

Agenda Item #1

DATE: September 2, 2011

The following is a report of the licenses issued and collections made in the Office of the City Clerk during the month of August, 2011.

			<u>CONTROLLER</u>	<u>TOTAL</u>
A1255-001				
A012	Vital Statistics		\$ 5,664.00	\$ 5,664.00
A1255-004				
A013	Copies of Records		\$ 803.50	\$ 803.50
A1255-004				
A013	Certificates of Marriage		\$ 1,660.00	\$ 1,660.00
A2501-006				
A042	Tour Attendant		\$ 250.00	\$ 250.00
A2501-006				
A042	Tour Driver/Guide		\$ 210.00	\$ 210.00
A2501-011				
A044	Peddler		\$ 300.00	\$ 300.00
A2542-000				
A053	Dogs/NYS Agr.& Mkts	\$ 486.00	\$ -	\$ 486.00
A2542-000				
A053	Additional Dogs		\$ 4,963.00	\$ 4,963.00
A2545-001				
A054	Marriage License/NYSHD	\$ 3,735.00	\$ 1,245.00	\$ 4,980.00
A1255-002				
A123	Commissioners of Deeds		\$ 25.00	\$ 25.00
A2545-010				
A128	Petroleum - Storage		\$ 60.00	\$ 60.00
A2545-023				
A318	Hunters/NYS DEC RAU	\$ 2,136.64	\$ -	\$ 2,136.64
A2545-023				
A318	Hunters Fees		\$ 85.36	\$ 85.36
A1255-003				
A499	Notary Fee		\$ 20.00	\$ 20.00
A1255-005				
A528	Dog Release		\$ 450.00	\$ 450.00
TA63008				
A597	Marriage Performance		\$ 3,275.00	\$ 3,275.00

A1255-006-  
A696

Photos/passport-license

\$ 27.00

\$ 27.00

**TOTAL:**

\$ 6,357.64

\$ 19,037.86

\$ 25,395.50

Check #

54527

NYS Dept.of Arg. & Mkts

\$  
486.00

Check #

54513

NYS Health Department

\$3,735.00

Check #

ET

NYS DEC RAU

\$2,136.64

Agenda Item #2

The following claims have been filed in the Office of the City Clerk during the month of August 2011. The claims were subsequently referred to the Office of the Corporation Counsel.

**NOTICE OF CLAIM**

**ALLEGED DAMAGE**

Todd, Colleen 3074 Macklem Ave Morris, Gail 2104 Walnut Ave Sylvester, Keith 444 Woodward Ave Buffalo, NY Pugh, Heather 797 Hillcrest Road Pickering, Ontario Canada L1W 2P5 Sattelberg, Annette 1112 Parkside Ave Buffalo, NY 14214 Miles, Timothy 808 Ashland Potter, Yvonne 14540 Pennersville Road Casade, MD 21719 Estell, Heaven c/o Cantor, Lukasik, Dolce & Panepinto Rozini, Anthony 463 Portage Pittman, Patrick 3001 Niagara St.	Automobile damages caused by debris from city building. Personal injuries caused by tripping in hole on city property Automobile damages caused by hitting pot hole  Automobile damages caused by hitting pot hole  Automobile damages caused by hitting pot hole  Automobile damages caused by hitting pot hole.  Personal injuries caused by tripping on sidewalk  Personal injuries caused by falling on playground equipment. Automobile damages caused by hitting pot hole  Personal injuries caused by being arrested
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**COURT NOTICE REGARDING AVAILABILITY  
OF ELECTRONIC FILING  
NOTICE OF PETITION**

Upstate Associates c/o Peter Allen Weinmann, Esq.	Index # 144623
Blue Apple Properties c/o Peter Allen Weinmann, Esq.	Index # 144619
Eleventh Street Properties, LLC c/o Peter Allen Weinmann, Esq.	Index # 144620
Niagara Falls Redevelopment, LLC c/o Peter Allen Weinmann, Esq.	Index # 144622
NFR Turtle, LLC c/o Peter Allen Weinmann, Esq.	Index # 144621
NFR Gateway, LLC AKA Nabisco c/o Peter Allen Weinmann, Esq.	Index # 144624

**SUMMONS**

Gazy, Sharon c/o Robert J. O'Toole, Esq.	Index # 144723
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Agenda Item #3

The following was the result of bids received on September 7, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>	<u>ALTERNATE #1</u>	<u>TOTAL BID</u>
CIR Electric 400 Ingham Ave. Buffalo NY 14218	\$275,000.00	\$19,800.00	\$294,800.00
Ferguson Electric	\$577,500.00	\$2,400.00	\$579,900.00

It is the recommendation of the undersigned that this project be awarded to the low bidder CIR Electric at their Total Bid of \$294,800.00. Funding is available in Code H1014.2010.1014.0449.599 which is being funded by USA Niagara.

