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Robert M. Restaino
Attorney at Law



285-8185

Caroline Wojtaszek Tackles Tough Challenges as Niagara County DA

By: Tony Farina

Analysis

In my long career as an investigative journalist based in Buffalo, first at the late Buffalo Courier-Express and later at Channels 2 and 7, I covered a lot of district attorneys, including Mike Dillon, Ed Cosgrove, Richard Arcara, Kevin Dillon, and Frank Clark. I learned how tough the job could be and there was no real blueprint to follow when a high-profile case wound up in the lap of the DA. And there were many that did.

The late Mike Dillon, a giant of a man with the charm of a young Errol Flynn, used to say the toughest part of his job was dealing with friends and family members who somehow got caught up in the system and landed in his office, perhaps a DWI or a fight in a bar.

"Sometimes you just know too much about everybody," Dillon confided to

(Cont. on pg. 3)

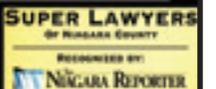


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Another Look at the "Gambler's Ruin"

By: Robert M. Restaino
Candidate for Mayor of NF

In my last article printed in this newspaper, I compared the fiscal policy of the current administration in City Hall with a wagering theory known as the "gambler's ruin." Simply stated the theory contends that in the random process of wins and losses, the longer a person gambles the greater the chance of going broke. Also, starting out with limited resources almost guarantees that gambling will result in certain financial ruin. Nevertheless, the persistent gambler continues to do the same thing over and over again convinced that a huge jackpot is just one hand or one spin away. While the gambler believes that the persistent wagering

(Cont. on pg. 2)

Proposed Cell Tower in North Tonawanda

By: Brendan McDonough
Analysis

A proposed cell tower in North Tonawanda is being met with mixed reviews. A private company wants to built the structure at 34 Ward Road, which is right next to Superior Lubricants. City Building Inspector Cosimo Capozzi says if approved the tower would be 160 feet

(Cont. on pg. 6)

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Gamblers Ruin Cont.

constitutes a beneficial chance, the opposite is really true. The betting continues until the gambler's entire stake is lost.

Is there enough factual evidence to support my argument that for the past 12 years the annual budgeting practices developed by the current administration are very similar to the wagering habits of a persistent gambler? Can the legitimacy of my argument be established by researching all of the financial information that is available on the City's official website? Has the current administration simply adopted the "gambler's ruin" practice as its official fiscal policy? I'll let you decide.

Since 2008, the current administration has exhausted approximately \$25 million of the City's fund balance through its regular inclusion of this money to help cover annual operating expenses. Actually, the certified FY-2017 audit completed by FreedMaxick, CPAs indicated that the City's "unassigned" fund balance was actually in deficit by \$676,618 as of 12/31/2017.

Since 2008, the current administration has transferred approximately \$90.24 million of casino revenue through its annual inclusion of this money to cover debt service payments and to help cover annual operating expenses. In fact as of January 4, 2019, a City spreadsheet of revenues and expenses that covers casino funds received during the period 2009 to the last recorded payment on April 12, 2017 indicated that the local share of casino money totaled approximately \$152.7 million. Of that total, approximately \$40.04 million was paid out to other local entities as per the provisions of New York State Finance Law-Article 6-Par. 99-H; thus leaving the City with approximately \$112.6 million for its discretionary use. However, since the amount of casino revenue pumped into the city budget to cover annual operating expenses has averaged about \$9.5 million per year for the last 10 years, there is only \$694,002 left in the Tribal Fund account!

Could the current administration have found a better use for this \$112.6 million than simply covering the bet that annual operating revenues would exceed annual operating expenses? Could some of this money

have possibly been set aside to create an economic development fund designed to lure new companies to Niagara Falls? How many companies offering living-wage pay scales could have been encouraged to locate in Niagara Falls with the use of this money? Could such a fund have avoided the closing of Globe Specialty Metals on Highland Avenue?

