

Council Chambers
Tonawanda, New York
February 7, 2012

A Regular Meeting of the Common Council

Present: Council President Zeisz
Present Councilmembers: Little, Boyle, Kossow

Pledge of Allegiance and Silent Prayer led by Council President Zeisz

COMMUNICATIONS FROM THE MAYOR

A letter from Bouvier Partnership, LLP, dated January 3, 2012, regarding an Order from New York State Supreme Court Justice Timothy Walker stating that the Third Ward Councilmember position in the City of Tonawanda shall remain vacant pending the conclusion of the appeal before the Court.

A letter to Chuck Gilbert, 196 Frederick Road, dated January 17, 2012 appointing him to the Youth Board term to expire December 31, 2016.

A letter from the Director of Real Property Tax Services dated January 17, 2012, regarding the cost of preparation and spreading of City tax for the year 2011.

A letter from County Executive Mark C. Poloncarz dated January 20, 2012, regarding Gibson Street improvements.

A letter dated January 23, 2012, appointing Gina S. Butcher, Executive Secretary to the Mayor, appointing her Affirmative Action Officer for the City of Tonawanda.

A letter to Thomas W. Balk, 33 Loretta Street, dated January 24, 2012 appointing him to the Traffic and Safety Advisory Board term to expire December 31, 2015.

A letter to Senator Mark Grisanti, Assemblyman Robin Schimminger and Senator Michael Ranzenhofer, dated January 25, 2012, regarding the Niawanda Park Pavilion.

A letter to Mark Warren, P.O. Box 361, reappointing him to the Planning and Zoning Board, term to expire December 31, 2016.

Mayor's State of the City Message presented to Council on February 7, 2012.
Ordered filed

COMMUNICATION FROM CITY OFFICIALS AND CORRESPONDENCE

The following monthly reports were received by the City Clerk:

- December Activity Report of the Fire Department
- January minutes of the Board of Appeals
- January monthly report of the City Clerk
- January Executive Minutes of the City Clerk
- January minutes of the Traffic & Safety Board
- 2011 minutes of the Planning & Zoning Board
- 2011 End of the Year Report of the Police Department
- Agenda for the January 24, 2012, meeting of the Board of Education
- General, Water and Sewer Fund Revenue and Expenditure report as of 2/7/12
- Referred to the Committee of the Whole
- Ordered filed

A letter from City Attorney Ronald C. Trabucco, dated January 20, 2012, reappointing Dean E. Lilac, Jr., to the position of Deputy City Attorney, term to expire December 31, 2012.

Referred to the Committee of the Whole

A letter from City Attorney Ronald C. Trabucco, dated January 20, 2012, regarding the 2011 Ride for Roswell Bicycle Fundraising Event and the additional costs that were incurred to the City.

Referred to the Committee of the Whole

A letter from Cindy Eller, Executive Director for the Ride for Roswell, to City Attorney Ronald C. Trabucco, dated January 24, 2012, with a check for \$1,730.84 for police services rendered during the 2011 Ride for Roswell fundraiser.

Referred to the Committee of the Whole

Ordered filed

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COMMENTS BY THE PUBLIC ON RESOLUTIONS

Robert Derner, 286 Niagara Shore Drive – I just wanted to say, I've asked this before, on resolution #4 (#35) it's a long resolution and you usually say we'll waive the reading on this. If you would so people could understand, sort of give a brief overview of it before you vote on it, that's all.

Council President Zeisz - Sure, okay. Resolution #4 (#35) sounds like a lot more writing than it really involves. There's an actual form that we're gonna begin using and the point of this form, it serves a couple purposes. The City department heads have the right to hire under the City Charter but we were looking for something that would put a little bit more, shall we say, organization into the process and what we're basically doing is, if a department head wants to hire, they fill out the top portion of a Personnel Requisition Form, that goes to the Mayor and the Mayor will sign off, aye or nay to move ahead with the hiring, and then the Common Council at that point will get a carbon copy so that we know that the hiring is going to take place. Then, it moves on to the Civil Service and also the City Treasurer. The Treasurer obviously acknowledges the funds to pay for the position and Civil Service makes sure that it falls in line with all requirements. Then, the department head would go and the person would have their interviews, their psychological examination, all that good stuff that goes into hiring, makes a decision, goes back to the Mayor for the sign off to actually hire the individual. So it just puts some clarity into the process. The Council doesn't have any say in the hiring but it does keep us in the loop so that we know when people are hired. Basically, once the Council approves the budget, we're out of that process. It basically just helps to clarify the whole process.

