

Agenda Item #1

RE: Consent Order with the New York State Department of Environmental Conservation relative to underground petroleum storage tanks at the New Road Corporation Yard

Council Members:

As the Council is aware, the corporation yard previously had underground petroleum tanks at its fuel station which over the last year and a half have been replaced by above ground storage tanks and the three (3) underground storage tanks have been recently removed.

The regulations required periodic testing of the underground tanks which was last performed in 2003 and should have been performed in 2008.

This was not done and the DEC has requested the City enter into a consent order and pay a civil penalty in the amount of \$3,000 regarding these violations.

As this is a significantly reduced civil penalty it is recommended that the Council approve and enter into the Consent Order and authorize the Mayor to execute it in a form acceptable to the Corporation Counsel.

Will the Council so approve?

Agenda Item #2

RE: Award of Grant from Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS)

Council Members:

The Fire Chief advises that FEMA and DHS have approved the City's grant application under the FY2012 Assistance to Firefighter's Grant. This is primarily in the nature of training. The total project cost is \$53,000 with the Federal share being 80% or \$42,400. The City's share is 20% or \$10,600.

The training class has room for 35 attendees. NFFD will be sending only eight (8) members to this training class, leaving 28 unfilled spots. The Fire Chief advises that he has had discussions with representatives from neighboring fire departments and there is much interest in this training class. He is permitted to allow members of volunteer fire departments to participate in this class as well as members of paid fire departments. The Fire Chief is able to charge a fee to other fire departments to participate in this training class as well as members of paid fire departments. The per person charge for members of other departments to attend is proposed to be \$500 and will more than cover the City's share. The Fire Chief advises that he is in the process of obtaining commitments from these various other fire departments to secure attendance numbers and commitments. The Fire Chief further advises that he has reviewed all this with IAFF staff and this is an acceptable practice per IAFF guidelines. In the event that the fees to be charged to members of other departments to participate in this training program do not raise enough money to cover the City's share, funding is available from A.3410.3010.0463.000 Travel & Training Firefighting.

Will the Council approve accepting the grant and its terms and conditions and authorize the Mayor to execute any agreements relating to the grant?

Agenda Item #3

RE: Approval of reappointment of City Marshals to terms that expired on December 31, 2012

Council Members:

The City Council has designated Mr. Eugene Oshal and Mr. Frederick Pucci as City Marshals with terms that expired on December 31, 2012. It is recommended that these two individuals be reappointed to terms expiring on December 31, 2015.

Additionally, the City Council has designated Gary A. Bevilacqua, Joseph Sacco and David Carl Cassert as City Marshals, with a term expiring on December 31, 2014. It is recommended that their terms be extended until December 31, 2015, so that all of the City Marshals have concurrent terms.

They will continue to provide satisfactory insurance coverage naming the City as Additional Insured and their remuneration will continue to be limited to the fees they collect for service of process.

Will the Council so approve?

Agenda Item #4

RE: Niagara Falls Block Club Council (“COUNCIL”)

Council Members:

In the 2013 adopted budget, \$10,000.00 was appropriated for the COUNCIL. At this time it is requested that \$2,500.00 be made available to the COUNCIL. In order to effectuate this, an appropriation agreement with the COUNCIL is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the COUNCIL?

Agenda Item #5

RE: Niagara Arts & Cultural Center (“NACC”)

Council Members:

The 2013 Budget contains an appropriation in the amount of \$30,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with the NACC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the NACC?

Agenda Item #6

RE: City of Niagara Falls Summer 2013 Friday at the Falls Concert Series on Old Falls Street and Sunday Jazz Series on Old Falls Street co-sponsored with Global Spectrum

Council Members:

The Niagara Fine Arts Program Inc. has submitted a proposal to the City to undertake and carry out the Summer 2013 Friday at the Falls Concert Series on Old Falls Street consisting of eight (8) events as well as a proposal to undertake and carry out a Sunday Jazz Series on Old Falls Street consisting of eight (8) events. The primary difference this year from prior years is that all events will be taking place on Old Falls Street and Global Spectrum has offered to be a co-sponsor of these events along with the City.

The Friday Series on Old Falls Street will cost a total of \$15,840.00 with \$11,200.00 being paid by the City and \$4,640 being paid by Global Spectrum. The Sunday Jazz Series will cost \$11,200.00 with \$8,960.00 being paid by the City and \$2,240.00 being paid by Global Spectrum. As in the past, the City's bandstand and other usual City support services are required for these events. Attached are term sheets for both concert series.

Funding is available from Tourism Fund Balance.

Will the Council so approve?