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

Agenda Item #4

The following was the result of bids received on September 7, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
J.R. Swanson Plumbing Inc. 413 103 <sup>rd</sup> St. Niagara Falls NY 14304	\$39,470.00

It is the recommendation of the undersigned that this project be awarded to the sole bidder J.R. Swanson Plumbing Inc. at their Base Bid of \$39,470.00. Funding is available in Code H1014.2010.1014.0449.599. which is being funded by USA Niagara.

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

Agenda Item #5

The following was the result of bids received on September 7, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
J.R. Swanson Plumbing Inc. 413 103 <sup>rd</sup> St. Niagara Falls NY 14304	\$249,940.00
MLP Plumbing & Mechanical	\$303,500.00
Ackerman Plumbing Inc.	\$346,590.00

It is the recommendation of the undersigned that this project be awarded to the low bidder J.R. Swanson Plumbing Inc. at their Base Bid of \$249,940.00. Funding is available in Code H1014..2010.1014.0449.599 which is being funded by USA Niagara.

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

Agenda Item #6

The following was the result of bids received on September 7, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>	<u>TOTAL ALTERNATES</u>	<u>TOTAL BID</u>
Huber Construction Inc. 136 Taylor Dr. Depew NY 14043	\$6,132,000.00	\$1,441,000.00	\$7,573,000.00
Scrufari Construction, Inc.	\$6,572,000.00	\$1,188,000.00	\$7,760,000.00

It is the recommendation of the undersigned that this project be awarded to the low bidder Huber Construction Inc., at their Total Bid of \$7,573,000.00. Funding is available in Code H1014.2010.1014.0449.599 which is being funded by USA Niagara.

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

Agenda Item #7

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.

The factors included for this time extension resulted from the requirement for the contractor to obtain a Radioactive Materials License by the New York State Department of Health (NYSDOH) pursuant to the Public Health Law, Part 16 of the New York State Sanitary Code, Industrial Code Rule 38, as well as for the installation of an additional waterline as directed by the City of Niagara Falls under Article VI of the Construction Contract.

This change order will have additional costs associated with the time extension given including additional fees charged by Wendel for contract administration and construction management and a possible increase in construction costs resulting from increases in material and fuel charges typically allowed to a contractor for the necessary working days to complete construction.

Based on the delay incurred and due to the need to obtain the NYSDOH Radioactive Materials Handling License, as well as the addition of waterline replacement work, Man O' Trees should be given an extension to their original time for completion of 184 days. The original Contract Completion date is September 16, 2011. This extension would make the new date for completion March 18, 2012.

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

Agenda Item #8

Pursuant to the resolution adopted by the Niagara Falls City Council during its meeting on March 21, 2011 and pursuant to the terms and conditions contained in a certain Memorandum of Understanding dated June 2, 2011 entered into by and between the City of Niagara Falls New York, BRIX Niagara and USA Niagara Development Corporation, BRIX Niagara has submitted to the City information for review by City Officials pertaining to the development of the Niagara Holiday Market including cash sponsorships, in-kind sponsorships, programmatic commitments including concerts, scheduled events and activities as well as vendor commitments and expressions of interest. City Officials also reviewed expense reports and backup submitted by Global Spectrum LP.

USA Niagara Development Corporation has received similar financial information and its Board of Directors has voted to approve additional funding for the Niagara Holiday Market in the amount of \$185,000.00.

Based on the financial information submitted by BRIX Niagara and Global Spectrum LP together with the commitment of USA Niagara Development Corporation to contribute an additional \$185,000.00 to the Niagara Holiday Market project, it is recommended that the City Council approve additional funding for the Niagara Holiday Market project in the amount of \$185,000.00. Funding is available from Casino Revenues.