MOTIONS AND RESOLUTIONS

31. By the Council seconded by the Council
Resolved, that the Common Council minutes from January 17, 2012, be accepted as filed.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

32. By Councilmember Little seconded by Council President Zeisz
Resolved, that the reading of the next three resolutions be waived.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

33. By Councilmember Little seconded by Councilmember Boyle
WHEREAS, Article 11 of the Real Property Tax Law provides that the collection of delinquent real estate taxes may be enforced by a proceeding in rem against the real property involved; and

WHEREAS, many real estate tax delinquencies were brought to the attention of the Common Council by City Treasurer, Joseph M. Hogenkamp and by City Attorney Ronald C. Trabucco, prior to their being included in tax liens dated April 1, 2007; and

WHEREAS, the Common Council passed a Resolution on August 18, 2009 authorizing and directing the City Treasurer and the City Attorney to commence in rem proceedings against the properties which were delinquent in the payment of real estate taxes up and through April 1, 2007; and

WHEREAS, such proceedings were, in fact, commenced and were entitled In Rem #11; and

WHEREAS, the judgment of foreclosure was filed in the Erie County Clerk's Office on November 21, 2011 regarding various parcels of property; and

WHEREAS, said judgment of foreclosure provided for the advertisement of said properties for sale to the highest bidder at public auction; and

WHEREAS, the City Treasurer and City Attorney determined said auction would be held on Saturday, January 21, 2012 and appropriate public notice was given as required by law and said auction was held as stated and the following bids were received on the following parcels:

<u>Property</u>	<u>Purchaser</u>	<u>Purchase Price</u>
36 Schuler Avenue Tonawanda, New York	Peter Rudnicki	\$38,750.00
114 Ellicott Creek Road Rear Tonawanda, New York	Bruce M. Schreiber	\$ 1,400.00
45 Fillmore Avenue Tonawanda, New York	Charles Farnham	\$16,500.00
19 Fillmore Avenue Tonawanda, New York	316 Fletcher LLC	\$13,500.00
10 Fletcher Street Tonawanda, New York	John Bryans	\$ 750.00
51 Delaware Street Tonawanda, New York	David Glian	\$28,500.00
49 Wall Street Tonawanda, New York	Charles Farnham	\$15,500.00

207 Rogers Avenue Tonawanda, New York	WNY Property Holdings	\$48,500.00
524 Main Street Tonawanda, New York	Brian and Jo Ann Marek	\$41,000.00
526 Main Street Tonawanda, New York	Brian and Jo Ann Marek	\$ 7,000.00
68 Elm Street Tonawanda, New York	Jason and Christopher Voisinet	\$ 1,950.00

And

WHEREAS, the Common Council reserved the right to reject any and all bids;

And

WHEREAS, the terms of sale provide that said auction would not be final until the adoption of a resolution of the Common Council approving the same; and

WHEREAS, the terms of sale require that the City provide a Bargain and Sale Deed and other usual closing documents for the closing of the sale and further that the City shall not provide a current survey nor a current search and further that the ascertainment of the marketability of the subject property for the sale is the responsibility of the purchaser; and

WHEREAS, the terms of sale further provide that any and all costs associated with the sale and the subsequent transfer to the purchaser shall be borne exclusively by the purchaser; now, therefore be it

RESOLVED, that the bids by

Peter Rudnicki in the amount of \$38,750.00 regarding 36 Schuler Avenue

Bruce M. Schreiber in the amount of \$1,400.00 regarding 114 Ellicott Creek Road Rear

Charles Farnham in the amount of \$16,500.00 regarding 45 Fillmore Avenue

316 Fletcher LLC in the amount of \$13,500.00 regarding 19 Fillmore Avenue

John Bryans in the amount of \$750.00 regarding 10 Fletcher Street

David Glian in the amount of \$28,500.00 regarding 51 Delaware Street

Charles Farnham in the amount of \$15,500.00 regarding 49 Wall Street

WNY Property Holdings in the amount of \$48,500.00 regarding 207 Rogers Avenue

Brian and Jo Ann Marek in the amount of \$41,000.00 regarding 524 Main Street

Brian and Jo Ann Marek in the amount of \$7,000.00 regarding 526 Main Street

Jason and Christopher Voisinet in the amount \$1,950.00 regarding 68 Elm Street

are hereby accepted and the sales are confirmed and the City Attorney, Ronald C. Trabucco, is hereby authorized and directed to prepare the necessary Deeds and accompanying documents and the Treasurer, Joseph M. Hogenkamp and/or the Mayor, Ronald J. Pillozzi are hereby authorized and directed to execute said documents to transfer the said properties to the successful bidders and the City Treasurer is also hereby authorized and directed to forward any surplus monies to the proper representatives of the County of Erie.

