

Council Chambers  
Tonawanda, New York  
May 3, 2016

A Regular Meeting of the Common Council

Present: Council President Koch  
Present Councilmembers: Gilbert, Rautenstrauch, Toth  
Excused: Councilmember Smilinich

Pledge of Allegiance and Silent Prayer led by Jenna Koch

**Proclamation by Mayor Rick Davis for Brain Tumor Awareness Month**

Mayor Rick Davis- In honor of Brain Tumor Awareness Month,

WHEREAS, over 600,000 people are living with brain tumors around the country and another 60,000 adults and children will be diagnosed this year; and

WHEREAS, brain tumors are among the deadliest and most aggressive forms of cancer and affects every socio-economic class, race, and gender; and

WHEREAS, brain tumors are the number one cause of death from solid tumors in people under the age of 20 and the third leading cause of death in people ages 20-40; and

WHEREAS, increasing public awareness through support and advocacy for patients and their families are crucial to finding a cure.

WHEREAS, for the month of May, City of Tonawanda will be lit up gray in honor of Brain Tumor Awareness Month

NOW, THEREFORE BE IT RESOLVED that I, Rick Davis, Mayor of the City of Tonawanda, do hereby proclaim May 2016 as: Brain Tumor Awareness Month

**COMMUNICATIONS FROM THE MAYOR**

Letter to Andrew Grimaldi reappointing him to the Plumbing Board effective January 1, 2015, expiring December 31, 2018

Copy of Letter to Nathan McMurray, Grand Island Supervisor, Joseph Emminger, Supervisor of Town of Tonawanda and Mayor Davis from Assemblyman Robin Schimminger regarding request to remove tolls on the Grand Island Bridges

**COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE**

The following monthly reports were received by the City Clerk:

April Meeting of the Traffic and Safety

April Monthly Report of the City Clerk

April Report of the Building Inspector

Letter from Gerald Culkowski, 212 Rogers Ave regarding lack of street lighting at his address.

Letter from Beth A Rosokoff supporting Council President Jenna Koch

Letter from Haick Business Services regarding contract with Canal Fest for reinstatement of their 501-c (3) Non for Profit Status

Referred to the Committee of the Whole  
Ordered filed

**COMMENTS BY THE PUBLIC ON RESOLUTIONS**

No comments by the Public on the resolutions.

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

120. By the Council seconded by the Council  
 Resolved, that the Common Council minutes from April 19, 2016, be accepted as filed.

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

Resolution declared adopted

121. By Councilmember Gilbert seconded by Councilmember Toth  
 Resolved, that the readings of resolutions #2-#8 be waived.

Ayes: Gilbert, Rautenstrauch, Toth, Koch  
 Nay: None

Resolution declared adopted

122. By Councilmember Koch seconded by Councilmember Gilbert

Councilmember Gilbert- I just want to start off by saying thank you to Canal Fest for listening to our concerns and working together to incorporate a plan to move forward. I also want to thank you and Mr. Toth working out the deal and making it.

WHEREAS, the Common Council of the City and the Board of Directors of the CANAL FEST OF THE TONAWANDAS, INC. (hereinafter referred to as "the Corporation") are desirous of entering into an agreement for the purpose of accommodating Canal Fest 2016; and

WHEREAS, the parties have negotiated the following agreement so that the concerns of the City and the Corporation have been addressed; and

WHEREAS, the utilization of city property, personnel and equipment as specified in said Agreement is deemed to be for the promotion of Canal Fest 2016 and the protection of public health, safety and welfare which is in the best interests of the City and its residents;

NOW, THEREFORE,

BE IT RESOLVED, that the Common Council hereby authorizes and directs the Mayor to execute the Canal Fest 2016 agreement, and

BE IT FURTHER RESOLVED, that the parties hereto approve and enter into the following Agreement:

## AGREEMENT

1. The City and Corporation in conjunction with the City of North Tonawanda shall support Canal Fest 2016 of the Twin Cities.
2. Canal Fest 2016 shall be held July 17, 2016 through July 24, 2016. The daily operations of the festival, including rides, amusements, concessions and/or events of any sort on the Tonawanda side shall conclude by 10:00 P.M. or as soon thereafter as may be reasonably accomplished.
3. The Canal Fest 2016 "Campus Area" will utilize Niagara Street between Main and Seymour Streets and that portion of Young Street which lies between Main Street and Delaware Street, which leads into the Walgreen's parking lot. The parking lot adjacent to McDonalds is not included in the Campus Area. The ride promoter, Powers Great American Midways, Inc. will be permitted to place two trailers in the parking lot adjacent to the Tonawanda Towers. In the event that construction is occurring within the City of Tonawanda during the time Canal Fest is taking place, the City may, in its sole discretion, modify the "Campus Area" so that the Festival does not interfere with on-going construction or other related development activities.
4. The Renaissance Bridge shall be closed during Canal Fest to permit its use by various concessions without the need to remove their set-ups at the conclusion of each evening. The parade route shall begin at Grove and Minerva and shall utilize Minerva from Main to Grove, Grove from Minerva to Roosevelt and Roosevelt from Grove to Main Street as a staging area. The parade shall proceed to and cross the Renaissance Bridge. The concessions shall be required to be removed only during that Tuesday night, July 19, 2016.
5. Portions of Minerva, Grove, Roosevelt and Main Street shall be closed for the Canal Fest Parade on Tuesday, July 19, 2016 as stated in paragraph 4 above.
6. The Corporation will be permitted to use Main Street, from Niagara Street to Broad Street and a portion of Adam Street running from Main Street to Seymour Street for the Craft Show on July 23 and July 24, 2016.
7. The Corporation will be permitted to use Main Street from Niagara Street to Broad Street for the Cruise Nite Car Show on July 20, 2016.
8. The Corporation will be permitted to use Main Street from Niagara Street to Broad Street for the Antique Fire Truck Show on July 17, 2016. The City agrees to close this Street by 4:00 P.M. to accommodate set-up and staging of the vehicles.
9. The Corporation will be permitted to use the Miller Bandshell in Niawanda Park for various music and other performances. For the convenience of the musicians, the Community Room on the lower level of City Hall will be available, if a request is made, for the musicians to gather and have a place to store instrument cases and their personal belongings during the concert.
10. The corporation will be permitted to use Clinton Park for the Flea Market on July 23 and 24, 2016.
11. The Canal Fest 2016 "Campus Area" has been designated on the Canal Fest map. No additional permits will be granted for vendors, performances or advertising posters within said "Campus Area" unless mutually agreed by the parties. This section shall not be applicable to official City of Tonawanda government entities and/or official City sponsored events. Said "Campus Area" shall be subject to the private property rights of landowners and tenants. The parties agree to respect any and all private property rights.
12. The City reserves the absolute right to approve the nature, type and location of all rides, amusements and concessions for purposes of public health and safety. Such approval will be memorialized by noting same on the Canal Fest map on file in the office of the City Clerk.  
Furthermore, the City, together with the Police Chief and/or Fire Chief, may interrupt and/or close down the festival for purposes of health and/or safety.
13. The Corporation shall be entitled to utilize the footbridge leading to the Long Homestead at its discretion. Any docks located on the canal and Ellicott Creek are to be excluded from the "Campus Area" and remain under the jurisdiction of the City. Any and all use of docking area shall be solely within the discretion of the City. All rules and regulations regarding dock usage shall apply.
14. The Corporation shall reimburse the City in a sum not to exceed \$17,000.00 for the year 2016, in order to offset the additional reasonable expenses incurred by the City to provide City services to Canal Fest 2016. Said services shall include, but are not limited to, police and emergency services. Reimbursement shall be paid no later than September 15, 2016. The City Treasurer shall present a statement of

services to the Corporation on or before September 9, 2016. Should said statement of services be less than the \$17,000.00 for the year 2016, the City shall rebate the difference. Should the statement of services reflect the City's expenses are greater than the said \$17,000.00 for the year 2016; the City will absorb the difference.

15. The Corporation shall reimburse the City up to \$3,000.00 (However, the City shall have the option at its sole discretion to receive the \$3,000.00 any time during the term of the Agreement.) for the City's purchase, at its sole discretion, of any tangible items or articles, or for any items of capital improvement; with the understanding that these funds shall benefit the City of Tonawanda's Canal area and/or Riveredge area and/or Riverwalk area and/or Waterfront area and/or Gateway Park area. These funds may be used by the City at its sole discretion as above stated; however, these funds are not to be used for City operation or personnel costs. Reimbursement shall be paid by the Corporation to the City within thirty days of presentation of a receipt for qualified purchases and/or expenditures. The Corporation shall receive proper recognition for such items or expenditures which benefit the City.

