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 Council President Koch

Public Hearing for Local Law #1 - 2016
A Local Law authorizing the City of Tonawanda to impose a property tax levy in excess of the limit established in New York State General Municipal law Article 2, Sec. 3-c
No comments by the Public

COMMUNICATIONS FROM THE MAYOR

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

The following monthly reports were received by the City Clerk:
Traffic and Safety Board October Minutes
October Report of the City Clerk
City Treasurer 2016 Overtime Year to Date Report through 10/20/16
Notice of Public Hearing for Variance Request for 121 Adam St on Nov 28, 2016

Referred to the Committee of the Whole
Ordered filed

Council President Koch- We did receive a letter dated October 31. I would like to turn the microphone over to the Clerk to have it read.

City Clerk Syposs- To Council President Koch and Councilmembers from Jack Gallagher regarding 618 Delaware Street. After reviewing the resolution pertaining to the rezoning of 618 Delaware Street, I don't see any stipulations that the Council could have imposed on the developer prior to the adoption at tonight's meeting. The rezoning of a large portion of the residential parcel to commercial will have a huge impact on our neighborhood. That being said, I would hope that the Council will consider adequate buffers that will minimize the impact. I understand that Ellicott Development has agreed to fencing on the south and west property lines. I would hope that the same would be done for the south property line (Tussing Lane) also, along with the placement of berms and mature trees on the 10 foot setback. Thanks in advance for your consideration. Our neighborhood deserves your attention. Sincerely, Jack

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

249. By Council seconded by Council

Resolved, that the Common Council minutes from October 18, 2016, be accepted as filed.

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

Resolution declared adopted

250. By Council member Gilbert seconded by Council member Rautenstrauch

Resolved, that the readings of the resolutions be waived.

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

Resolution declared adopted

251. By Council member Toth seconded by Council member Gilbert

Be it Resolved that Mayor Rick Davis be authorized and directed to sign and submit applications for the projects noted below, and execute a contract with Erie County Community Development Block Grant (ECCDBG) program for the following projects upon approval of ECCDBG:

1. Sanitary Sewer Lining ï Dodge, Moyle, and Wheeler
2. Sanitary Sewer Lining ï Prospect, Evelyn, and Gibson

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

Resolution declared adopted

252. By Council member Gilbert seconded by Council member Koch

Be it resolved that Mayor Rick Davis be authorized to sign the renewal agreement with the NYS Court System for Court Cleaning and Minor Repairs per Contract on file in the City Clerks Office.

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

Resolution declared adopted

253. By Council seconded by Council

WHEREAS, the Common Council has received a proposal for the redevelopment of 618 Delaware Street from 9274 Group, Inc./Ellicott Development; and

WHEREAS, the proposal calls for a mixed use development involving two buildings and including residential and commercial/retail uses; and

WHEREAS, in accordance with the provisions of 6 NYCRR Part 617 (SEQRA), the Common Council adopted a resolution on July 26, 2016 declaring its intent to act as Lead Agency for the Proposed Action; and
WHEREAS, the Common Council retained the services of the professional planning and engineering firm of Clark Patterson Lee to prepare the SEQR, which was completed on October 28, 2016.

NOW THEREFORE BE IT RESOLVED that based upon examination of the Short Environmental Assessment Form (SEAF), its own independent analysis of the Proposed Action, and comparison with the criteria for determining significance under 6 NYCRR 617.7, the Common Council finds that the Proposed Action will not have a significant environmental impact and hereby issues a Negative Declaration; and

BE IT FURTHER RESOLVED that this determination is based on the facts and conclusions as noted in the Short Environmental Assessment Form (SEAF).

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

Resolution declared adopted

254. By Council seconded by Council

WHEREAS, 9274 Group, Inc./Ellicott Development has filed a Petition with the City Clerk on August 9, 2016 to amend the Zoning District Map regarding a certain parcel of land located at 618 Delaware Street; and

WHEREAS, said Petition was submitted to the Common Council for its consideration; and

WHEREAS, the Petition requests the rezoning of a portion of the premises from zoning classification R-2 General Residential District to zoning classification C-1A Neighborhood Shopping District and rezoning of a portion of the premises from zoning classification C-1 Neighborhood Shopping District to zoning classification C-1A Neighborhood Shopping District.

WHEREAS, the Common Council requested the Planning and Zoning Board to review the Petition and make a recommendation; and

WHEREAS, the Board has recommended that this Common Council approve the request to rezone to zoning classification C-1A Neighborhood Shopping District; and

WHEREAS, the Common Council conducted a Public Hearing on September 7, 2016 regarding the same; and

WHEREAS, the Common Council, pursuant to New York State General Municipal Law Section 239(m), referred the proposed rezoning request matter to the Erie County Division of Planning for its review and recommendation; and

WHEREAS, the Erie County Division of Planning responded by indicating that the proposed action has been reviewed and determined to be of local concern and therefore makes no recommendation; and

WHEREAS, a SEQR has been completed and a determination was made that the proposed action will not result in any significant adverse environmental impacts;

