that plan is submitted, after negotiations with the Mayor, then there will be a public hearing.

Roger Puchalski- Who is doing the RFP process? Did you talk about revenue being generated? The mayor said the Intermodal Hub was going to cost the city \$100,000 but now \$300,000 plus. You're talking about how many hundreds of thousands of dollars in excess of what these residents were originally told for the project. The same thing happened with the pavilion down at the waterfront. You were hundred of thousands dollars over budget.

Councilmember Toth- Any of the residents that are sitting here will tell you that I don't think I need to pat myself on the back and meet with the developer. I was appointed to land sales committee by the council president because she knew what my concerns were up there. I've met with the residents. I am in constant contact with the residents about their concerns; what they would like and what they don't want. I have been relaying those messages back to the mayor and the council president to try and put an end to something that has been dragging on in their backyard for ten years. It's not fair to them mentally to have to deal with it over and over and over again until we can finally put something to rest. I want to do the best job that I can for the residents in our city here that are going to be directly impacted, not to pat myself on the back.

Roger Puchalski- (inaudible)

Councilmember Gilbert- I would just like to echo Mr. Toth's concerns. Mr. Toth was a strong opponent of the housing development because of the concerns. When he stepped on he went and discussed them in negotiations. As far as I understand it, he brought his concerns to the developer and that's how it transpired. If anybody knows that area better than Mr. Toth. I just think to that saying that anybody wants to pat themselves on the

back is disingenuous at best because we are all up here for what is best for the City of Tonawanda not for patting ourselves on the back. I don't think coming up to the council and promoting things do that their own self righteousness is the way to go about it.

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Rautenstrauch- Nothing Madam President.

Councilmember Gilbert- I just want to remind everybody about the Pink Warriors Night this Friday. I've been associated with it many times. It's a great event. It goes for a great cause. Hope to see everybody there. Also, the Fire Department has their Open House this Saturday. I know there are a lot of different things being handed out by our Fire Department, right Chief? That's it for me Madam President.

Councilmember Smilinich- The first step in the many steps that will come to the finalization of Little League Drive. I hope that the communication from this point forward will be to the Mayor. I hope that with the Mayor at the helm the communication process thus far will be improved. (Inaudible)

Councilmember Toth- As I had said before about the resolution the communication with the residents that are here will still be open and forward. I will assure you that when the time comes to sit down and we will get together and we will make sure your concerns are heard. I want to just assure them that this by no means has been a done deal. I will continue to work closely. The second thing is that on October 15, which is quite a busy weekend is Homecoming. There is a wedding that is going on. We have Fright World which is happening on that weekend, Wall of Fame inductions going on, The Haunted Harbor that is going on as well. This year is going to be a trunk or treat event going on down there to give the kids a safe place to go trick or treat and we are going to allow residents to decorate their cars and hand out candy and hopefully we will have a good night with some good weather.

Mayor Rick Davis- City Hall is lit up pink for the first half of October in honor of Breast Cancer Awareness Month. It's a disease that has touched a lot of people lives and I'm sure a lot of people in this room. We think about those who were taken much too soon and those fighters that are continuing the struggle today. The LWRP meeting is next Wednesday at 6:00 P.M. come on out and hear some of the projects that are being proposed and hear an update on the LWRP at City Hall. Not to add to the madness on the 15th but also the Main Street Program will be having an Open House at the fabulous, brand new, beautiful American Legion on the 15th, am I correct? That's what the flyer said. Dennis is giving me this deer in the headlight look. It will be from 9:30 ó 11:30 in the morning. Come on out and hear about the Main Street Program and about what you can do to help and or get involved. I just want to comment a little bit and it's unfortunate that Mr. Puchalski left. You know the one thing I am going to say is Councilman Toth has been a great addition to the talks that we've had because I knew all along his position on it and what he ran on. But also from being a Fourth Ward Council Person for four years I also knew the concerns of the resident. The concerns of the residents and the concerns of Tim's are my concerns. So, I look forward to sitting down with David and with Councilman Toth and trying to come up with an agreement that appeases everybody. I will say this, I kind of scratched my head over the fact that somebody gets up and complains about our tax rate and tries to compare us to another town which there isn't even a comparison. You want to compare a city to a town and it's not like comparing apples to oranges. You have sewer districts, fire districts, you have lighting districts, you have so many other taxing districts that "ö don't get factored in. "ö, does this community have a police and or a fire department? Most towns don't. Some towns do. So comparing our tax rate to other tax rates in the area is pretty disingenuous. But I'm going to take it a step further, to complain about our taxes going up and then complain about a development that would bring taxes in, is pretty ignorant. I normally don't use that word. But, you can't complain about taxes and then complain about development here in the City. I just scratch my head. As I said, it's too bad he is not here. But I'm sure he will read about it when he pulls it up online.

Council President Koch- I want to thank everyone who attended our public hearing last week in regards to 618 Delaware Street. I know all of us up here appreciate your

feedback. Two weeks ago our Warrior Walk Wednesday concluded. It will be back in the Spring. I want to thank Skip Johnson from the Historical Society for your input and all the history behind our walks and thank all who attended. A special shout out to the Parks/Rec department for putting together our amazing Fall Fest. Thank-you to the Fire Department for the fire truck rides. We have started a food drive. It started October 1st. It will be running until November 19. We have drop off locations at City Hall; I believe the Fire Department, so City Hall the Senior Citizens center and Squires. All donations go to St. Francis Food Pantry and to the VVA. The Distinguished Alumni Dinner is November 9 at the High School. I have tickets for the event. Last week UB issued a press release informing the community on plans to conduct a multi- year study analyzing how the emissions from the Tonawanda Coke Plant have affected the health of area residents and employees. A federal judge has ordered Tonawanda Coke to fund this 11.4 million dollars study. The plan is going to be in three parts. A study up to 38,000 residents in The Town of Tonawanda, the City of Tonawanda and Grand Island. A study of the Tonawanda Coke employees and the establishment of the environmental health education center in the community. I spoke to Dr. Bonner last week. He said that they are currently in the process of setting up an advisory committee as well as a need to have the study approved by UB , But they will set up a website and a call center to obtain any information from any residents who wish to participate in the study. A reminder of the Open House this weekend at the Fire Department. I want to thank everybody for coming out tonight.

