

Council Chambers
Tonawanda, New York
February 20, 2018

A Regular Meeting of the Common Council

Present: Council President Koch

Present Councilmembers: Gilbert, Kammerdeiner, Young, Mileham

Pledge of Allegiance led by Council President Koch

Prayer led by Fire Chaplain David Nedell

A Moment of Silence was observed for the families of the recent tragedy at Marjory Stoneman High School

PRESENTATION

Police Chief William Strassburg to present check to Vietnam Veterans Food Bank

Police Chief William Strassburg- In the month of December in the Police Department we were made aware that local Vietnam Vets Food Pantry was a little short on donations and short on money. So to do something unique in the month of December for a donation the officers could grow a goatee not a full beard just a goatee. What we have done for the last three years for the months of January and February the officers can sign a policy that will allow them to grow beards for a donation for a cause obviously for over the two months. When we decided to look at who we would donate to it ended up coming back full circle again and found out that the Vets were serving a lot of people who needed help and that their funds unfortunately were running low around Christmas and then came January it seems to dry up little bit. So, with the officersø generosity we are here tonight to present our local Vietnam Veterans Food Bank with a check for \$1,100.00.

Officer Bryan Lavey- With all the problems in the world right now weøve had quite a few veterans start with the Fire Department and the Police Department. We are representing all four main branches right now. I have Officer Matt Wark here a Navy veteran and myself an Army veteran. Itø nice to be able to give back to those and in turn give back to everybody in our community especially the Food Pantry.

We are here for our veterans, our community and we felt that this is the best thing we can do. This is the best way we can grow a beard and do something awesome for the community. You kill two birds with one stone with that one. I would like to thank Paul for letting us be able to put this on for him, and the Chief for letting us grow the beards.

Swearing In Ceremony for Deputy City Attorney Brittanylee Penberthy

Council President Koch- This is not on your agenda but if I can bring our City Attorney up and Brittany Penberthy and Judge Saltarelli to do a swearing in.

City Attorney S. Michael Rua- Brittany Penberthy is going to be the new Deputy City Attorney. Iø sure most of you know the Penberthy name.

Brittanylee Penberthy took the Oath of Office as administered by Judge Mark Saltarelli.

COMMUNICATIONS FROM THE MAYOR

Letter to Charles Gilbert appointing him as Mayorø Administrative Assistant effective February 9, 2018

Communication to Mayor requesting waiver of residency requirement provided for in the Charter for his appointment of a Deputy City Attorney

Communication to S. Michael Rua, City Attorney from Mayor Rick Davis, approving his request for waiver of residency for his appointment of a Deputy City Attorney

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

Letter of Resignation as First Ward Councilmember from Charles Gilbert

Whereas, the Rules and Orders for the Government and Procedures of the Common Council of the City of Tonawanda for the years 2017-2018 state the following:

18. Every motion which shall have been offered shall be distinctly stated by the City Clerk, upon being seconded and before being debated, shall be reduced to writing by the City Clerk, upon request of the Presiding Officer or any member of the Council. It may be withdrawn at any time before decision, commitment, or amendment by majority consent and

Whereas, the agenda is prepared in advance and made available to the public through the City of Tonawanda Web site as well as printed copies at the meeting

Now, therefore be it resolved, from this meeting forward, that all readings of the resolutions that are provided in the written agenda at Council Meetings will be waived unless requested to be read by a member of the Common Council or the public attending and that the Rules and Orders be amended to provide for the same.

Ayes: Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

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

Ayes: Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

41. By the Council seconded by the Council
Whereas, the resignation of Charles Gilbert, Councilmember from the 1st Ward has been received, which has created a vacancy in the elective office of Councilmember for the 1st Ward in the City of Tonawanda, and

Whereas, that the pursuant to the City of Tonawanda Charter which states the following:

- **Sec. 3.027. - Vacancies in office.**

Vacancies occurring in any elective office shall be filled by the common council at its next regular meeting, where practicable, after creation of the vacancy. The person appointed to fill the vacancy shall hold office pursuant to New York State law. In the case of a tie vote to fill a common council vacancy, the mayor shall cast the deciding vote.

Whereas, the Common Council, as the appointing body, has the power and authority to fill said vacancy, therefore

Resolved, that the Common Council of the City of Tonawanda hereby duly appoints William J. Reece, effective immediately to fill said vacancy as the Councilmember for the 1st Ward in the City of Tonawanda for the term to expire December 31, 2018 pursuant to New York State Election Law.

Council President Koch- I have a comment. I wanted to thank all of the residents who had applied for and sent letters to the council. I want to thank Bill Reece for giving us a full house back up here. We look forward to working with you and you bring a lot to the table, so thank-you.

