

Item #1

The following claims have been filed in the Office of the City Clerk during the month of September 2010. The claims were subsequently referred to the Office of the Corporation Counsel.

**NOTICE OF CLAIM**

**ALLEGED DAMAGE**

Lilley, Daniel  
c/o Lipsitz Green Scime Cambria

Personal injuries sustained when arrested by NFPD

Sharon Gazy  
c/o Robert J. O'Toole, Esq.

Property damages sustained when her house was demolished.

McGough-Degenhardt, Colleen  
568 75<sup>th</sup> Street

Automobile damages caused by construction on 72<sup>nd</sup> Street.

Hands, Alexis  
2215 Cudaback Ave

Automobile damages caused by limb falling on car.

Lynch, Allen  
c/o Stephen James De Rosa

Recover real property.

Petersen Jr., James D.  
355 Oakdale Drive  
North Tonawanda, NY 14120

Automobile damages sustained by police car backing into his car.

Petrishin, Victor  
1717 Elmwood Ave

Automobile damages caused by raised manhole cover.

Sankes, Jeanette  
1337 Garrett Ave

Damages to sewer line caused by tree roots. The tree is on city property

Gordon, John E.  
731 87<sup>th</sup> Street

Automobile damages caused by hitting hole in road

Yours truly,

Carol A. Antonucci

CAA/lt

Item #2

The following is a report of the licenses issued and collections made in the Office of the City Clerk during the month of September 2010.

		<u>CONTROLLER</u>	<u>TOTAL</u>
A1255-001 A012	Vital Statistics	\$ 4,760.00	\$ 4,760.00
A1255-004 A013	Copies of Records	\$ 519.25	\$ 519.25
A1255-004 A013	Certificates of Marriage	\$ 750.00	\$ 750.00
A2501-011 A044	Peddler	\$ 250.00	\$ 250.00
A2501-014 A046	Electrician - Exam Fee	\$ 120.00	\$ 120.00
A2501-016 A047	Stationary Engineers Test Fee	\$ 40.00	\$ 40.00
A2501-021 A048	Amusement Games	\$ 4,350.00	\$ 4,350.00
A2542-000 A053	Dogs/N County Treasurer \$ 559.30	\$ -	\$ 559.30
A2542-000 A053	Dogs/NYS Agr. & Mkts \$ 288.00	\$ -	\$ 288.00
A2542-000 A053	Additional Dogs	\$ 3,180.70	\$ 3,180.70
A2545-001 A054	Marriage License/NYSHD \$ 1,687.50	\$ 562.50	\$ 2,250.00
A2545-021 A316	Vending	\$ 6,690.00	\$ 6,690.00
A2545-023 A318	Hunters/NYS DEC RAU \$ 3,257.10	\$ -	\$ 3,257.10
A2545-023 A318	Hunters Fees	\$ 180.90	\$ 180.90
A1255-003 A499	Notary Fee	\$ 8.00	\$ 8.00
A1255-005 A528	Dog Release	\$ 300.00	\$ 300.00
TA63008 A597	Marriage Performance	\$ 625.00	\$ 625.00
A1255-006-A696	Photos/passport-license	\$ 45.00	\$ 45.00
<b>TOTAL:</b>		<u>\$ 5,791.90</u>	<u>\$ 22,381.35</u>
Check #	<u>49853</u>	Niagara County Treasurer	\$ 559.30
Check #	<u>49890</u>	NYS Dept.of Arg. & Mkts	\$ 288.00
Check #	<u>49852</u>	NYS Health Department	\$ 1,687.50
Check #	<u>ET</u>	NYS DEC RAU	\$ 3,257.10

Item #3

CITY OF NIAGARA FALLS  
NEW YORK

Attached is a copy of the proposed 2011 Community Development Department budget together with a detailed breakdown of program administrative costs. The proposed budget is part of the City's 2011 Annual Plan and Strategy, a HUD mandated planning document that assesses community needs and identifies how the City will address those needs. A copy of the 2011 Consolidated Annual Plan was previously forwarded to City Council.