Will the Council so approve?

Agenda Item #9

Monteagle Ridge Apartments, 4600 Hyde Park Blvd. contains 150 units. The new owner has proposed to invest approximately \$4.8 Million to renovate the apartments, including new kitchens, bathrooms, plumbing, flooring, windows and energy efficient appliances. Renovations to the foundations are also necessary. The complex has not been renovated since it was constructed in the 1970's. The renovations will allow the apartments to continue providing quality rental housing to Niagara Falls residents.

The Monteagle Ridge Apartments are currently tax exempt and subject to a payment-in-lieu-of-tax (PILOT) agreement, which is due to expire this year. The developer has requested a 40 year extension of the tax exemption and PILOT agreement. After negotiation, the developer has agreed to accept a 30 year extension.

The City is authorized to grant the exemption under Article XI of the Private Housing Finance Law. If granted, the exemption will take effect when the property is conveyed to a qualified Housing Development Fund Company. The formation of the company must be approved by the State Commissioner of Homes and Community Renewal. The developer must provide us with a copy of the certificate of incorporation with the Commissioner approval, and a copy of the deed conveying the property to the qualified company.

The Monteagle Ridge Apartments is currently assessed for \$2,125,000.00. If the property were fully taxable, the total annual taxes paid to the City, School District and County, would be \$124,560.00. The current PILOT provides for payment of 18% of the gross rental income. In 2009, the payment was \$191,436.00 and in 2010 the payment was 182,761.00.

The proposed payment for the new PILOT would start at \$175,000.00 for 2012 and 2013, and thereafter increase by 3% each year, with a final payment of \$400,387. The PILOT agreement will give the developer certainty for the 30 year life of the agreement exemption.

The Property will be subject to a Rent Regulatory Agreement with NYS Division of Homes and Community Renewal, limiting the rent which can be charged. The developer must provide us with a copy of the regulatory agreement.

The PILOT agreement will be for 30 years, and will contain our customary protections. The exemption will expire in the event of default in payment for 2 years. The tax exemption will expire in the event that the property is not subject to a rent regulatory agreement, and the exemption will expire in the event of conveyance of the property to a non-qualifying entity.

Will the Council vote to approve tax exemption and PILOT agreement as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

Agenda Item #10

The current Court Cleaning and Minor Repairs Contract between the Unified Court System and the City of Niagara Falls is effective for a 5-year term running from April 1, 2008 through March 31, 2013 and is divided into annual 1-year periods.

Under Section 1 of the Contract, we are entering into a Renewal Contract for a 1-year period commencing on April 1, 2011 and terminating on March 31, 2012.

The maximum compensation for this Renewal Contract period shall be \$345,092.

Will the Council so approve and authorize the Mayor to execute any required documentation to effectuate same?

Agenda Item #11

The next step to continue with the development of the Niagara County Community College Culinary Institute and the redevelopment of the Rainbow Mall premises owned and now controlled by the City, as well as the development of the Balloon Launch Parcel now owned by the City is for the City to enter into a Development Agreement with Niagara County Community College (the "College") and USA Niagara Development Corporation ("USAN"). This Development Agreement has been mentioned on several occasions during the course of this project and will describe the obligations of all parties. Among the terms and conditions contained in this Agreement (which is in the process of finalization) are the following:

1. The parties to the Development Agreement will be the College, USAN and the City.
2. The redevelopment project described in the Development Agreement consists of four (4) phases. Phase one (1) is the interior demolition and hazardous waste abatement within the entire Rainbow Mall Premises. Phase two (2) is the reconstruction and repair of the parking ramp. Phase three (3) is the construction of the hospitality and tourism institute (the "Institute"). Phase four (4) is the development of the Balloon Launch Parcel as well as the redevelopment of the portion of the Rainbow Mall not containing the Institute premises.
3. The Development Agreement will allow for the College to market and sell naming rights for the Institute with the stipulation that the word "Niagara" or "Niagara Falls" be included in the name. The College may also sell naming rights to its interior spaces such as lecture halls, laboratories, etc.
4. The financial contributions by each party to the Development Agreement to the project are as follows:  
City - \$2,500,000.00  
USAN - \$4,353,500.00  
College - \$9,246,500.00

In addition, Niagara County is contributing \$1,000,000.00, Empire State Development Corporation is contributing \$9,000,000.00 and the College through its various funding sources, inclusive of grants, is contributing the balance of the funding for this \$26,100,000.00 project. \$9,000,000.00 is dedicated to renovations recommended at the City parking ramp.