16. Proof of liability insurance approved for the Corporation, naming the City as an additional insured, with aggregate policy limit of \$3,000,000.00 for personal injuries and property damage shall be provided to the City Clerk on or before July 8, 2016. The Corporation shall indemnify and hold the City harmless from any and all claims or causes of action which are the direct result of any negligent act or omission or intentional misconduct by agents of the Corporation with respect to Canal Fest 2016. The City agrees to indemnify and hold the Corporation harmless from any and all claims or causes of action which are the direct result of any negligent act or omission or intentional misconduct by agents of the City with respect to Canal Fest 2016. The Corporation shall require the amusement and concession operator, Powers Great American Midways, Inc., to provide and submit a certificate of insurance and proof of premium payment acceptable to the City, which certificate shall name the City as an additional insured. The Corporation shall further require said Powers Great American Midways, Inc., to enter into an agreement holding the City harmless and indemnify the City from any and all claims and causes of action which might be commenced against the City as a result of the negligence or omission or intentional misconduct by an agent of Powers Great American Midways, Inc. with respect to Canal Fest 2016.

17. The Corporation shall be solely responsible for and shall provide adequate public restroom facilities for the event.

18. The Corporation shall provide the City with complete copies of all contracts and amendments between it and Powers Great American Midways, Inc., and any other amusement company that may be under contract regarding Canal Fest 2016.

19. Any damage caused to City property as a result of the rides, attractions and/or activities shall be repaired by the City; however, the cost of said repairs shall be borne exclusively by the Canal Fest Corporation pursuant to an agreed upon fee schedule and/or reimbursement procedure to be determined by the parties. The cost of repairs shall be paid to the City by the Corporation in addition to the reimbursement pursuant to the reimbursement pursuant to paragraphs 15 and 16.

20. Only those entities located within the "Campus Area" are to contribute monies to the Corporation. However, nothing hereunder shall restrict the Corporation from being able to pursue sponsorships or preclude it from protecting against the unauthorized use of its name and logo.

21. The Corporation shall meet with the Council on August 2, 2016 or such other date as the parties may mutually agree to discuss the results of the 2016 festival, including but not limited to financial data, logistics and to further discuss future events.

22. The Corporation shall take every reasonable effort to accommodate the needs of the adjacent businesses.

WHEREAS, the City of Tonawanda must strive to minimize any and all unnecessary financial burdens on its taxpayers; and

WHEREAS, the City of Tonawanda's utmost concern must be for the safety and welfare of its residents and business people; and

WHEREAS, the City of Tonawanda has for thirty-three years substantially supported Canal Fest, Inc. and has facilitated and housed events for those thirty-three years; and

WHEREAS, the City of Tonawanda recognizes the monumental task the Canal Fest Corporation has in preparing for this event, now, therefore, be it

RESOLVED, that the City of Tonawanda agrees to produce a detailed accounting of all expenses incurred in 2016 and to continue negotiations for Canal Fest 2017 and

thereafter, based on the above stipulations on the earliest practicable date, so that an agreement can be finalized early in 2017.

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

Resolution declared adopted

123. By Councilmember Toth seconded by Councilmember Koch

WHEREAS, the Common Council of the CITY OF TONAWANDA, the Board of Directors of the CAROUSEL SOCIETY OF THE NIAGARA FRONTIER, INC. (hereinafter referred to as "CSNF") and POWERS GREAT AMERICAN MIDWAYS, INC. (hereinafter referred to as "PGAM"), are desirous of entering into an agreement for the purpose of accommodating Canal Fest 2016;

NOW, THEREFORE BE IT RESOLVED, that the Common Council hereby authorizes and directs the Mayor to execute this Agreement, and

BE IT FURTHER RESOLVED, that the parties hereto approve and enter into the following Agreement:

**AGREEMENT**

The CSNF and PGAM shall provide the City with a supplemental payment to reimburse the City for the cost of City services in support of Canal Fest of the Tonawandas 2016 in the amount of \$3,000.00, to be paid no later than August 5, 2016.