Since 2014, the commercial and industrial property tax rate in Niagara Falls has increased from \$30.11 per \$1000 of assessed value to \$36.98 per \$1000. In just 5 years, local businesses have been hit with a \$6.87, or 23 percent, increase in their tax rate. Is this a "business friendly" economic environment that has been created by the administration? Is this a strategy for business development and expansion or a process leading to financial ruin?

Actually, during this same 5-year period, the assessed value of all commercial and industrial property in Niagara Falls has declined by \$13.6 million or approximately 33 percent. In light of the property tax policy of the current administration, does it surprise you that business development in Niagara Falls is stagnant? Niagara Falls can't afford any additional policies that make developers wary of doing business in our city. Any new business development that has occurred during this period has been sponsored by the financial incentives offered by USA Niagara and its parent company Empire State Development Corporation. Growing the non-tourist business community and improving the climate for businesses generally, is long overdue. It is the best opportunity to improve our financial stability, lower our dreadful unemployment figures and improve neighborhoods by spurring more home ownership.

Twenty years ago, in the 1999 city budget, property taxes provided about 42.5 percent of the revenue needed to balance general fund expenses. In the 2019 city budget, property taxes will provide no more than 34 percent of the required revenue. Without any serious thought on how to repair that reduction in recurring revenue, are you surprised that New York State had to "bail out" Niagara Falls with an "advance" of \$12.3 million? Are we on a path to "gambler's ruin"?

Vilardo Bids for Fourth School Board Term; Gawel Enters Race

Tony Farina

Nicholas Vilardo, a retired fire department battalion chief, is running for his fourth term with the Niagara Falls School Board, saying he still has work to do to help decrease absenteeism and increase graduation rates in city schools.

"I think absenteeism and graduation rates are connected," says Vilardo, "and we want a 100 percent graduation rate if we can get the kids to school, and we've hired five new social workers to help us try and get there."

Vilardo, who has already served three five-year terms, is one of six candidates competing for two seats in the election on May 21, with petitions due May 1. He joins five other candidates, including former city lawmaker Michael Gawel, a CPA, in the race for the two seats.

"I also want to be here to see through work on the two-step capital project to upgrade our school facilities including roof repairs and air conditioning updates at four elementary schools," said Vilardo referring to the \$55 million facelift approved by voters in 2017.

Vilardo won his third term on the board in May of 2014 when he was the leading vote-getter. He said at the time, "I'll keep doing what I've done, put the kids first and

move the district ahead."

The retired battalion chief said during an interview this week that he is also proud of the fact that project labor agreements approved by the district have helped put local people to work on school projects, saying "we pushed to hire as many local workers as we could, and I'm definitely proud of our effort to help our workforce."

Another achievement Vilardo applauds during his time on the board is the hiring of more safety officers in the current year at all schools, and the implementation of pre-school programs for 3 and 4-year-olds to help get them ready to begin school and cut into the absenteeism rate later and encourage the push to increase the graduation rates.

"We still have work to do, and I want to continue to do that work," says Vilardo.

Gawel, who served on the City Council back in the early 1990s, is a tax accountant who has also done legal work and changed his plans to run for the council this year due to the election law reforms moving up the petition process, and instead has circulated petitions to run for a school board seat.

Both Vilardo and Gawel bring a wealth of experience to the school board race.

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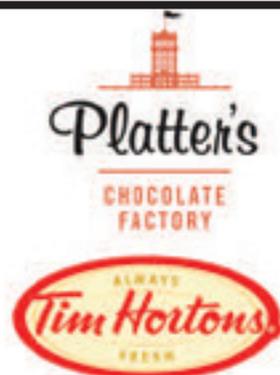


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Niagara Falls: BankOnBuffalo, City Hall (basement), The Como (restaurant, deli, & airport locations), DiCamillo Bakery (all locations), Frankie's Donuts, John Duke Center, Key Bank (800 Main St.), Memorial Medical Center (entrance to lobby), Michael's Restaurant, Markside Restaurant, Mom's Restaurant, Niagara Towers, Niagara Falls Family Court, Niagara Falls Police Station, Niagara Falls Public Library (both locations), Rite Aid (7804 Buffalo Ave. & 4407 Military Rd.), Save-A-Lot, Spallino Towers, Supermarket Liquor, Tops (all locations), Tim Hortons (all locations), Wedge Liquors, & Wrobel Towers.

