

Council Chambers  
Tonawanda, New York  
July 25, 2017

A Regular Meeting of the Common Council

Present: Council President Koch

Present Councilmembers: Gilbert, Smilinich, Rautenstrauch, Toth

Pledge of Allegiance and Prayer led by Associate Chaplain Rick Oates

**COMMUNICATIONS FROM THE MAYOR**

Letters of support sent by Mayor Davis to Connie Krysuak and Warren Hoy for ending the ongoing labor dispute between DuPont and United Steel Workers 6992

Communication to Buffalo Police Chief Daniel Derenda thanking him for the use of City of Buffalo Police's Sky Cab for use of Tonawanda Police during Canal Fest.

Copy of Agreement between the City of Tonawanda and the Tonawanda City School District for use of Tonawanda Police Officers for Security at Athletic and Extracurricular Events

Communication announcing City of Tonawanda Downtown Day- 2017 with the Opening of the Blue and Greenways Intermodal Hub

Letter to First Deputy Superintendent Paul Evens of the Erie County Sheriff's Department thanking Officer Mike Narde and the department for providing flowers and labor to plant at City Hall

**COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE**

Fire Department Activity Report for June  
Building Inspector Monthly Report for June

Communication to Buffalo Police Chief Daniel Derenda from Council President Koch thanking him for use of their Police Tower for Canal Fest  
Referred to the Committee of the Whole  
Ordered filed

**COMMENTS BY THE PUBLIC ON 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**

174. By the Council seconded by the Council

Resolved, that the Common Council minutes from July 11, 2017 be accepted as filed.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

175. By Councilmember Toth seconded by Councilmember Rautenstrauch

Resolved, that that the bills be allowed as audited and that the City Clerk draw warrants on the Treasurer for the various amounts.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

176. By Councilmember Gilbert seconded by Councilmember Smilinich

Resolved, that the reading of the resolutions be waived.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

177. By the Council seconded by the Council

Whereas, Corey McGowan Productions, Inc. desires to enter into a Rental Agreement with the City for use of the band shell located at Niawanda Park for a concert event on October 7, 2017

Now, therefore be it resolved that Mayor Rick Davis is hereby authorized and directed to execute a proposed Rental Agreement between the City and Corey McGowan Productions, Inc. regarding rental of the band shell. A copy of said Agreement is on file with the City Clerk.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

178. By Councilmember Gilbert seconded by Councilmember Smilinich

Whereas, a Special Events application was received by the City Clerk from Tom Berrafato to conduct the third annual Ted Reinhardt Drum Day 2017,

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

Whereas, all details of the above named event must be coordinated with Captain Fredric Foels of the Police Department and Department of Public Works Superintendent Joseph Warthling and the event Chairperson, now

Therefore, be it resolved that permission is granted to Tom Berrafato to hold the Ted Reinhardt Drum Day 2017 on August 13, 2017 and that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than August 6, 2017.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

179. By Councilmember Gilbert seconded by Councilmember Toth

Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the Phase 6 Sewer & Ellicott Creek Pump Station Rehabilitation Contract No. 6A (General) be made to Milherst Construction, Inc., at a cost not to exceed \$1,708,920.00.

Funding/Fiscal Impact: \$1,708,920.00 from the Capital Budget

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

180. By Councilmember Gilbert seconded by Councilmember Smilinich

Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the Phase 6 Sewer & Ellicott Creek Pump Station Rehabilitation Contract 6B (Electrical) to Weydman Electric, Inc., at a cost not to exceed \$34,850.00.

Funding/Fiscal Impact: \$34,850.00 from the Capital Budget

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch  
Nays:

Resolution declared adopted

181. By the Council seconded by the Council

WHEREAS, in July 2011 in recognition of the growing problem of distressed, vacant, abandoned, and tax-delinquent properties, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any Foreclosing Governmental Unit (FGU) to create a land bank to strategically acquire, improve, assemble, and sell these properties; and

WHEREAS, under this law, the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) was formed in May 2012 via an inter-municipal agreement among the county's four FGUs: Erie County and the Cities of Buffalo, Lackawanna, and Tonawanda; and

WHEREAS, county-wide land banks have proven highly successful in Michigan, Ohio, and other regions experiencing growing numbers of problem properties by supporting municipal and regional revitalization efforts by strategically acquiring, improving, assembling, and selling these properties; and

WHEREAS, BENLIC (the land bank) seeks to work collaboratively with the cities, towns, and villages within Erie County to address the growing problem of distressed, vacant, abandoned, and tax-delinquent properties; and

WHEREAS, the *City of Tonawanda*, Erie County, has recognized the need to address the growing issues of distressed, vacant, abandoned, and tax-delinquent properties and is desirous of partnering with BENLIC to address this problem.