The 2011 Annual Plan is the end result of a lengthy and detailed citizen participation process that included neighborhood based meetings designed to encourage comments, suggestions and ideas from various community groups, residents, businesspersons and other interested parties. The planning process began in June and concluded with the expiration of the public comment period on September 30, 2010.

A public hearing was held in the City Council Chambers on August 31, 2010 to review the specifics of the plan and the proposed 2011 budget. A copy of the public hearing minutes is included with this agenda item.

The Department of Community Development will directly administer the federal grant programs listed below. The funding levels indicated are projected revenues for 2011 that may change once Congressional funding appropriations are announced.

Community Development Block Grant	\$2,500,000
CDBG Program Income	300,000
HOME Investment Partnership Program	640,000
HOME Program Income	72,000
Emergency Shelter Grant	110,000
Section 8 Leased Housing Program	3,100,000
<u>PROJECTED FEDERAL REVENUE</u>	<u>\$6,722,000</u>

The Consolidated Plan, including the proposed budgets, must be adopted by City Council and submitted to the U.S. Department of Housing and Urban Development by November 15, 2010. HUD must review and approve the Consolidated Plan in order to establish our letter of credit with the US Treasury. Therefore, Council's approval at this time will represent the officially adopted Community Development, HOME and Emergency Shelter budgets for FY' 2011. The Section 8 Leased Housing Budget is renewed automatically by HUD but must be adopted at this time by City Council.

Will Council vote to so approve the 2011 Annual Plan & Budget and authorize the Mayor to implement all activities specifically identified in the plan? Any activity not specifically identified in the plan will be returned to Council for approval.

Respectfully submitted,

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Paul A. Dyster  
Mayor

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Donna D. Owens  
City Administrator

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Robert J. Antonucci, Director  
Dept. of Community Development



Item #4

**SUBJECT: CHANGE ORDER #1 - 2010 CHIPS SIDEWALKS REPLACEMENT PROGRAM**

A contract for the above referenced project was awarded to Ventry Concrete Construction, Inc. on May 17, 2010 in the amount of \$220,000.00.

Subsequent to the start of work, additional sidewalk removals/replacements were required in order to address **completely** an existing hazard at the conclusion of this year's project. The cost of the additional sidewalk installations is \$1,217.95, bringing the total contract amount to \$221,217.95

Will the Council vote to so approve and authorize the Mayor to execute a contract in a form acceptable to the Corporation Counsel?

Item #5

**CITY OF NIAGARA FALLS  
NEW YORK**

**SUBJECT: RECONSTRUCTION OF LEWISTON ROAD NYS FROM BATH  
AVENUE TO NIAGARA FALLS NORTH CITY LINE - PIN 5045.24  
CHANGE ORDER #4 - \$0.00**

A contract for the above referenced project was awarded to Man O'Trees, Inc. on June 29, 2009 in the amount of \$ 7,713,000.00.

Unforeseen water line relocation was necessary on Bath Avenue from Lewiston Road to Whirlpool Street. This relocation was due to numerous conflicts with existing sewer lines.

The approximate addition to the contract for this scope of work is \$103,215.00. The quantities that comprise this addition are estimates and will be confirmed with field measurements for actual payment. These waterline additions are required by the road project improvements and should be reimbursable under the current State agreement. However, current underruns and items not presently in use will allow this additional work to be performed with no change (\$0.00) to the existing contract at this time.

Will the council vote to approve and authorize the Mayor to execute a contract in a form acceptable to the Corporation Counsel?

Item #6

*RE: Consent for Rainbow Square Ltd. to assign interests in order to advance the Culinary Institute Project*

In an effort to advance the proposed Culinary Institute Project in the Rainbow Mall, the City, together with the Niagara Falls Urban Renewal Agency and the NFC Development Corporation must consent to the assignment of interests belonging to Rainbow Square Ltd.

Will the Council approve the Mayor to sign an agreement allowing the assignment of Rainbow Square's interest in a form acceptable to the Corporation Counsel as well as any other agreement pertaining to the disposition of those interests?