North Tonawanda: Bishop Gibbons, Broadway Hotel, Budwey's Market, Carousel Park Apartments, City Hall, DMV, Kimek's Tavern, Lou's Diner, Platter's Chocolates, Public Library, Olympia Restaurant, Tops, Roman Café & Save-A-Lot

Sanborn: Smokin Joes (gas station and store) & Tim Hortons

Wilson: Lakeside Market

Youngstown: Anchor Spirits & Wines, Bandanas Bar & Grill, Public Library, Rite Aid, Village Diner

What We, Candidates, and Politicians Must Learn from the Police Exam



Ken Hamilton

If our city of Niagara Falls NY isn't the most unique city in the United States, then it is one of its most unique. We are an industrial city that sits atop the shoulders of one of the largest natural wonders in the world, and in the foot-fall of three bridges with one in nearby Lewiston -- which all connect us to North America's 7th largest metropolitan area of Toronto Ontario. We have huge hydroelectric plants, airports, trains and connection to high-speed roads. Additionally, waste treatment, burial and burning facilities are already here. In short, as small as we are, we still have everything in the world needed to be one of the nation's most successful

cities. But we aren't.

We are one of the nation's poorest cities, and it is because many, if not most of our politicians and candidates could learn a thing or two from the New York State Police exam.

I am often mistakenly told of how smart I am. I am not. I am simply as experienced as Mark Twain's stove top cat; maybe less so, because I have jumped on a lot of metaphorical hot stoves, whereas Twain's cat had learned its lesson not to jump on any hot stoves after having done it but once! My blessed curse is that I have had a high level of curiosity in how things work, honesty, and a highly exploratory nature -- a nature that drove me to take the state's police examination. I passed it with the highest possible score -- 105 -- and I turned down the job. There; so much for being smart, huh?

The lesson back then in taking the 100 question test, which I didn't finish until moments before the call of "time's-up", and then having had to hurriedly fill-in the last listed answer of each of the five most difficult and unanswered questions remaining. That answer was "not enough information to come to a conclusion" and was the correct answer! Given the lack of success that the city has had, it's the same

answer that most candidates should most of the time give, and what most politicians should give a lot of the time.

But how could you blame the candidates or the politicians; who among them have ever been a successful mayor, councilman, legislator, senator or assemblyman, or even a governor, that has actually "fixed" this city, or any other city?

There are two big issues that the politicians and candidates face: one being is our uniqueness as a city; and the other is many of them not fully using the resources that are available to help them to make "best practices" decisions.

I probably shouldn't say this, because inevitably it will be my loss; but from time to time I will peruse the waiting rooms and counters of the city's offices and ask to take home to read the dated city-purchased magazines that they have out to browse while waiting. Many of those publications are old and their pages still stiff from them being either rarely used or never opened. To me, that's indicative of them not filling in the fifth-circle answer of the police exam, "not enough information to come to a conclusion."

But we have to blame ourselves for the politicians' and candidates' outcomes. All of these candidates are being vetted by the voters

during this campaign season. If we criticize any of the winners too harshly, once they're in office, then they could put us back on our heels the same way that outgoing Mayor Paul Dyster had put the now-gone former Councilman Charles Walker on his during a semi-heated council meeting where Walker's testosterone levels rose and he vehemently criticized Dyster. Dyster snapped back at Walker's assertions of Dyster mishandling the trash program contract -- and he did -- by saying, "You voted for it!"

We voters have to select politicians whom, at least, know that they don't have many of the answers, but have proven successes in the ability to properly assess and measure the assets of our city and those of its people -- as flawed as we all are; to do it in a way that coalesces enough of them into a single unit towards real progress; and then further having the ability to include every element of our city partners in its success.