NOW, THEREFORE,

BE IT RESOLVED that a portion of the premises located at 618 Delaware Street be rezoned from classification R-2 General Residential District to zoning classification C-1A Neighborhood Shopping District and a portion of the premises be rezoned from zoning classification C-1 Neighborhood Shopping District to zoning classification C-1A Neighborhood Shopping District, in accordance with the dimensions set forth in the KHEOPS Architecture, Engineering & Survey, DPC Boundary and Topographic Survey dated September 8, 2014, which is incorporated by reference and a copy of which is on file with the City Clerk; and
BE IT FURTHER RESOVED that the rezoning request is approved upon the condition that the new construction of the mixed use building, which shall include a Tim Horton’s Restaurant and the new construction of the two (2) story residential building, which shall include twelve (12) units, be constructed in accordance with:

1. CARMINA WOOD MORRIS PC – SITE PLAN dated August 23, 2016, Drawing #C-100, Project #16.096;
2. CARMINA WOOD MORRIS PC – LANDSCAPING PLAN dated September 19, 2016, Drawing #L-100, Project #16.096; and
3. CARMINA WOOD MORRIS PC – LIGHTING PLAN dated June 9, 2016, Drawing #LP-100, Project #16.096,

which are incorporated by reference and copies of which are on file with the City Clerk; and

BE IT FURTHER RESOVED that the rezoning request is approved upon the condition that the construction include the installation of all street curbing necessary along Delaware Street and Tussing Lane; and

BE IT FURTHER RESOVED that the rezoning request is approved upon the condition that the Petitioner reimburse the City for the cost of the SEQR prepared by the professional planning and engineering firm of Clark Patterson Lee; and

BE IT FURTHER RESOVED that the rezoning is approved upon the condition that after the construction of the proposed buildings are complete, the Petitioner apply to the City and complete the subdividing of 618 Delaware Street into two (2) separate lots with separate SBLs in accordance with the dimensions set forth in the KHEOPS Boundary and Topographical Survey dated September 8, 2014; and

BE IT FURTHER RESOVED that the Zoning Map shall be amended accordingly; and

BE IT FURTHER RESOVED that this rezoning/ordinance shall become effective upon publication of its title in an official newspaper of the City of Tonawanda.

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

Resolution declared adopted

WHEREAS, Local Law No. 1 for the year 2016 for the City of Tonawanda, 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 provides that:

It is the intent of this Local Law to allow the City of Tonawanda to adopt a budget for the fiscal year commencing January 1, 2017, that requires a real property tax levy in excess of the tax levy limit as set forth in General Municipal Law Article 2, Sec. 3-c.

This Local Law is adopted pursuant to subdivision 5 of the General Municipal Law Article 2, Sec. 3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a Local Law approved by a vote of sixty percent (60%) of said governing body.

The Common Council City of Tonawanda is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2017, that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Article 2, Sec. 3-c.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, individual, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to
the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

This Local Law shall take effect immediately upon filing with the Secretary of State.

was enacted by a resolution of this body on October 18, 2016; and

WHEREAS, Mayor Rick Davis has this evening held a public hearing concerning said legislation;

NOW, THEREFORE, BE IT RESOLVED, that should the Mayor approve said legislation as is required by law, the City Clerk is directed to notify New York Secretary of State of its enactment and approval.

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

Resolution declared adopted

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

No comments by the Public after the resolutions

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Rautenstrauch- I do want to say thank you again to Captain Foels and Chief Strassburg for helping out with the park on Halloween. We hope to continue to do that in years to come, thank you.

Councilmember Toth- I have nothing Madame President.

Councilmember Gilbert- I just want to thank the Police Department as well for their efforts on Halloween. I just want to thank Mr. Rautenstrauch for having every kid in the City of Tonawanda in his neighborhood. It seems like I only had twenty kids in my neighborhood the whole entire night so thank you for taking every kid in the City Mr. Rautenstrauch.

Mayor Rick Davis- Thank you Madame President. On October 20, I was part of a conglomerate of mayors along with Mayor Brown, Mayor McCaffrey, and Mayor Dyster where we announced a functional zero end to homeless veterans here in Western New York. Something that I was very honored to be a part of and also being a veteran out of all the elected officials standing up there for that event. On the heels of that, I received an invitation to the White House on November 14 for an event dealing with veteran homelessness. I will be representing the City of Tonawanda proudly at the White House. Lindsay’s Legacy on November 12 from 9:00A.M. to 1:00P.M. The after party is probably going to go on a little bit afterwards. So come on down and show your support. Also, that same day is VBA’s remembering Vietnam Helicopter ceremony. Please come on out for that. It is from 1:00P.M. to 2:00P.M. Now that they have officially retired, I would like to extend my sincere thanks and gratitude to Assistant Chief Young and Captain Hassett and wish them good luck and Godspeed on their retirement.

Council President Koch- As the Mayor mentioned Lindsay’s Legacy Run is November 12. I was very fortunate to know Lindsay, so please come on out and support this great cause. I would also like to thank all the community who supported the Food Drive. Just to remind everybody that you do have through November 19. Tops is donating 110 turkeys to the VBA Food Pantry and St. Francis Food Pantry and we will be picking those up on Saturday the 12th as well. As a reminder the dedication ceremony is Saturday the 12th at 1:00P.M. Certainly come out and see this. You know I am certainly glad to see that we are moving forward on 618 Delaware and I am confident that Mr. Palladino will listen to the neighbors concerns and will continue to listen to the neighbors concerns and will continue to work with the neighbors moving forward. We will be meeting in the Caucus Room and we will adjourn at that time so I know the agenda said the 15th.
Resolved, that this Common Council adjourn until November 15, 2016.

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

Resolution declared adopted

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Clerk

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Mayor

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Date Filed