Item #7

*RE: Agreement with New York Power Authority for the Installation of a Solar Photovoltaic Project at the Niagara Falls DPW Central Garage.*

Council Members:

The New York Power Authority has proposed to install a Solar Photovoltaic Power System at the Niagara Falls Department of Public Works Central Garage on New Road.

This installation will be done at no cost to the City and upon the successful completion of the installation the ownership of the project equipment will pass to the City.

Will the Council so approve and authorize the Mayor to execute an Agreement with the New York Power Authority in a form acceptable to the Corporation Counsel?

**Anderson\_\_\_\_\_ Fournier \_\_\_\_\_ Grandinetti \_\_\_\_\_ Walker \_\_\_\_\_ Fruscione \_\_\_\_\_**

Item #8

*RE: New York State Community Capital Assistance Program Grant for  
LaSalle Facility*

Council Members:

The City has received a \$200,000 grant in the above referenced program for the roof, security lighting and interior renovations.

No City match is required.

Will the Council authorize the Mayor and City Administrator to file the necessary certifications with the Dormitory Authority of the State of New York which is administering the grant, and execute any other documents in a form acceptable to the Corporation Counsel?

**Anderson \_\_\_\_\_ Fournier \_\_\_\_\_ Grandinetti \_\_\_\_\_ Walker \_\_\_\_\_ Fruscione \_\_\_\_\_**

Item #9

*RE: Hard Rock Café "Pinktober" Event*

Council Members:

The City has been asked to co-sponsor with the Hard Rock Café the "Pinktober" event scheduled for Thursday, October 28, 2010. The purpose of this event is to promote breast cancer awareness and the fight against breast cancer. This event will include a concert on Old Falls Street adjacent to the Hard Rock Café as well as the International Pinktober Pink Ribbon demonstration on the Rainbow Bridge for the benefit of the American and Canadian Cancer Society. The City's contribution as a sponsor for this event will be Police and EMT presence as well as assistance as needed from the Department of Public Works. As a co-sponsor, the City's logo will appear on the event t-shirt.

Will the Council so approve?

**Anderson\_\_\_\_\_ Fournier \_\_\_\_\_ Grandinetti \_\_\_\_\_ Walker \_\_\_\_\_ Fruscione \_\_\_\_\_**

Item #10

*RE: Settlement Agreement with National Grid*

Council Members:

An issue exists statewide with National Grid and villages and cities, such as the City of Niagara Falls, that impose a local Gross Receipts Tax ("local GRT") pursuant to General City Law Section 20-b on certain purchases of commodities such as electricity. National Grid in its calculation and recalculations take the position that it has made tax overpayments to the City for the period covering 2005 through December of 2008 in the total amount of \$303,516.21. In December of 2008, when National Grid discovered its miscalculation, it began withholding payments to the City for approximately one (1) year which amounted to \$131,900.00. During that period of time National Grid applied for an adjustment of its tariffs with the Public Service Commission and obtained an amended tariff. Payments will be made to the City going forward. National Grid's proposal is that it will not pursue a claim for overpayments made to the City totaling \$303,516.21 in exchange for the City not pursuing its claim of \$131,900.00. National Grid's proposal will be memorialized in a settlement agreement in form and substance acceptable to the Corporation Counsel.

Will the Council authorize the settlement with National Grid and authorize the Mayor to execute the same?

**Item #11**

*RE: Request for Approval to Settle and Pay Claim of Kecia L. Maxwell*  
545 Tronolone Place #2, Niagara Falls, NY 14301

Council Members:

Date Claim Filed:	September 3, 2009
Date Action Commenced:	N/A
Date of Occurrence:	July 3, 2009
Location:	11 <sup>th</sup> Street, Niagara Falls, New York
Nature of Claim:	Automobile damage sustained during City paving project.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$304.00
Make Check Payable to:	"Kecia L. Maxwell"
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

Item #12

RE: Request for Approval to Settle and Pay Claim of Joyce H. Schneider  
9455 Niagara Falls Boulevard, D4, Niagara Falls, NY 14304

Council Members:

Date Claim Filed:	July 12, 2010
Date Action Commenced:	N/A
Date of Occurrence:	May 31, 2010
Location:	Parking lot of 8735 Niagara Falls Boulevard
Nature of Claim:	Automobile damage sustained in an accident with City vehicle
City Driver:	Patrick Stack
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$778.14
Make Check Payable to:	"Joyce H. Schneider"
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

Item #13

Chapter 338 of the Codified Ordinances states: "...City Council may grant a license to carry on the business of Second Hand Dealer within the City"...