Take this upcoming election seriously: it may be the last best chance that we have to make a real difference in the legacies of the past, our lives, and the lives of those to come. And let us all get enough information to make good decisions at the polls, and thereafter.

Wojtaszek Cont.

friends, and that wisdom still holds true.

It is a job where it seems sometimes the whole world winds up in front of you, and that was the reality recently for Niagara County District Attorney Caroline Wojtaszek who was forced to ask for a special prosecutor outside of her office when bitter former State Sen. George Maziarz unleashed a barrage of mostly unsubstantiated charges against her husband, Henry, charges that had been investigated already by several agencies. That probe has now landed in the lap of the Monroe County district attorney after Erie County DA John Flynn told court officials, he wanted no part of it.

All things considered, Caroline Wojtaszek has acquitted herself with grace and dignity since taking over as the county's top prosecutor two years ago. The UB Law School graduate was well prepared for the conflicts of being district attorney having spent 12 years as a prosecutor in the special victims unit of the office where cases can be difficult on victims, families, and defendants.

"It was good preparation, I had to deal with a lot of people," she told me this week. "It gave me a front row seat, sometimes with only two people in a room. It helped me learn to be responsible as a prosecutor."

Asked about her philosophy, she quickly says she is governed by "fairness," and she often consults with her staff on decisions on cases that come before her, saying she has a well-trained and experienced staff of 22

assistants and 12 support people to help her make the best decisions possible.

"It is a fast-paced and ever-changing environment," she concedes and "it can be stressful," noting it can be difficult in high-profile cases where the public may not be privy to all the facts and have already formed an opinion based on news accounts or neighborhood gossip.

"So far, so good," she says, and these days she's caught up in researching and absorbing New York State's criminal justice reforms approved in the new budget that, among other things, eliminates cash bail for most misdemeanors and nonviolent crimes.

Those reforms also include speedy trial oversight by the courts and also require prosecutors to turn over evidence files earlier to defendants to help ensure speedy trials. All of it has to be absorbed by prosecutors as they seek to punish the criminals in the community in a fair process, yet protect victims and public safety at the same time.

As all of this transpires, Caroline is also preparing to put herself on the line by prosecuting a 25-year-old murder case that she had made a high point of her campaign more than two years ago.

She will lead the prosecution of the high-profile trial of Joseph Belstadt, set to begin Sept. 16, the prime suspect all along in the death of 17-year-old Mandy Steingasser whose badly decomposed body was found in Bond Lake Park in Lewiston five weeks after she disappeared. Belstadt was the last known person to see Mandy before she disappeared on Sept. 20, 1993.

Asked why she has elected to lead the prosecution of Belstadt at trial, she



said, "I know the case inside and out, and it is important to the community. I couldn't give it up at this point."

The teenage girl's father has passed away but Wojtaszek stays in communication with her mother. "She told me that not a day goes by when she doesn't think of her daughter," describing the heartbreak and pain that has stayed with the girl's mother all these years.

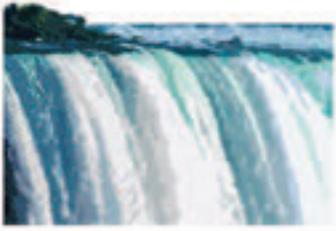
Wojtaszek certainly learned trial work from one of the best, the late Bob Murphy of South Buffalo who was her mentor during law school and one of the area's top criminal defense lawyers for many years.

The "Murph," as he was known by friends and family, was indeed an exceptional trial attorney, and I personally saw him having an entire jury crying during his summation in a police brutality case so many years ago.

"He was just outstanding," says Caroline, "and he was a great mentor," saying she thinks of the things he talked to her about even now as she goes about her work and prepares for a major trial in just a few months.

I knew Bob Murphy quite well and also held him in very high regard as a member of a select circle of some of the area's best defense attorneys of the day back in 1970s and '80s, the likes of Harold Boreanaz and John Condon. Murphy, Boreanaz and Condon are gone, but Joel Daniels, another in that league, and Paul Cambria are still around and practicing.

