

Council Chambers
Tonawanda, New York
September 15, 2015

A Regular Meeting of the Common Council

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

Pledge of Allegiance led by Council President Zeisz

Prayer led by Associate Fire Chaplain Rick Oates

Bid Opening: CDBG 2015 Sewer Rehabilitation
September 8, 2015
10:00 A.M.

Skanex Pipe Services, Inc.
753 Rowley Road
Victor, NY 14564 Bid Price: \$181,815.00

Arold Construction Co.
51 Powder Mill Bridge Road
Kingston, NY 12401 Bid Price: \$195,435.00

United Survey, Inc.
25145 Broadway Avenue
Oakwood Village, Ohio 44146 Bid Price: \$237,105.00

Bid bonds and non-collusive bidding certificates accompanied bids
Referred to the Committee of the Whole
Ordered filed

COMMUNICATIONS FROM THE MAYOR

There were no communications from the Mayor.

COMMUNICATION FROM CITY OFFICIALS AND CORRESPONDENCE

The following monthly reports were received by the City Clerk:

August monthly report of the Building Inspector
August monthly report of the City Clerk
August Executive Minutes of the City Clerk
Comprehensive Revenue & Expenditure Control Report as of 9/15/15
Referred to the Committee of the Whole
Ordered filed

A Notice of Public Hearing being held by the Board of Appeals on September 28, 2015, at 6:30 PM, asking permission in install a new five foot wood privacy fence in the exterior side yard at 270 Franklin Street.

A Notice of Public hearing being held by the Board of Appeals on September 28, 2015, at 6:30 PM, asking permission to install a 14 foot x 14 foot parking pad in the front yard at 228 Young Street.
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

Lynn Casal, 69 Grant Street ó I was wondering if #1 includes the minutes for the Informal Session held at 6:00 P.M. from the last meeting.

Council President Zeisz ó All of the minutes that are put out are from what takes place on the floor.

Lynn Casal - Why are they not being filed? They are included?

Council President Zeisz ó They are under the communications section.

Lynn Casal ó Can I get a copy of that?

City Clerk Bodie ó Yes you can.

Roger Puchalski, 478 Adam Street - #5, what is going on in #5? It says that you are voting to do what?

Council President Zeisz ó New York State, if you recall a few years ago, put together a tax cap for the communities throughout the state of 2%. That 2% can fluctuate from year to year depending upon how the budget was the prior year. Now in our particular case for the coming budget year, we're at .73%. To put that into perspective for everyone, if we're going to be more that \$73,000 over budget, we have to pass a resolution authorizing us to exceed the tax cap. That's basically what this resolution is starting a process to pass a resolution to exceed the tax cap.

Roger Puchalski ó This could be for what budget?

Council President Zeisz ó For the budget that's coming up for 2016. Now, one thing to bear in mind is that this process takes time, generally in the range of six weeks to pass a local law, if not longer. So even if the Council is not going to exceed the tax cap, if we don't start this process now, by the time we got to the budget it would be too late to do it if we needed to.

MOTIONS AND RESOLUTIONS

214. By Councilmember Smilinich seconded by Council President Zeisz
Resolved, that the reading of all of the following resolutions be waived.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

215. By Council seconded by Council
Resolved, that the Common Council minutes from September 1, 2015, be accepted as filed.

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

Resolution declared adopted

216. By Councilmember Koch seconded by Councilmember Gilbert
Resolved, that the bills be allowed as audited and that the City Clerk draw warrants on the Treasurer for the various amounts.

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

Resolution declared adopted

217. By Councilmember Hall seconded by Councilmember Smilinich
Be it Resolved, that Mayor Rick Davis is hereby authorized and directed to enter into an Option to Renew Lease Agreement by and between the City of Tonawanda, Lessor and Inner Harbor Yacht Club, Inc., Lessee, a copy of said agreement is on file in the Office of the City Clerk.

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

Resolution declared adopted

218. By Councilmember Koch seconded by Councilmember Gilbert
Whereas, the costs of disposing of electronic waste by the City of Tonawanda has increased substantially and
Whereas, electronic waste refers to items such as computers, computer towers, computer monitors, laptops and television and
Whereas, City residents may dispose of these items at County sponsored collection sites or at the retail store where purchased, now therefore be it
Resolved, that due to the rising costs of disposing of electronic waste, the City of Tonawanda shall no longer be collecting electronic waste, beginning November 1, 2015 and be it further

Resolved, that in the event such electronic waste is placed at the curb for collection, the resident shall be subject to the terms of the City's Garbage/Recycling Ordinance, which may result in the issuance of fines for noncompliance.

Councilmember Gilbert ó Can you please state to the public for the record what this means to people so they understand that we are not collecting TV's any more.