Ayes: Little Boyle, Kossow, Zeisz

Nays: None

Resolution declared adopted

36. By Councilmember Boyle seconded by Councilmember Little
Whereas, City Treasurer Joseph M. Hogenkamp has notified the Council that there are various county, city and school tax delinquencies within the City and that it would be appropriate to commence an in rem tax foreclosure proceeding to compel the payment of those delinquencies; and,

Whereas, City Treasurer Joseph M. Hogenkamp is of the opinion that the delinquent taxes on properties located in the City through the school tax due September 1, 2010, are the most appropriate group of delinquent taxes to commence such proceedings against; now, therefore be it

Resolved, that City Treasurer Joseph M. Hogenkamp and City Attorney Ronald C. Trabucco are directed to commence an in rem tax foreclosure proceeding (In Rem # 12) pursuant to Real Property Tax Law Article 11 against all properties located in the City with delinquencies in their taxes through September 1, 2010, as soon as is reasonably practicable.

Councilmember Boyle – I was just wondering if Joe has the dollar figure on how much is in back taxes right now on these, ball park Joe.

City Treasurer Joe Hogenkamp - Ball park, we put in our budget every year that about \$300,000 a year goes unpaid on a levy of about \$9,000,000 to \$10,000,000. It's higher than 95% collection rate but that's just (inaudible).

Ayes: Little, Boyle, Kossow, Zeisz

Nays: None

Resolution declared adopted

37. By Councilmember Little seconded by Councilmember Boyle
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that the City enter into an agreement with the Erie County Water Authority for installation of a fire protection service for the Niawanda Park Pavilion at a cost of \$22,400.00.

Ayes: Little, Boyle, Kossow, Zeisz

Nays: None

Resolution declared adopted

38. By Councilmember Little seconded by Councilmember Boyle
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the contract for design, bid and construction phase services for the East Niagara Pedestrian Bridge Repair Project be made to Wendel Duchscherer Architects and Engineers, at a cost not to exceed \$28,445.00.

Councilmember Boyle – This is the Long Homestead Bridge, right?

Council President Zeisz – Yes.

Ayes: Little, Boyle, Kossow, Zeisz

Nays: None

Resolution declared adopted

39. By Councilmember Boyle seconded by Councilmember Little
Resolved, at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of Phase 2 and Water Quality Improvement Project design and bid phase services be made to GHD Consulting Engineers, LLC, at a cost not to exceed \$159,950.00.

Ayes: Little, Boyle, Kossow, Zeisz

Nays: None

Resolution declared adopted

40. By Councilmember Kossow seconded by Council President Zeisz
Resolved, at the recommendation of the Spaulding Fibre Steering Committee and City Engineer, Jason J. LaMonaco, P.E., that award of the contract for Environmental Support Services for the Spaulding Commerce Park Infrastructure project be made to LiRo Engineers, Inc., at a cost not to exceed \$10,000.00.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

41. By Councilmember Little seconded by Councilmember Kossow
Resolved, that at the recommendation of the City Engineer, Jason J. LaMonaco, P.E., that award of the Environmental Engineering Services to assist with the post closure monitoring and reporting of the Wales Avenue Landfill for 2012 be made to Stearns & Wheler, LLC, at a cost not to exceed \$18,500.00.

Councilmember Boyle – Jason, this number’s been this number forever, right?

Council President Zeisz – Ever since we closed the landfill, it’s been the same number.

Councilmember Boyle – All right, thank you.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

42. By Councilmember Kossow seconded by Councilmember Little
Resolved, that the certificate of insurance and bond for John A. Brundage (J.A. Brundage/The Drain Doctor, Inc.) be filed and a license be issued for said plumber to do business in the City of Tonawanda.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

43. By Council President Zeisz seconded by Councilmember Boyle
Resolved, that in recognition and compliance with the “New York State Open Meetings Law”, this Common Council will meet in Executive Session in the Common Council Chambers for the purpose of pending exempt City business, and further be it
Resolved, that upon conclusion of the above stated business matters, the meeting shall again be open to the general public. The reason for the Executive Session is to discuss contract negotiations.

Ayes: Little, Boyle, Kossow, Zeisz
Nays: None

Resolution declared adopted

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COMMENTS FROM THE PUBLIC AFTER RESOLUTIONS

Robert Derner, 286 Niagara Shore Drive – Today I picked up the Buffalo paper and found in there the Town of Hamburg that they're going to exceed, vote to exceed the 2% property tax. In case they go over, they don't want to run a foul of the State law. I just would like to ask this Council not to go along with any kind of shenanigans like that because if they're going to adhere to the 2%, stick to it or below it and if you go over it, refund the money to the people or cut some programs, but for the City to vote on it in case you go over, that's not right.

Council President Zeisz – Actually, a lot of communities did that but you know last year, we stayed under last year.

Robert Derner – Yeah, I'm just saying, to do something like that is just, well, we don't want to get in trouble but in case we go over (inaudible) to the property owners.