5. Because the College is located in the Rainbow Mall and shares the parking ramp with the City, the College will pay to the City an amount each year for five (5) years toward the cost of common area charges. The amount to be paid each year is being finalized but will be in the approximate amount of \$96,000.00. These dollars will be reinvested by the City into parking ramp operation and maintenance.
6. As part of the Phase four (4) redevelopment of the City owned and controlled portion of the Rainbow Mall as well as the development of the City owned Balloon Launch Parcel, the City will provide USAN with the exclusive right to market and develop those parcels for a three (3) year period of time. Any development plan must be approved by the City Council.
7. The City is required to submit to USAN each year for ten (10) consecutive years a plan for operating and maintaining the renovated parking ramp together with a capital expenditure plan for such operation and maintenance.
8. In consideration for the College Foundation gifting to the City the Ground Lease encumbering the Rainbow Mall premises previously held by Rainbow Square Two Limited Partnership, excluding the real estate transferred by the City to Niagara County for the Institute, together with the Balloon Launch Parcel previously owned by Rainbow Square Two Limited Partnership, the City is agreeing to allow the College use of 400 parking spaces for a five (5) year period of time at no charge. This is consistent with terms and conditions contained in the Transfer Agreement between the parties which was previously approved and executed. After that period of time, the College and the City will negotiate a fair and reasonable annual parking fee for these spaces.

9. The Development Agreement also contains reverter language which calls for the Institute premises to revert back to the City in the event that construction of the Institute does not take place as agreed. Similarly, in the event that construction of the Institute is completed and it is not operated as an educational institution for an extended period of time, the Institute premises would be disposed of in accordance with the regulations of the State University of New York. This is consistent with language contained in the deed conveying to Niagara County the premises to be occupied by the Institute as well as the previously approved Transfer Agreement which specified the various transfers to take place at such time as Rainbow Square Two Limited Partnership donated its interest in the Rainbow Mall Premises and the Balloon Launch Parcel to the Niagara County Community College Foundation.

Will the Council authorize the City to enter into the Development Agreement as described herein and be in form and substance acceptable to the Corporation Counsel and authorize the Mayor to execute the same?

RELATIVE TO THE CITY OF NIAGARA FALLS  
NAMED “A PLAYFUL CITY USA” RECOGNIZING THE CREATION OF  
LEGENDS BASKETBALL COURT AND PARK



BY:

Council Chair Samuel Fruscione  
Council Member Robert Anderson  
Council Member Steve Fournier  
Council Member Kristen Grandinetti  
Council Member Charles Walker

WHEREAS, With only 1-in-5 children in the U.S. currently living within walking distance of a park or playground, 151 cities and towns, including the City of Niagara Falls, New York, earned recognition from national non-profit KaBOOM! as 2011 Playful City USA communities for their efforts to increase play opportunities for children; and

WHEREAS, A primary goal of Playful City USA is to encourage cities and towns to share creative ideas, concepts and programs in an effort to increase play opportunities for children. The City initiatives include: The City of Niagara Falls, New York for constructing a new basketball court through a joint-use agreement and initiated mentorship program in conjunction with the new facility. The 2011 Community Intervention Initiative is designed to develop a sense of teamwork, community and responsibility amount local youth.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Niagara Falls, New York, recognizes the efforts of the Legends Court Committee Co-chaired by Council Member Charles Walker and NF Youth Bureau Director Patricia Travis, as well as the KaBOOM Committee initiated by Mayor Paul A. Dyster and Co-chaired by Council Member Robert Anderson and Deputy DPW Director John Caso. Together we would also like to recognize the efforts of the Department of Parks and Public Works, and the young people of the City who have participated in the Legends events. Their hard work and dedication helped to create the Legends Basketball Court and Park for all residents, both young and old, of the City of Niagara Falls to enjoy for many years to come.