Ayes: Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

Swearing In Ceremony of First Ward Councilmen William J. Reece

Council President Koch- At this time I would like to call up Judge Saltarelli and Mr. Reece to administer the Oath of Office and his wife.

Judge Mark Saltarelli administered the Oath of Office to William J. Reece.

42. By Councilmember _____ seconded by Councilmember _____

A motion to table the resolution was made by Councilmember Mileham, seconded by Councilmember Kammerdeiner

Whereas, the NYS DEC response to a Foil Request indicates that NRG has removed certain hazardous wastes from the Huntley Site but remaining on the site are one or more coal piles, ash ponds and a fly ash landfill and

Whereas some of the known toxic byproducts of coal waste include arsenic, cadmium, chromium, mercury and selenium and

Whereas these substances could be leaching into the soil or the Niagara River and effect the residents of the City of Tonawanda and

Whereas, pursuant to New York Environmental Conservation Law, Article 27 - 1303 allows the County to identify and submit information to the NYS Department of Environmental Conservation regarding Hazardous Waste Disposal Sites within its jurisdiction,

Now, therefore be it Resolved that the City of Tonawanda requests that County Executive Mark Poloncarz request the placement of the former Huntley Power Site on its registry of known or suspected hazardous waste disposal sites.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared Tabled

43. By Council President Koch _____ seconded by Councilmember Young _____

Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for Art on The Riverwalk, and

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

Whereas, all details for the above named event must be coordinated with Recreation Director Amanda Lofft and Captain Fred Foels of the Tonawanda Police Department and the event chairperson, now, therefore be it

Resolved, that permission is granted to Art on The Riverwalk to conduct its Event July 8, 2018 at from 10:00 P.M. till 5:00 P.M.

Resolved, that a Certificate of Insurance be submitted to the City Clerk no later than June 1, 2018 naming the City of Tonawanda as additional insured.

Council President Koch- I have a comment. On July 8, for the Art on The Riverwalk from 10:00 A.M. to 5:00 P.M. this also runs in conjunction with the Buffalo Philharmonic which will be playing at the Bandshell that evening.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

44. By Councilmember Kammerdeiner _____ seconded by Council President Koch _____

Whereas, Terence T. Calway, owner of 661 Main Street requested the rezoning of said property from C-2 Central Retail District to C-M General Commercial Services District on November 16th, 2017 and

Whereas, a Public Hearing on the request was held on December 19th, 2017 after required notice was sent to property owners within 250 feet of said property and

Whereas, the application was referred to the Erie County Division of Planning which has returned the application with no recommendation indicating local concern only,

Now, therefore be it resolved that the request for said rezoning is approved.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch

Nays: None

45. By Council President Koch seconded by Councilmember Mileham

Council President Koch- I have a comment. I want to thank the Mayor as well as Jackie Smilinich, our Engineer, and all those that had worked and did some research to implement this Social Media Policy.

Be it resolved, that the Common Council approve the following Social Media Policy as proposed by Mayor Rick Davis and directs that it be included in the Personnel and Policy Manual of the City of Tonawanda and that a copy of this policy be provided to all employees of the City.

City of Tonawanda Media/Social Media Policy

I. PURPOSE:

The City of Tonawanda recognizes that traditional communication methods are presently supplemented or replaced by various social media technologies. We also understand that social media can be a fun and rewarding way to share your life and opinions with family, friends and co-workers around the world. However, the use of social media also presents certain risks and carries with it certain responsibilities. To assist you in making responsible decisions about your use of social media as a City of Tonawanda employee or volunteer, we have established the following guidelines for appropriate use of social media.

This policy is applicable to all City of Tonawanda employees, committee and board members and volunteers.

II. GUIDELINES:

In the rapidly expanding world of electronic communication, social media can mean many things. For the purpose of this policy, **Social Media** includes all means of communicating or posting information or content of any sort on the internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not associated or affiliated with the City of Tonawanda, as well as any other form of electronic communication.

Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees or otherwise adversely affects members, customer, suppliers, people who work on behalf of the City of Tonawanda or the City of Tonawanda's legitimate business interests may result in disciplinary action up to and including termination.

Employees should be aware that criticism of your employer, The City of Tonawanda, may not be protected free speech. Furthermore, speech on Social Media such as Facebook, MySpace, Twitter, etc. is not a private conversation but a mass media commentary. The City of Tonawanda supports its employees' First Amendment rights, as well, as the rights of its employees to organize and communicate online. However, the City of Tonawanda cannot condone its employees behaving in a manner which negatively impacts the ability of the City to fulfill its mission.