NOW, THEREFORE, BE IT

RESOLVED, that *the City of Tonawanda* hereby officially requests that BENLIC acquire the following properties:

**PRIORITY PROPERTY #1**                      **231 Adam Street, SBL#38.60-2-5**  
**Tonawanda, NY**  
**PRIORITY PROPERTY #2**                      **19 Grove Terrace SBL# 39.61-1-9**  
**Tonawanda, NY**  
**PRIORITY PROPERTY #3**                      **23 Enterprise Street SBL# 52.08-1-16**  
**Tonawanda, NY**

***PRIORITY PROPERTY #4 91 Fuller Avenue SBL# 39.77-4-2  
Tonawanda, NY***  
***PRIORITY PROPERTY #5 47 Maldiner Avenue SBL# 39.18-9-32  
Tonawanda, NY***

and be it further

RESOLVED, that the ***City of Tonawanda*** has completed the required Acquisition Applications for each property listed above and has attached the Acquisition Applications to this resolution; and be it further

RESOLVED, that the ***City of Tonawanda*** agrees to reimburse Erie County for the costs associated with foreclosure of this property; and be it further

RESOLVED, that the ***City of Tonawanda*** agrees to maintain each property selected by BENLIC during the time in which BENLIC holds title to the property including removal of motor vehicles upon BENLIC property by use of municipal emergency services (i.e. police and fire department); and be it further

RESOLVED, in the event that after a period of one year from the date of BENLIC acquisition, BENLIC is unable to dispose of vacant lots which do not contain structures and which are identified herein, BENLIC retains option to transfer to the ***City of Tonawanda***, the ***City of Tonawanda*** agrees to accept a transfer of title of all non-disposed vacant lots which do not contain structures by quit claim deed;

***INSERT VACANT LOT ADDRESS SBL***

***PRIORITY PROPERTY #4 91 Fuller Avenue SBL# 39.77-4-2  
Tonawanda, NY***

And be it further

RESOLVED, that certified copies of this resolution will be sent to the Executive Director of the Buffalo Erie Niagara Land Improvement Corporation; the Commissioner of the Erie County Department of Environment and Planning; the Director of the City of Buffalo's Office of Strategic Planning; and the Mayors of the cities of Lackawanna and Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays:

Resolution declared adopted

182. By Councilmember Smilinich seconded by Councilmember Gilbert

Resolved, that the 2017 General Fund Budget be amended to account for the Federal Grant Funds received from the United States Department of Justice to purchase bullet proof vests for the Police Department

EXPENSE 001-3120-202	Police Dept Equipment	ADD	\$1737.00
REVENUE 001-0001-4007	Federal Grant for Police Vests	ADD	\$1737.00
NET BUDGET EFFECT			-\$0

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays:

Resolution declared adopted

**COMMENTS BY THE PUBLIC AFTER RESOLUTIONS**

John Eggert 23 Grove Terrace. There is a house next door to me that has been in foreclosure for several years. The house next door is 19 Grove Terrace. I have stopped by several times hoping to be involved in an auction to purchase that house. I have waited and waited and now here it is going to be Land Banked. Is there any chance that I can have a chance to get this house?

Council President Koch : Well the resolution right now assigns the property to the Land Bank and the Land Bank will then make a decision if they accept the property or not and our City Treasurer can certainly a better answer than I can.

City Treasurer Joseph Hogenkamp : John is the person I referenced in the pre meeting, he called me and we talked and this particular property, 19 Grove Terrace like a lot of these properties, it was on our last foreclosure list and the property home owner filed for bankruptcy so when people file for bankruptcy that buys them some protection so he escaped the last foreclosure so back on the list for this current foreclosure. Joe Ulanowski, one of our Code Enforcement officers approached me with the property owner who was in Housing Court and basically said that he is not going to do any bankruptcies or anything like that. He's just walking away from the thing. I know Joe said something about plumbing issues and things like that but as I explained as I explained in the pre meeting and to John over the phone that the intentions that he has, I'm sure are honorable if he was the person to come and be the successful bidder. We've had success stories, we've had not so success stories with people who come to our auctions and buy properties. Some of them do the right thing, some of them don't really fix them up but just rent them out and perpetuate the problem. The problem with our auction is you don't know who we're getting and that's what I explained to John. His plan and his intentions are all well and good but there's no guarantee that he's going to be the one that bids the highest and is awarded the property. If we go with the Land Bank and again this is our ask to the Land Bank , there's four lots and one vacant property and we hope for the best. I think we had success three years ago when we did this and got a brand new house out of it, got a house that was full of mold demolished and re put on the tax rolls at probably \$120,000. So those are good experiences. If the Land Bank takes it I think obviously there's a much better chance that the right thing is going to be done for all of the properties that they take and John is free to negotiate with the Land Bank to buy the house from them because their going to sell it in much the same way we buy things, whoever gets the highest bid and is the most responsible bidder. It's better for the City that this is the way to go because whoever has the best intentions for these properties to buy them at our auctions, the only problem is there is no guarantee. With the Land Bank there is more of a guarantee. The fix it up guys don't like it, they don't like to have some of these properties taken out from under their opportunities but at the end of the day I think we have to do what's best by the City and try to get the Land Bank to improve these properties as much as they can. That's my opinion, it's your vote.