Council President Zeisz ó The long and short of it is that for the residents of the City, we are no longer picking up television sets. That's the core part of this. It also includes computers and things like that, but the TV's are what has gotten extremely costly for the City to dispose of. When I say considerably costly, off the top of my head, I think our last pick up was somewhere in the \$1,200 range and that covered a period of 2 ½ months. So you can figure it out if you put it over the course of a year how much that can add up to. When we say 2 ½ months now, we are not even talking big TV season, when people are buying for Christmas, and they're buying for the Super Bowl, and there goes the old TV. There are avenues for people to dispose computer and electronic equipment and television sets and things of that nature.

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

Resolution declared adopted

219. By Council President Zeisz seconded by Councilmember Smilinich
BE IT ENACTED by the Common Council for the City of Tonawanda that proposed Local Law No. 1 of the year 2015, 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, 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 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.
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 2015 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, Hall, Koch, Zeisz
Nays: None

Resolution declared adopted

220. By Councilmember Smilinich seconded by Councilmember Koch
BE IT ENACTED by the Common Council for the City of Tonawanda that the proposed Local Law No. 2 of the year 2015, entitled:

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, which 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.

D. 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.

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. 2 for the year 2015 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, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

221. By Councilmember Hall seconded by Councilmember Gilbert

Be it Resolved, that the Common Council of the City of Tonawanda hereby authorizes and directs Mayor Rick Davis to execute the proposed Memorandum of Understanding between the City of Tonawanda and Local 859 International Association of Fire Fighters and be it further

Resolved, that a copy of said Memorandum of Understanding shall be on file in the Office of the City Clerk.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

222. By Councilmember Gilbert seconded by Councilmember Koch

Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the contract for CDBG Sanitary Sewer Lining ó 2015, be made to Skanex Pipe Services, Inc., at a cost not to exceed \$181,815.00.

Councilmember Gilbert ó Can we ask Mr. LaMonaco to give us an idea of where this area is.

Jason LaMonaco, City Engineer ó The sewer lining project, it's a CDBG project. What we did was the Phase III work, which was completed last year, we carved out a section of it because a lot of that area is considered a low to moderate income area, which makes it eligible for county funding. In those areas we can apply for \$100,000 grants on an annual basis, which is the maximum that we can get. So instead of doing it all at once, we negotiated with the DEC and they gave us permission to extend the rest of the Phase III project out over seven years. So essentially, if we get awarded every year, and that's an idea, but we've gotten two already, we can save the City \$700,000 by doing it that way.

Councilmember Gilbert ó What area does this outline?

Jason LaMonaco, City Engineer ó The area I am talking about is all around Spaulding Fiber. That is the area that is eligible. This particular project is Hackett, from Hinds to Wheeler. It doesn't go all the way to Hinds because the sewer doesn't go all the way to Hinds, and then Wheeler up to James.

Ayes: Gilbert, Smilinich, Hall, Koch, Zeisz

Nays: None

Resolution declared adopted

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

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COMMENTS FROM THE PUBLIC AFTER RESOLUTIONS

Dave Pfaff, Town of Tonawanda ó I work for Senator Mark Panepinto, I want to let the Council, Mayor and public know that each year the Senator will be doing electronic recycling. So if somebody can't get rid of that TV, or computer, hang on to it because once a year we are going to be doing it. It will be in the city, or the city and the town. We worked this year with different local groups to help raise money, but we will be doing one a year in the northern part of the district. So hang on to that TV, and it won't cost you money to bring it to us and we'll help get rid of it for free.

Lynn Casal, 69 Grant Street ó I have a letter I would like to read:

To President Carleton Zeisz and Council Members:

Due to the lack of the Common Council's six o'clock informal meeting minutes being published on the city website for the public to inspect within the two week period (required by *Open Meeting Law*), I formally request that all city business that is discussed while falling under the *Open Meeting Law of New York State* be followed by the Common Council Members and its President immediately.

Many important things are discussed during the "informal" meetings and minutes are not made available to the public for what actually takes place in those informal meetings. The caucus room is entirely too small lately. Many times people are standing in the doorways and the hallway just to try to hear the information being talked about. Per the law, whether or not official action has taken place or not, it is still required to take minutes and post them within the allotted time.

In an attempt to protect the residents rights, I also request that future six o'clock informal meetings be moved to the main chambers so enough room is available for ALL residents who wish to attend and all are able to hear what is being discussed. The larger room would better

accommodate the residents to hear what is being discussed with the aid of the microphones that are located on the main chamber tables.