III. KNOW AND FOLLOW THE RULES

Carefully read these guidelines, The City of Tonawanda Ethics Policy, the Nondiscrimination/Anti Harassment Policy, the Workplace Violence Policy and Sexual Harassment Policy and ensure your postings are consistent with these policies. Inappropriate postings that may include discriminatory remarks, harassment and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

A. BE RESPECTFUL

Always be fair and courteous to fellow employees, customer, suppliers, residents and people who work on behalf of the City of Tonawanda. Keep in mind that you are more likely to resolve work related complaints by speaking directly with your supervisor, co-workers or via the Mayor's "Open Door Policy" than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statement, photographs, video or audio that reasonably could be viewed as malicious, obscene and threatening or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or City/Department Policy.

B. Post Only Appropriate and Respectful Content

1. Maintain the confidentiality of the City of Tonawanda customers and any private or confidential information. Do not post internal reports, policies, procedures or other internal business-related confidential communications.

2. Do not create a link from your blog, website or other social networking site to a City of Tonawanda website without identifying yourself as a City of Tonawanda employee.

3. Express only your personal opinions. Never represent yourself as a spokesperson for the City of Tonawanda. If the City of Tonawanda is a subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the City of Tonawanda, fellow employees, customers, suppliers or people working on behalf of the City of Tonawanda. If you do publish a blog or posts on line related to the work you do or subjects associated with the City of Tonawanda, make it clear that you are not speaking on behalf of the City of Tonawanda. It is best to include as disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the City of Tonawanda."

4. Do not create or share content that promotes, fosters or perpetuates discrimination on the basis of race, creed, age, color, religion, gender, marital status, status with regard to public assistance, military status, national origin, physical or mental disability, genetic information, or sexual orientation or status of as a victim of domestic violence.

C. Use of Social Media at Work

Refrain from the use of social media while on work time or on equipment provided by the City, unless it is work related and is authorized by your supervisor/Department Head. Do not use the City of Tonawanda email addresses to register on social networks, blogs, or other online tools utilized for personal use.

D. Retaliation is Prohibited

The City of Tonawanda prohibits taking negative action against any employee reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against an employee for reporting a possible deviation from this policy, or for cooperating in an investigation, will be subject to disciplinary action, up to and including termination.

E. Media Contacts

Employees should not speak to the media, i.e.: newspapers, radio and 1V stations, on the City's behalf without contacting their Department Head. All media inquiries should be directed to them.

F. If you have further questions or need further guidance, please contact your Department Head.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

46. By Council President Koch seconded by Councilmember Kammerdeiner

Council President Koch- I have a comment. I want to thank the Mayor as well as Dale Kokanovich from the Housing Authority for working hard to resolve a thirty year expired agreement. Also, thank- you Mayor for bringing this forward.

Resolved, that Mayor Rick Davis be authorized to enter into a pilot agreement with the Tonawanda Housing Authority pending approval by New York State Division of Housing for a term not to exceed 5 years. Contract to be submitted to and on file in the City Clerk's office.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch

Nays: None

Resolution declared adopted

47. By the Council seconded by the Council

LOCAL LAW No. 1 – 2018

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 2018 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, 2019, 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, 2019, 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 2018 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: Reece, Kammerdeiner, Young, Mileham, Koch
Nays: None

Resolution declared adopted

48. By Councilmember Young seconded by Councilmember Mileham

Resolved, that the Common Council authorizes the sale of miscellaneous DPW equipment for \$2,332.50 pursuant to the results of the online Auctions International from January 29, 2018 to February 14, 2018 as per the report attached and made a part hereof.

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch
Nays: None

Resolution declared adopted

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

Ron Scott, 317 Utica Street- I was curious as to what the problem was with the Town of Tonawanda if you are able to say as to the tabling of Resolution #5(42)?

Council President Koch- We were alerted, we received an e-mail from the Town of Tonawanda Supervisor and quite frankly the resolution can be amended. We support the Clean Air Coalition. We support our friends in the Town. So, at this time it just didn't have the support.

Ron Scott- Okay, thank-you.

Rebecca Newbury, Director of the Clean Air Coalition- I'm a little confused why the Town Supervisor didn't support. Could you give us more information as to what, because he told me he did? I'm just a little confused.

Council President Koch- To be quite honest with you the Mayor had alerted us that he received a communication from the Town. We literally just got a copy of that e-mail so I don't think any of us have digested it. But there were some concerns regarding that resolution.

Rebecca Newbury- Could you be explicit as to what the concerns were? I'm hearing something different so that's why I'm just curious.

Mayor Rick Davis- You would have to take that up with Supervisor Emminger. He didn't feel like that it was in the best interest for the property to be on the registry. Like I said, you would have to take it up with him.

Rebecca Newbury- How do you feel?