Brenda Boyle – 245 William Street – I know last term there was some discussion, I believe one of the merchants downtown had brought up about the shopping carts that were just kind of randomly dumped throughout the City and what we could do to correct that problem. I don't think that there was ever any kind of a resolve done.

Council President Zeisz – To give you an example of something that was done, Tops put up signage on the outskirts of their property saying that it's a misdemeanor under law or fine to not take them off the property and I know Walgreens, you got those special carts that won't go over the curb.

Brenda Boyle - Yes, may I approach.

Council President Zeisz – You obviously weren't at the meeting when I express my thoughts on the shopping carts.

Brenda Boyle - I'd say that Tops isn't enforcing that and you'll see the date stamped on the bottom of the photos. As of right now, today, they're gone.

Council President Zeisz - Well that's good because there're at least 14 in this picture.

Brenda Boyle – Exactly, and I don't if our DPW is the one's transporting it back but I don't believe that our men should have to be transporting them back. We don't know how they're getting back.

Council President Zeisz – Well I think they should be transported.

Brenda Boyle – Not by us. I would think, Chief Ivancic you have to correct me but would that not be theft when they're being removed from the property?

Council President Zeisz - Yes it is.

Police Chief Ivancic – It is but the problem is that most times they will not sign the paperwork when we do find somebody walking with a shopping cart and stopped them they would not prosecute. (inaudible, did not use mic)

Council President Zeisz – Ms. Boyle, you've got about 20 seconds left.

Brenda Boyle - What can we do? Has anybody talked to the manager at the Towers?

Council President Zeisz - Well I don't know if that was done. I know in the past, we've actually talked to businesses involved and there was written correspondence, there is an individual who goes around apparently and collects the carts supposedly. I just don't know how often this happens.

Brenda Boyle - There is currently a red one still sitting by the Salvation Army that's in those photos that's currently still there. It's an awful sight for those people entering into our City on that bridge, on the Renaissance Bridge and see all that and I think to myself too, and I'll make it quick, but when the Youth Board goes down in April to clean up Gateway Harbor, it's like why do they bother if that's gonna be allowed to happen.

Council President Zeisz - Well I'll talk about the issue with the Mayor when he gets back and we'll look at some other options to address it. Thank you.

COMMENTS FROM THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Kossow – I would like to set up a meeting with everybody along the proposed development in the Veteran's Park area. I know a couple people have approached me already and we spoke about it then at the last meeting and I will be setting up something within the next two to three weeks to either at a third party meeting place or if someone is gracious enough to have it at their home, so I'd be putting out the word about that. I think that's all for now.

Councilmember Little – I have nothing to say at this time.

Councilmember Boyle – I first want to apologize for my wife going over the three-minute time limit. Also, the Winter Fest. Hats off to the people that ran it even though we didn't have any snow, I thought it went off great. Mandy, good job. It was good. A lot of kids were there, it would have been nice to have snow, what happened the following day, it snowed but that's the weather. Canal Fest. I bit my tongue in there when that gentleman kind of got up in his seat and kind of looked at me but I said I was gonna behave myself, I behaved myself. One of these times I'm not gonna. We really have to look at Canal Fest because I don't think it's really a money issue right now, I think it's a safety issue. I've gone up on top of the towers with the Police Chief and he's going back and forth and he's on the radio, get them moving, get them moving, kids just congregate. If you look at it, Sam brought something up to me. What's the difference between the kids now than twenty years ago? If you look at them now, somebody's gonna pull out a gun and shoot you without even bating an eye. I mean, back twenty years ago, they'd fight. Now, they're gonna pull out a gun a shoot. What's gonna happen when somebody gets shot as an innocent bystander? We have to look out for the citizens in the City of Tonawanda. It's nice that we bring in thousands, upon thousands, upon thousands of people outside the City to show off what we have but out of these thousands and thousands and thousands, how much of these kids are really spending money? You look at these kids, they're spending what? They're going and they're buying pop for a dollar at Walgreens and they're not even using (inaudible) for that. Let's not even go in with what has to be done with the businesses in the City of Tonawanda that are shut down. Look at HSBC. How can you get in there? Look at McDonalds. They're shut down. Walgreens has to take all their condoms and put all of them behind the pharmacy because kids are just stealing the stuff. All right, I'll get off my soapbox.

Council President Zeisz – I just have a couple comments. For anyone that's interested, when we go in the back room, among other things, one of the primary things we're gonna talk about is the possibility of a shared Assessor. That will be one of the issues we're gonna talk about before we adjourn tonight. We're also meeting on the 21st that will be our next formal meeting. We'll have an off night meeting on the 28th. And the only comment I have about the carts and it's been my position since this issue came up, which has basically been always, that if everyone has received proper notification and everyone has the opportunity to get their carts and take them back to their property, if they stay there, then we should remove them from the property. And I'm not talking about returning them back. If they're given that opportunity, it's City property, we should keep