Caroline Wojtaszek looks ready, willing, and able to carry on in the tradition of her mentor, and that will stand her in good stead as she goes forward as the Niagara County District Attorney.



THE CRIME

WEEKLY HEADLINES

-Niagara Falls Police are continuing to investigate an incident that happened on the 1100 block of Willow Avenue after a pizza delivery guy was given a counterfeit \$100 bill. According to reports, the delivery guy did not notice that the bill was fake until returning to the pizzeria.

-Niagara Falls Police responded to the 1800 block of Cleveland Avenue for what residents and police describe as a "marijuana dispensary." According to reports, Police raided the home for a second time in as many months after suspecting the sale of narcotics. What police discovered, however, was a full functioning marijuana dispensary that included marijuana in different flavors as well as edibles. One neighbor described the home as "poppin."

-Niagara Falls Police responded to the 400 block of 17th Street in the early morning hours of Friday, March 29th, 2019, for a domestic incident that escalated into a standoff with police. According to reports, two people were arrest-

ed after police received reports of criminal mischief and a male breaking a window with a baseball bat. After arriving, a scene developed in the street as multiple individuals began fighting. During the incident, things escalated prompting more officers to respond. No injuries were reported.

-Niagara Falls Police arrested Dr. Robert Bull, Jr., on Friday, March 29th, 2019, charging him with third degree criminal sexual act for allegedly performing oral sexual conduct with a 17-year-old patient. Police say this occurred at an after-hours medical clinic through the Colisano Center for Community Health in Niagara Falls.

-Niagara Falls Police responded to Pierce Avenue in the evening hours of Thursday, March 28th, 2019, for a gang assault. According to reports, one man was beaten so badly that he nearly bit off his tongue while being assaulted. The victim was transported to the hospital with serious injuries.

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NORTH TONAWANDA

Cell Tower Cont.

high and be built on a 40 by 40-foot piece of land. Capozzi says he first was contacted a year ago by a lawyer representing Upstate Tower Co, LLC to construct it.

“Our first priority has always been to have it on City property. The other comment I had was that it is so close to a lot of residents, my question them is, you need to justify why this is the one and only location,” said Capozzi.

Capozzi he would like to see the tower moved 40 feet back to 172 Ward but it is still too close to residents.

He says he consulted with City Attorney and City Engineer Dale Marshall to come up with different options. But the company only wants to build it on Ward Road.

“They are pushing for this particular site and they need to document and prove with evidence why this is the only site they can have,” said Capozzi.

Currently three other towers are within a 1.5-mile radius

of the site and adding another would bring much needed revenue into the City.

But if it should fall, he says residents will be the ones impacted.

“You have a 160-foot tower and if it falls over it is going to be on top of our neighbors. They came back with the top area will carefully fall on our 40 by 40-foot spot, I am not an engineer but common sense says this does not sound right,” said Capozzi.

An addition to safety issues, officials says more public policy formats need to be followed.

“They have never applied for a special use permit to the council, we have yet to send notices to everyone within 1500 feet and at some point, we have to have a public hearing,” said Capozzi.

Capozzi is also suggesting the City get a 3rd party expert to look more into the matter.

“I know what I don’t know and I do not know if those



This is the proposed site for the cell tower.

documents justify that particular location and that particular height. So, we do need a 3rd party,” said Capozzi

No decisions were made at the Common Council Workshop but for Capozzi, Ward Road is not right location for this project.

“It is not where we want it, it affects way too many neighbors, it is too close to Gratwick. It is much too close to all the infrastructure at 34 Ward, with all the tanks and everything else there,” said Capozzi.

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Controversy over County Music Festival



By: Brendan McDonough

Promoter Mike Gowel is still fighting to have the Cities first ever Country Music Festival in North Tonawanda but concerns over drinking and over night guests are raising eyebrows. Gowel is hoping to have the 2-day event at Gratwick Park in August. Last Tuesday he met again with members of the Common Council addressing concerns about how many people would be camping out.=

“We have some contract proposals with different groups, and all of them require that everyone gets their own room or an on-site trailer,” said Gowel.