Councilmember Gilbert; So Joe if John came to the auction and the Land Bank did not choose that property then he has the right to bid on that property?

Treasurer Joseph Hogenkamp ; absolutely free to bid on it and I'm sure John will do the right thing by it or he can buy it from the Land Bank

Councilmember Gilbert I just wanted to make sure he understood that and will you talk to him about it?

Treasurer Hogenkamp, yes I've talked to him about it.

Mark Dennis Zahm 33 Grove Place, City of Tonawanda, County of Erie and State of New York. Regarding the paving on Grove Place, it went beautifully. The contractor that you brought it, I believe it was Robinson did a wonderful job. It is really nice to see, we've had a few heavy rainstorms, where the water actually flows to the receivers along the curb rather than up my driveway which had been the past twelve years. They didn't know that water runs down hill not up hill. Secondly I had the opportunity over the Fourth of July holiday, to rent one of the pavilions in Veterans Park. Raquel, in the morning and Sue in the afternoon, the attendants, they did a marvelous job. I want to commend them publicly for their efforts. All of my family was really pleased with the interaction as we needed it. So again, thank you for that.

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

Councilmember Gilbert: I just want to take this opportunity to thank the Police, the Fire, the DPW, the Parks and Rec for all their hard work during Canal Fest. It was nice to see

them all out there and I don't think I heard any bad complaints about garbage or any major disturbances so it was nice to see.

Councilmember Smilinich: I would like to say thank you just like Mr. Gilbert did and also for letting me go up in the Sky Cab. We should send a letter of thanks to the Buffalo Police Department for allowing us to use it because it really helped us. The Council should do it.

Councilmember Rautenstrauch: Obviously I echo their thoughts, I was at Canal Fest and it seemed to be incident free and if there was any incident it was invisible to most of us. Some great work on Fire, Police and Dpw, Parks and Rec on doing a great job. Do have to add, thanks for the ride in the Sky Cab, that was pretty cool. Thank you very much.

Councilmember Toth: I'd just echo the sentiments of my colleagues as well and thank the Department Heads for a good job during Canal Fest. It's always quite a week and a lot going on and a lot of work for the department heads so thanks for keeping us safe and keeping the City clean and doing a great job.

Mayor Rick Davis: I'd like to echo the sentiments, thank all of our departments and thank the outside agencies that also came in and helped with Canal Fest. It was very quiet. Bike and Hike Ferry starting August 6<sup>th</sup>, 9 A.M. Go to Niagara River Cruises.org to reserve your spot. 7<sup>th</sup> Annual Garden Walk was a pleasure to participate in. I'd like to thank the Visual and Performing Arts for sponsoring that and I had somebody visit my garden all the way from California so that's one heck of a commute. Tonawanda Junior Police Academy had their very first graduation. I'd like to thank the six young men who participated in that and Officer Balling, the Chief and Auxiliary Police Officer Don Kislowski for giving that opportunity to six young men to attend that. I'd like to thank the Boys and Girls Club for honoring us on July 14<sup>th</sup> and thank them for continuing to be a positive contributor in our community. Lastly, I'd like to thank the KenTon Continuing Education program for inviting me to speak to their students about getting their GED and applaud them for taking the next step to better themselves.

Council President Koch: I'd also like to thank the Boys and Girls Club for recognizing elected officials recently. I'd like to thank Senator Jacobs, the Youth Board and the Lions Club for putting together the E Recycling Event, it was a wonderful turnout so thank you to all. Shout out to Police, Fire, DPW and Parks and Rec for all of their efforts for Canal Fest and everyday. Tomorrow is Warrior's Walk, we're going to meet at the Library at 6:30 and with that said the Council will be meeting in the caucus room with a parking app representative. Have a great night and thank you.

## **ADJOURNMENT**

183. By Councilmember Smilnich                                 seconded by Councilmember Rautenstrauch  
Resolved, that this Common Council adjourn until August 1, 2017.

Ayes: Gilbert, Smilnich, Rautenstrauch, Toth, Koch  
Nays:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date Filed