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

Resolution declared adopted

124. By Councilmember Koch Seconded by Councilmember Toth

Resolved that the Common Council approves and directs the Mayor to sign the following Addendum:

**ADDENDUM to 2016 CANAL FEST AGREEMENT –  
LAUNCH OF FIREWORKS FROM THE RENAISSANCE BRIDGE**

Fireworks shall be launched from the Renaissance Bridge on the final night of Canal Fest (July 24, 2016) in accordance with the following terms and conditions:

1. The Bridge shall be closed to pedestrian traffic at 8:00 P.M. or earlier when Young Company arrives.
2. The Canal shall be boat free from the Delaware Bridge to the Seymour Bridge and Tonawanda Creek from the end of dock to the Canal.
3. Canal Fest personnel shall clear all boats in violation of the Safe Zone by 7:00 P.M.
4. Crowd control is to be determined by Police Chief Strassburg or his designee.
5. Rides and concessions cannot be in the process of tear down from 7:00 P.M. until the crowd has departed.
6. Pedestrians, crafters, rides and concessions shall not be located within the fallout area. The Fallout area can change due to wind direction and speed.



127. By Councilmember Rautenstrauch seconded by Councilmember Toth  
 Whereas, a \$25.00 Special Events application fee and application were received by the City Clerk for the Glory Be to Kids  
 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 Amanda Lofft and the event chairperson, now, therefore be it  
 Resolved, that permission is granted to Glory Be To Kids to conduct Softball Tourneys 5/21/2016, 7/16 and 17, 2016 at Niagara #1 and # 2 Kohler Softball Field (rain date 23 and 24) and be it further resolved that a certificate of insurance be submitted by May 16, 2016.

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

Resolution declared adopted

128. By Councilmember Gilbert seconded by Councilmember Rautenstrauch  
 Council President Koch ó These are the projected streets; Niagara Street Kohler to Hinds, Dekalb Street Delaware to Amsterdam, Kohler Street Fletcher to Erie, Eugene Street, Mill Street and Erie Street.

Whereas, the City of Tonawanda has previously and traditionally contracted out milling of the City of Tonawanda streets to outside contractors and  
 Whereas, the Town of Tonawanda is willing and able to mill various City of Tonawanda streets during the summer of 2016 and  
 Whereas, it is beneficial to both parties to enter into a Shared Services Agreement pertaining to the milling of various City of Tonawanda Streets,  
 Now, therefore be it resolved that Mayor Rick Davis is hereby authorized and directed to execute the proposed Shared Services Agreement between the City of Tonawanda and the Town of Tonawanda regarding the milling of various City of Tonawanda Streets, a copy of which is on file with the Tonawanda City Clerk.

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

Resolution declared adopted

**COMMENTS BY THE PUBLIC AFTER RESOLUTIONS**

Mark Zahm, 33 Grove Place- I would like to thank you for getting Grove Place patched. I believe it was fifteen patches placed along the length of the street. It is unfortunate that we are not able to sweep the street first because we have a problem of parked cars at all times day and night. Being as it is very difficult to pull into your driveways in the City of Tonawanda. Unfortunately, the patchwork in front of my house didn't hold. The little bit that they did was meaningless because that weren't able to sweep and do the work properly. Yet, I take this as a good omen. How soon do you believe, because I didn't hear the name of Grove Place on your list just now? How soon do you believe the street will be paved? Any idea?

Mayor Davis- It won't be this year.

Mark Zahm, 33 Grove Place- It won't? Okay, counter productive, I will be challenging my assessment. I do understand that certain people believe that a complete breakdown of City services has no ramifications on the value of the home. I'm seeing more and more breakdown and I do believe it does have ramifications on the value of a home. And until you start providing services that I am paying for, if you don't provide them and my assessment's maintained or continues to rise I'm paying for things that I'm not getting taxed (inaudible). You're taking that money from me. You're making promises and you're not fulfilling them.

Council President Koch- What services aren't you receiving?

Mark Zahm, 33 Grove Place- Street sweeping to start with. For four years we had a drug house running rampant, 24-7. I'm not giving names. I'm not giving house numbers. I saw just how impotent. It's interesting how the Police Department was with dealing with that. This is just the start of the breakdown. It's pretty awful. I'm not going to get into it now. This has to be taken up with the City Assessor and the Review Board. I'm just saying I'm paying for things that we are not getting. It's not just me at that end. Thank you.

Councilmember Gilbert- Madam President? Mr. Warthling don't we have a list of streets that you kind of target where we go and how they get paved through the year? You go through the list every year and you grade the streets, right? There's just those ones that you hit this year are the ones that were mentioned, right? Thank you Madam President.

Helen Mullaney, 29 Grove Place- In regards to Grove Place and the Street, just a little background. The street was paved over 48 years ago and nothing has been done since other than patching. The curbs are deteriorating. The sidewalks from the side of Grove Street which is Grove Place are in deplorable condition. So please, next year can we have our street paved? Thank you!