The following has submitted an application for a Second Hand Dealer License, and this application has been approved by the N. F. Police Department:

Nelseau Doreau            1809 Pine Avenue    Niagara Computer

Will Council so approve?

Item #14

Resolution 2010-76 relative to amending Chapter 171 of the Codified Ordinances pertaining to Benefits of Employees Not Covered by Collective Bargaining Agreements, which was adopted by Council on September 20, 2010, and presented to Mayor Paul A. Dyster for his approval/disapproval on September 21, has been returned to me with neither the Mayor's approval nor veto.

The City Charter states that "If within ten working days after local legislation shall have been presented to him, the Mayor neither approve it nor return it to the Clerk with his objection, it shall be deemed to be adopted in like manner as if he had signed it".

Therefore, the Ordinance amendment is deemed adopted.

RESOLUTION No. 2010-

RELATIVE TO NOTICE OF SUBMISSION OF PROPOSED  
2011 EXECUTIVE BUDGET AND PUBLIC HEARING

BY:

Council Chair Sam Fruscione  
Council Member Robert A. Anderson, Jr.  
Council Member Steve Fournier  
Council Member Kristen Grandinetti  
Council Member Charles Walker

**WHEREAS**, on October 1, 2010, the Mayor of the City of Niagara Falls duly submitted to the City Council the proposed 2011 Executive Budget for the City of Niagara Falls; and

**WHEREAS**, pursuant to Section 5.6a of the Niagara Falls City Charter, this Council shall cause public notice submission of said Executive Budget to be published together with a copy of a summary of said budget, and notice of the time and place of a public hearing thereon.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of Niagara Falls, New York, NOTICE IS HEREBY GIVEN that on October 1, 2010, the proposed 2011 Executive Budget, a summary of which is attached hereto and made a part hereof, was duly submitted to this Council; and

**BE IT FURTHER RESOLVED**, that a public hearing be held on November 1, 2010 at 7p.m. Daylight Saving Time in the Council Chambers of the City of Niagara Falls, New York pertaining to the adoption of the Proposed 2011 Executive Budget, at which time the Mayor, Administrator and Controller shall be present, at which time any person may be heard for or against the proposed budget; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution calling for a hearing, together with the budget summary, be published in the Niagara Gazette at least one week prior to the date of said hearing; and

**BE IT FURTHER RESOLVED**, that copies of said proposed budget be made available for inspection in the office of the City Clerk.

Item #16

RESOLUTION 2010-

RESOLUTION RELATIVE TO AMENDING CHAPTER 1313 AND  
SCHEDULES 8, 12 and 13 OF THE "ZONING ORDINANCE"

By: Council Chairman Samuel Fruscione

WHEREAS, at its July 13, 2009 meeting, the City Council adopted a new Zoning Ordinance; and

WHEREAS, the Planning Board has recommended that the Council adopted certain amendments to the Zoning Ordinance as outlined on the attached recommendation to Council and Planning Board resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby adopt the attached changes to Section 1313.3 as set forth on the attached sheet marked "Proposed" and the attached Schedules 8, 12 and 13.

Item #17

RESOLUTION 2010-

RESOLUTION RELATIVE TO AMENDING CHAPTER 1314  
AND SCHEDULE 1 OF THE "ZONING ORDINANCE"

By: Council Chairman Samuel Fruscione

WHEREAS, at its July 13, 2009 meeting, the City Council adopted a new Zoning Ordinance; and

WHEREAS, the Planning Board has recommended that the Council adopted certain amendments to the Zoning Ordinance as outlined on the attached recommendation to Council and Planning Board resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby adopt the attached changes to Sections 1314.1 and 1314.3 and Schedule 1 as set forth on the attached sheets marked "Proposed".