**Niagara
Fine Arts
Program**

NIAGARA FINE ARTS PROGRAM, INC.
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**City of Niagara Falls Summer 2013
Friday On Old Falls Street Concert Series Proposal
July and August 2013**

January 27, 2012

**Submitted by Patrick M. Kuciewski, Executive Director,
Niagara Summer Fine Arts Program, Inc.**

Friday evenings Friday On Old Falls Street
7:00 pm – 10:00 pm

**Dates: July 5th, July 12th, July 19th, July 26th
August 2nd, August 9th, August 16th, August 23rd**

2013 Budget Information:

Niagara Falls City Contribution*	\$11,200.00
Global Spectrum Contribution**	\$4,640.00
Total	\$15,840.00

• = This represents a 20% reduction in contributions from the city from the 2012 budget.

** = In order to make up the reduction, Global Spectrum would have to contribute \$580.00 per concert; \$4,640.00 total. This is an increase of \$280.00 per concert from the 2012 budget.

Please note: If Global Spectrum is not able to provide the funding through sponsorship. The concert series will have to be reconfigured. (see email from Global Spectrum for details)

Proposal includes:

Coordination
Booking of all bands
Sound reinforcement
Preparation of all PR materials for PSA's
Assessment of each performance/series
Insurance(non-alcoholic event)

Please note: City will need to provide the bandshell and other support for securing the performance location.



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**City of Niagara Falls Summer 2013
Jazzy Sundays On Old Falls Street Concert Series Proposal
July and August 2013**

January 27, 2012

**Submitted by Patrick M. Kuciewski, Executive Director,
Niagara Summer Fine Arts Program, Inc.**

**Sunday evenings Jazzy Sundays On Old Falls Street
6:00 pm – 8:00 pm**

**Dates: July 7th, July 14th, July 21st, July 28th
August 4th, August 11th, August 18th, August 25th**

2013 Budget Information:

Niagara Falls City Contribution*	\$8,960.00
Global Spectrum Contribution**	\$2,240.00
Total	\$11,200.00

• = This represents a 20% reduction in contributions from the city from the 2012 budget.

** = In order to make up the reduction, Global Spectrum would have to contribute \$280.00 per concert; \$2,240.00 total.

Please note: If Global Spectrum is not able to provide the funding through sponsorship. The concert series will have to be reconfigured. (see email from Global Spectrum for details)

Proposal includes:

Coordination
Booking of all bands
Sound reinforcement
Preparation of all PR materials for PSA's
Assessment of each performance/series
Insurance(non-alcoholic event)

Please note: City will need to provide the bandshell and other support for securing the performance location.

This proposal moves the concert series from its past location at the Niagara Arts and Cultural Center. It also does not contain funding for the Ontario House Tribute/Reunion Event.

RELATIVE TO YOUTH BOARD APPOINTMENTS

BY: Council Chairman Glenn Choolokian
Council Member Robert Anderson, Jr.
Council Member Samuel Fruscione
Council Member Kristen Grandinetti
Council Member Charles A. Walker

BE IT RESOLVED, that the following individuals are hereby re-appointed to the City of Niagara Falls Youth Bureau for the term expiring on the date which appears opposite their names:

<u>RE-APPOINTMENTS</u>	<u>TERM EXPIRES:</u>
Alexandrea Dell	12/31/2013
Michael Montanaro	12/31/2013
Rashad Travis	12/31/2013
Allen Booker	12/31/2014
Bryan Rotella	12/31/2014
Andrea D. Randle	12/31/2015
Joseph Celenza	12/31/2015

BE IT FURTHER RESOLVED, the following individuals are hereby appointed to the City of Niagara Falls Youth Bureau for the term expiring on the date which appears opposite their names:

<u>APPOINTMENTS</u>	<u>TERM EXPIRES:</u>
Philip Mohr	12/31/2015
Thomas Lowe	12/31/2015

RESOLUTION 2013-

RESOLUTION RELATIVE TO AMENDING
CHAPTER 1328 OF THE CODIFIED ORDINANCES ENTITLED
“SPECIAL PERMIT REQUIREMENTS”

By: Council Chairman Glenn Choolokian
Council Member Robert Anderson, Jr.
Council Member Samuel Fruscione
Council Member Kristen Grandinetti
Council Member Charles Walker

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1328 of the Codified Ordinances entitled “Special Permit Requirements” is hereby amended by deleting in its entirety Section 1328.5 entitled “Kennel or Cattery” and by adopting Section 1328.5 entitled “Kennel or Cattery Requirements” as attached hereto.