Mayor Rick Davis- I support you guys but I also support my colleagues in the Town and County government. I know they are trying to figure out a re-use for the Huntley Site and according like I said to the e-mail they had some concerns with it so I would like to work out those concerns and have everybody being unanimous for the site.

Rebecca Newbury- This is the first time hearing this. I talked to the Supervisor last week and he said he was supportive. If we could maybe set a time next week to get together and chat?

Mayor Davis- Absolutely.

Rebecca Newbury- Okay great. Thank-you.

Mayor Davis- You're welcome.

Council President Koch- It was the first time, I mean we literally just learned about this a half hour ago. Thank-you.

Judge Mark Saltarelli, 200 Niagara Street ó As long as I am here tonight. I'm sure that everybody's rather heard this past weekend on a sad note we had two out of three overdoses that occurred in the area; two of which were fatal. The one that survived was actually a member of my drug court, or he is a former member of my drug court now. I just wanted to call to everyone's attention the fact that if you know of a situation you should contact the Police Department and speak to a police officer or a detective. It's important. I know we have had a lot of people going up to Broad Street and that kind of thing. On a positive note Alyssa Peshong who is now a current member of my drug court did a big article tonight with her father on Channel 7 that I think everybody should take a look at. She had overdosed her in the Tops parking lot. She ended up in front of me. We immediately referred her to inpatient care. She went in to quite a lot of detail about her successes. I think that should be a message to everyone in the community that there's plenty of help here whether it's from the Fire Department, the Police Department when they first initiate this. I know that both Jenna and the Mayor have been instrumental with us in working in the community. So, I just want to reiterate that because we haven't talked about it in awhile and with this past weekend it resurrected itself once again. Everybody should be alert. Keep on eye out on things. If you see something feel free to contact the Police Department. The second note, a happier note, wearing my hat as Chairman of the Quality Student Dinner which is going to be on March 1. I just wanted to take this opportunity while I'm here to thank the Mayor, the members of the Common Council, the Police Chief, the Fire Chief, Legislator Kevin Hardwick, the City Attorney Mike Rua for your support for the dinner. I wish I had this kind of support from the members of the City of North Tonawanda it would make my job a lot easier. I just wanted to do that while I'm here this evening before the dinner occurred. Thank-you very much.

Council President Koch- Thank-you Judge.

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Kammerdeiner- I would like to start off and say thank-you to our Police Department for donating back to the community. Good job. I look forward to working with Bill.

Councilmember Young- I would also like to express my thank-you to the Police Department and to the Chief for an outstanding job donating to the Vets Food Pantry. Second of all, I would like to congratulate the new Deputy City Attorney.

Thirdly, I would like to congratulate Bill and welcome him.

Councilmember Mileham- Just to echo the thoughts of my colleagues here thank you to the police department (Inaudible)

Councilmember Reece- Thank-you so much to the council for giving me the chance to serve the City of Tonawanda the remainder of the year of Chuck's term. It was twenty-three years ago with monthly meetings at Delaware Hose it started as an idea and gave me a chance to work toward making this idea a reality and having to work with Mayor Roth over the years and Mayor Pillozzi and the opportunities that Mayor Davis has given me this year on various communities and serving the City in those lights I'm hoping that I'll be able to give back more this way make you glad that you did this. Thank-you.

Mayor Rick Davis- I would like to welcome Brittany and we had some very qualified people that stepped forward that wanted to serve in the First Ward Councilman position. So, I am thankful for the people that stepped forward and I look forward to working with Bill this year and watch him run in November. Green Beer Sunday on March 4 from 12:30 P.M. to 3:30 P.M. come on down for some green frosty goodness and Harzfest is the day before on March 3 from 3:00 P.M. to 10:00 P.M. at the Eldredge Club. Stop on down and support a great organization here in the City. Thank-you Madam President.

Council President Koch- I was going to talk about Green Beer Sunday and Harzfest which is one of the things about going last. Youth Days begin next week so please stop out at the High School and see some future Olympians competing. I want to congratulate Brittany and Bill. Welcome to our team and I look forward to working with the both of you. The Community Emergency Response Team training begins on March 5. I want to thank the Town of Tonawanda Police Department for offering the training to our residents. You can contact them to sign up for it. A special thank-you to the City of Tonawanda Police Department in raising funds for the Vietnam Veterans Food Pantry. Last, but certainly not least my condolences to the Syposs family and the Thiebolt family on the loss of their loved ones this week. With that said the council will be meeting in the Caucus Room and me thank-you and have a great night.

ADJOURNMENT

49. By the Council seconded by the Council
Resolved, that this Common Council adjourn until March 6, 2018

Ayes: Reece, Kammerdeiner, Young, Mileham, Koch
Nays: None

Resolution declared adopted

City Clerk

Mayor

Date Filed