Carol Ann Rowling, 181 Utica Street- Has there been any progress with the Community Service about the parking lot? As they have many times (inaudible) taxpayer money. Is there any progress about stopping overnight parking? It's time for a change. A change in no parking on one side of the street to the other side so that people on that side can enjoy all the parking in front of their house, or the leaves and all kinds of things like that, which they haven't had to do for many, many years. I do even know how many years there has not been parking on that side of the street. It's not a big undertaking. Really, all you have to do is make a "No Parking" sign for that side and the other side of the street. Thank you.

Casper Hoffman, 35 Hackett Drive- The speed on Hackett is the main topic. Is there any possibility of a speed bump for people to slow them down?

Council President Koch- I can ask the Mayor if we can put a speed trailer up to monitor to do a speed site.

Casper Hoffman- Yes or No?

Mayor Rick Davis- Yes, we can do it. She just asked me to put the speed trailer up to monitor the speed, to give us some feedback.

Casper Hoffman- Then we're going to get it?

Mayor Rick Davis- Right.

### **COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS**

Councilmember Rautenstrauch- Nothing.

Councilmember Gilbert- I just want to thank the Mayor for his proclamation. Tonight, I just want to reach out and thank Mr. Nedell for his donation to the Tonawanda Football Clinic. I want to put it out there that we are trying to do a new training technique that their doing for football to make it safer for kids to play football. We asked for a silly thing called pool noodles that helps the kids train. Mr. Nedell came through and he bought over fifty of them with his own money to donate. So I just want to thank him for that and put it on the record.

Councilmember Toth- I would just like to echo Mr. Gilbert's comments earlier about Canal Fest. That the Mayor, he knows that back in late Fall, I (inadubile) Canal Fest here again. I know their costs are skyrocketing and our costs are sky rocketing, hopefully this year it will be a successful event. Kudos to Rick Maier and also to Pete Chenier Sr. (inaudible)

Mayor Davis-I would also like to express my sentiments to Canal Fest and Rick Maier working with us in order to have another successful Canal Fest this year. We've had two



public meetings over the course of the last two weeks; our second LWRP meeting and first Comp Plan public meeting. Both of them were well attended. With the Comp Plan I got to play with legos for the first time in ten years. It brought back some memories. We are hoping to continue to get people commenting on both the LWRP and the Comp Plan moving forward. As I have said all along, this is the residents plan for our City moving forward not anybody sitting up here. There's a Team-Up to Clean-Up this Saturday from 9:00 A.M. to 1:00 P.M. It will be targeting the City Cemetery. If you're available please come out. The City, the Town, and Kenmore have partnered together for an opiate awareness meeting tomorrow at Kenmore West. The doors open at 6:30 P.M. The meeting is from 7:00 P.M. to 9:00 P.M. and it's to give people and or loved ones the resources in trying to tackle the epidemics facing our areas the last few years. I attended the Valliancourt Benefit. It was really nice to see the outpouring of support for the Valliancourts. Hats off to Jenna, I know she was one of the big proponents in pushing for the benefit and helping out a lot. My hats off to her and everybody that took the time out to attend that. On May 11, at 11:00 A.M. the Historical Society will have the unveiling of the new signs along the Riverwalk. Come on out. Check them out. Some really nice, cool signs. I tried to get one up from 1895. It came from Grand Island over to The City of Tonawanda. But I couldn't find those pictures of that. Last, but not least, I wish all the mothers here a very Happy Mother's Day!

Council President Koch- As the Mayor mentioned, tomorrow the City of Tonawanda, the Town, and Kenmore will host an opiate forum at Kenmore West High School. So please join us. The doors open at 6:30 P.M. and participate in this discussion. I'd like to thank the Mayor for his proclamation and for lighting up City Hall gray this month. Yesterday, I hosted a "Council on Your Corner". Many thanks to those who attended. Thank you for your questions and your feedback. Mr. Mayor, many thanks to you, Junior, Senior, Chief Strassburg, Chief Stuart, and Councilmember Toth for working out an agreement that I think that we both can live with and are pleased with. I'd like to thank the community for all their support that they have given to the Valliancourt family, from Day One, you guys have really stepped up and really wrapped your hearts around this family. I ask that you please continue to keep them in your prayers. Kim began chemo and radiation this week. That will be a six week chemo and radiation for her. So, please continue to keep the family in your prayers. That is all I have. Thank you.