Currently the number of people sleeping over at the Pak stands at 68, it’s something the police department and fire department do not agree with, as well as some members of the common council.

“We originally talked about a small number- 68 is not a small number and that is not a campsite,” said Bob Pecoraro, Alderman- at-

Large.

Gowel says it would be similar to the “Thunder on the Niagara” crowd that stays overnight during the summer event.

“There is going to be lights out at 11pm,” said Gowel.

For Common Council President, Eric Zadzilka, there is no way to compare a boat race to a Country Music Festival.

“Some of them at the boat race were from other Countries. We had people from Australia, Canada, New Zeland, they are working on their boat and not partying and drinking,” said Zadzilka.

Gowel says he is going to try and make the number of overnight guests at the park, a smaller number and is going to look again at putting some of the artists up in area motels.

No decisions were made at the Workshop but Gowel says he is going to re-work the numbers and meet again with the police department to address any safety concerns.



2019 NATIONAL WORK ZONE AWARENESS WEEK



Drive Like You Work Here

This is the slogan adopted by the US Department of Transportation marking Highway Awareness Month in the United States this year. Each spring, National Work Zone Awareness Week is held to bring national attention to motorist and worker safety and mobility issues in work zones. Since 1999, the Federal Highway Administration has worked with the American Association of State Highway and Transportation Officials and the American Traffic Safety Services Association to coordinate and sponsor the event. National Work Zone Awareness Week, now in its 19th year, began as a small event in a single Virginia Department of Transportation district and has grown into a national program that involves virtually every State in the Union. Statistics suggest the effort is having a positive effect on safety. The 2019 theme highlights the life and death reality of work zones, especially in urban areas, and the need for awareness and planning on the part of everyone affected by work zones – DOTs, road workers, drivers, bicyclists, motorcycles, pedestrians, emergency response, law enforcement, utility workers. Driving safely in construction work zones is a major concern of everyone including the New York State DOT. Work zones play a key role in maintaining and upgrading our Nation’s roadways. Unfortunately, daily changes in traffic patterns, narrowed rights-of-way, and other construction activities often create a combination of factors resulting in crashes, injuries, and fatalities. These crashes also cause excessive delays, especially given the constrained driving environment. Understanding trends in the data is the first step to making changes to improve work zone safety, mobility, and constructability.

Work Zone Exposure. In the US, one work zone fatality occurs for every 4 billion vehicle-miles of travel and for every \$112 million worth of roadway construction expenditures.

Work Zone Fatalities. Between 2016 and 2017, fatal crashes in work zones increased by 3 percent while fatal crashes outside of work zones decreased by 1.5 percent.

Work Zone Congestion. Work zones account for an estimated 10 percent of overall congestion and 24 percent of unexpected freeway delays.

Road construction season is upon us, so every driver is reminded to: reduce speeds in work zones, be alert for traffic lanes that may change, watch for people and vehicles that may be working on or near the road, obey all orange warning signs, be prepared to obey the flagger’s directions, and expect delays. Work zones are not there to personally inconvenience you. They are necessary to improve the roads for everyone. Remember, road construction workers want to return home safely to their families every day just like you.

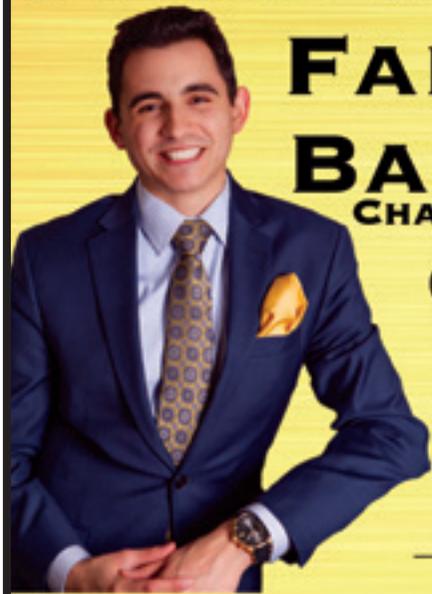
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