[1328.5 Kennel or Cattery

For kennels or catteries which require a Special Permit, the following conditions shall be required:

- A. Board of Appeals shall consider the number, size, breed, and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact, and safety of the animals sheltered in order to ensure the health, safety, and general welfare of the community.**
- B. Accumulation of feces on a property which results in a foul or nauseating odor or unsightly condition that makes travel or residence in the vicinity uncomfortable, or which attracts flies or other insects or animals thereby creating an unsanitary condition which may facilitate the spread of disease and endanger health, public comfort and repose, or the environment that will be in violation of Special Permit and thereby allow its revocation.**
- C. There shall be no incineration of any refuse upon the premises.**
- D. Site Plan shall specifically contain provisions for adequate measures to prevent offensive noise and odor and disposal of all animal wastes.]**

A. Regulatory Compliance:

1. All kennels/catteries must conform to the City of Niagara Falls regulatory requirements outlined in Chapter 701 Animals, Fowl and Dogs and Chapter 738 Clean Neighborhood ordinances.
2. All kennels/catteries must show proof of a New York State pet dealer license under the regulatory requirements of NYS Agriculture and Markets Law Article 26A.
3. All kennels/catteries are required to comply with the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act, which includes, but is not limited to, prohibiting puppy mills and the breeding of female dogs during the first estrus cycle and the breeding of female dogs each estrus cycle without sufficient rest between litters.
4. No person who has been convicted of cruelty to animals shall be granted a special permit for either a kennel or cattery.
5. There shall be no disposal of any refuse upon the premises.

B. Criteria: Board of Appeals shall consider the number, size, breed, and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact, and safety of the animals sheltered in order to ensure the health, safety, and general welfare of the community in addition to each of the following:

1. Location: All kennels/catteries shall be allowed in C2, C3 and I1 zoned districts with a special permit.
2. Setbacks: All kennel/cattery buildings and structures housing animals and open areas where dogs are allowed to run shall be no closer than 200 feet to the nearest off-site residential structure.
3. Minimum Size: Every kennel shall have sufficient space to allow animals to be comfortable and shall have at least 25 square feet of floor area per dog and/or 4 square feet of floor area per cat. Every dog kennel must be large and high enough for the canine to stretch fully; every cat should have at least 2' of triangulated distance between litter box, resting area and food/water.
4. Outdoor housing: Any outdoor accommodations for animals must include a shelter which is structurally sound, will protect the animal from the elements and is appropriate to the breed, its physical condition and climate. Shade by natural or artificial means must be provided to protect the animal from direct sunlight when sunlight may threaten the health of the animal.
5. Hours of Operation: All dogs in any kennel shall be contained within an appropriate kennel building between the hours of 8:00 PM and 8:00 AM, local time, each day. Noise generated by dogs at the kennel shall not be discernible beyond 200 feet of the structure or the nearest off-site residential structure, whichever is nearer.
6. Sanitation: Applicant must provide a plan which illustrates how the facility will be maintained in a clean and sanitary condition. Buildup of feces on a property which results in a foul odor or unsightly condition that makes travel or residence in the vicinity uncomfortable, or which attracts flies or other insects or animals thereby creating an unsanitary condition shall be a violation of the Special Permit and thereby allow its suspension or revocation.

C. Site Plan submitted to the Planning Board shall specifically contain provisions for adequate measures to prevent offensive noise and odor and disposal of all animal wastes.

- D. Approval. A special use permit to operate a kennel or cattery shall be valid for (4) four years from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the appropriate regulations regarding the care of animals from the New York State Department of Agriculture & Markets and U.S.D.A. Failure to maintain and evidence continuing uninterrupted compliance shall be grounds for revocation of the permit.
- E. Abandonment of use. All approvals issued shall expire and terminate upon the cessation or abandonment of the permitted use for a one-year period.
- F. Permit Renewal. The applicant shall renew the special permit for additional (4) four year periods, subject to review and approval by the Zoning Board of Appeals together with any applicable fees to the review of the special use permit application. The Building inspector shall provide, 15 days prior to the meeting, a description, in writing, of any changes that have occurred since the time the special use permit was approved or last renewed and a list of violations or complaints. The Zoning Board of Appeals shall consider the Building Inspector's report when rendering a decision. Multiple infractions of applicable city ordinances and related New York State Code shall be grounds for denial of a permit renewal.
- G. Enforcement. The Code Enforcement Officer, an agent of the Niagara County SPCA, U.S.D.A. - Animal and Plant Health Inspection Service or other person designated by the City of Niagara Falls shall be given access to the premises for the purpose of making inspection as deemed necessary from time to time to ensure compliance with these regulations and with the applicable and related New York State Code.
1. Any facility operated in violation of this chapter shall have its permit suspended on the first violation and revoked for a second violation for same infraction if not corrected within thirty (30) days.
 2. No permit shall be reinstated until the owner fully complies with the provisions of this chapter, and no extension shall be granted beyond (30) days from the date of expiry to bring property into full compliance.

Monday, February 4, 2013 - Council Meeting

PRESENTATIONS:

Dave Fabrizio - Niagara Falls Veterans Memorial

ADMINISTRATIVE UPDATE:

1. Underground Railroad Project - update
2. Hope VI Project - update
3. Lewiston Road Project - update