During several conversations with President Zeisz to discuss the meetings being moved to the larger room, I was told, "No one else complains about it," which is not true. I hear people in the audience all the time complain that there isn't enough room or they can't hear what the council members or their guests are saying. In addition, the President told me "That's how it's been done for many years. We don't even have to let you speak at meetings." I said "Mr. President, although I am well aware of the technicality of the law, I strongly advise against the Council taking a stance where our voices aren't being heard or feeling like they don't matter."

The Council President, its members and all elected officials should want to promote transparency and make the residents feel like they have a voice. Just because something has been done a certain way for a long period of time doesn't make it right, nor should it prevent it from being changed to a more appropriate solution once it has been brought to your attention.

I brought letters for everybody, included the law with it, and also pictures of people standing in the hallways.

COMMENTS FROM THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Gilbert ó Mr. Pfaff took my thunder. I was going to mention that this year we worked with the Senator and the recycling event with the Youth Board and me, and look forward to doing that again within the next year and tell people the same thing. Just wanted to thank the Police for the work they did at the old legion site with the chaos that went on there. After talking with Capt. Foels, they handled it very well.

Councilmember Smilinich ó I want to thank the Police, the Fire Department and the DPW for all the work that they put in over that two day period over Labor Day weekend. It's greatly appreciated by the residents and the businesses. Thank you to all.

Councilmember Hall ó I would like to echo the same sentiments, again as usual, all the workers in Public Works are always right on top of things and do a great job.

Councilmember Koch ó Kudos, job well done. The Army Corps of Engineers has recently released their feasibility study and their proposed plan for the Tonawanda Landfill. Certainly it's long overdue, but the comment period began on September 14th and it will go until November 14th. There will also be a Public Hearing on October 14th and I would encourage all the residents to visit the Army Corps of Engineers website to review these plans that they have. Fall is around the corner and this year's sign that it is, is Niagara Hose has chowder this weekend.

Mayor Rick Davis ó I too want to thank the Police, Fire and DPW for all the work over the Labor Day weekend. I'd also like to thank the Fire Department for sitting down and working on a Memorandum of Understanding to take care of a few key issues. I am just going to expand a little bit on what Councilwoman Koch said to kind of break down three different scenarios that the Army Corps is presenting for the landfill. One of them is a 50¢ cap over the fuse wrap area. That will take approximately a year to complete, and \$8,000,000 (inaudible). The second option, which is the one that they're advising for, is shallow excavation down to 50¢ of all contaminated material in the fuse wrap area. Also, that would take a little over a year to complete at a cost of \$10,300,000. The last one and most expensive one is the deep excavation, which is going to go down to 250¢ in some areas. It will take three years to finish and cost \$55,000,000 to do. Just to keep things in mind, the National Fuse Wrap budget, for the entire country is \$100,000,000. So it goes to show that if number three, deep excavation, is the option that is selected, it'll be decades before that area is cleaned up. I know all of us sitting up here will be at that Public Hearing and we will all be submitting letters of support to the Army Corps for the residents along Hackett Drive.

Council President Zeisz ó I was just going to tell the Police Chief that I was going to have a party at the legion and invite 1,000 of my closest friends. Thanks to all of you for coming tonight. Have a great nightí .

Council President Zeisz ó Everyone had an opportunity to speak.

Dawn Cain, 121 Wheeler Street ó You just cut everybody off.

Council President Zeisz ó No, I gave everybody an opportunity to speak.

Dawn Cain ó I totally agree with this woman. You canø hear anything. It might be a good idea just to open those doors so people can hear. My questions are this. The garbage cans were pretty much forced on us the recycle bins. We had to pay for the boxes which are now a non-issue and garbage. We had to pay for the ones with the flip tops. I had a rental property that has two apartments in it and two people, and I got stuck paying for two of them. None of the businesses were obligated to pay for the recycle bins. I also walked through the apartments on Hinds Street and they have one recycle bin for two apartments. So that was never an option that was presented. The other question that I have and I donø know if you can answer this today, is whatø going on with the end of Young Street. Are you just giving it to the restaurant? Is it being deeded over? Are we getting paid for something?

Council President Zeisz ó As far as the end of Young Street, going back quite a few years, the Council had a desire to, for that turn off that would take you over the bridge, to basically get rid of that piece of property. An opportunity arose where that local business was interested in using that property for part of their parking area. So what we have done is we have given them a license to use that portion of the property for the purposes of having parking as long as theyøre in business.

Dawn Cain - Is there a way that you can change the òdo not turn right on redö sign that people can make the right turn? Because in closing that off, there is such a backload when it comes to that 5:00 P.M. ó 6:00 P.M. It may be something to consider.

Council President Zeisz ó We can certainly have Traffic and Safety look at that.

Council President Zeisz ó Have a great night. Drive home safely and weøll see you again. God Bless you.

