

Agenda Item #1

The following claims have been filed in the Office of the City Clerk during the month of July 2012. The claims were subsequently referred to the Office of the Corporation Counsel.

NOTICE OF CLAIM

Ward, Gwendolyn
c/o Geico

Automobile damages sustained when struck by City of Niagara Falls vehicle.

Siders, Zakary Lane
466 81st St

Automobile damages sustained when tree limb fell on truck.

Catchpole, Karen
627 33rd St

Personal injuries sustained when fell in Hyde Park.

Croisdale, William
26 B Street

Automobile damages caused by hitting pot hole

Bradley, David
c/o Viola, Cummings & Lindsay LLP

Personal injuries sustained when fell.

Mack, Gloria
c/o Lipsitz Green Scime Cambria LLP

Personal injuries sustained from an automobile accident.

Dunning, Paul & Phyllis
c/o John J. Fromen Attorneys at Law

Personal injuries sustained when fell over guy wire at Hyde Park Pavillion.

Peric, Miro
1970 Washington Ave
San Leandro, CA 34577

Property damages caused by tree.

Wells, Beth
9021 Zito Dr.#50

Automobile damages caused by road construction site.

Harless, Donald
2808 Lewiston Rd

Property damages sustain from broken sewer pipe

Carter, Eileen
172 81st

Automobile damages caused by neighbor's tree

Siders, Zackary L.
c/o Erie Insurance Company

Regarding Erie Insurance Company claim #035-010930202811

NOTICE OF VERIFIED CLAIM

Mil Wal Associates, LLC
c/o Hiscock & Barclay, LLP

Index#147666

NOTICE OF PETITION

Agenda 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 July, 2012.

			<u>CONTROLLER</u>	<u>TOTAL</u>
A1255-001				
A012	Vital Statistics		\$ 4,385.00	\$ 4,385.00
A1255-004				
A013	Copies of Records		\$ 713.75	\$ 713.75
A1255-004				
A013	Certificates of Marriage		\$ 1,270.00	\$ 1,270.00
A2501-006				
A042	Tour Driver/Guide		\$ 155.00	\$ 155.00
A2501-011				
A044	Peddler		\$ 625.00	\$ 625.00
A2501-014				
A046	Electrician - Exam Fee		\$ 625.00	\$ 625.00
A2542-000				
A053	Dogs/NYS Agr.& Mkts	\$ 367.00	\$ -	\$ 367.00
A2542-000				
A053	Additional Dogs		\$ 4,066.50	\$ 4,066.50
A2545-001				
A054	Marriage License/NYSHD	\$ 2,857.50	\$ 952.50	\$ 3,810.00
A2550-001				
A056	Loading Zone		\$ 140.00	\$ 140.00
A2501-599				
A130	Pawn Broker		\$ 550.00	\$ 550.00
A2545-023				
A318	Hunters/NYS DEC RAU	\$ 265.48	\$ -	\$ 265.48
A2545-023				
A318	Hunters Fees		\$ 15.52	\$ 15.52
A1255-003				
A499	Notary Fee		\$ 16.00	\$ 16.00
A1255-005				
A528	Dog Release		\$ 500.00	\$ 500.00
TA63008				
A597	Marriage Performance		\$ 1,425.00	\$ 1,425.00
A1255-006-	Photos/passport-license		\$ 18.00	\$ 18.00

A696

TOTAL:

\$ 3,489.98

\$ 15,457.27

\$ 18,947.25

Check #	<u>59058</u>	NYS Dept.of Arg. & Mkts	\$ 367.00
Check #	<u>59043</u>	NYS Health Department	\$2,857.50
Check #	<u>ET</u>	NYS DEC RAU	\$ 265.48

Agenda Item #3

We respectfully request you award the above referenced bid as follows:

TO: Empire Emergency Apparatus, Inc.
3995 Lockport Road
Niagara Falls, NY 14305

FOR: Fire Rescue Equipment per the attached tally sheet. \$24,898.23

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bids were sent to five (5) vendors. Three bids were received. The above referenced company submitted the lowest bid. At its meeting of July 9, 2012 the Council authorized \$108,080.00 from a General Fund contingency account to be used for the purchase of Fire Department equipment.

Funds for this expenditure will be charged to budget code: H0818.2008.0818.0250.000

Agenda Item #4

Construction is about to begin on the renovation of Hotel Niagara. The contractor has requested the temporary use of the City First Street Lot (First Street and Buffalo Avenue) for construction staging. The use will commence on September 17, and run through June 1, 2013. The use can be extended beyond that date on approval of the City Council.

The contractor will be allowed to place temporary fencing along the center barricade, and to secure and use the east half of the parking lot. Temporary construction trailers will be placed on the lot, and the area will be used for equipment and material storage.

The contractor will make arrangements with Niagara Grid for electricity, as the City has no electric service in the area. The contractor will indemnify the City against all damage and injury, and will insure the City against property damage and personal injury under the standard City insurance requirements (generally bodily injury and property damage of \$1,500,000.00 per occurrence and \$3,000,000.00 annual aggregate). Upon completion of the use, the contractor will restore the area to its original condition.

The fencing will remove about 55 parking spaces from public use predominately during the off season. The City does not staff the lot during the off season. The contractor will pay to the City, in advance, \$500.00 per month for use of the lot.

Will the Council vote to approve the temporary use of the First Street Lot as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

Agenda Item #5

We respectfully request you authorize the City grant the following license:

TO: Charles R. Colavecchia
d/b/a CRC Enterprise
2949 Porter Road
Niagara Falls, NY 14305

FOR: A license to market advertising signage at the Hyde Park
Golf Course for a period of three (3) years as per the
attached proposal:

\$3,600.00

Requests for proposals were sent to six (6) companies and advertised in the Niagara Gazette. One proposal was received.

The advertising signage is restricted to the tee boxes at each hole and shall be no larger than 56" x 12". The agreement may be extended for an additional three years with an adjustment in the fee paid to the City pegged to the change in the Consumer Price Index.

Agenda Item #6

FUEL TANK REMOVAL

The following was the result of bids received on August 23, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
National Vacuum Corp. 408 47 th Street Niagara Falls NY 14304	\$ 93,754.85
Regional Environmental Demolition	\$ 99,370.29
Russo Development	\$ 99,837.50
Environmental Services Group	\$119,410.00
Empire Dismantlement	\$128,360.00
Apollo Dismantling	\$147,270.00
Metro Contracting	\$150,057.00
Empire State Mechanical	\$164,100.00
Mark Cerrone Inc.	\$169,800.00

It is the recommendation of the undersigned that this project be awarded to the low bidder National Vacuum Corp. at their base bid of \$93,754.85. Funding is available in code H0811.2008.0811.0419.006.

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

The following was the result of bids received on August 2, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
RB Mac Construction Co. Inc. 6688 Lincoln Ave. Lockport NY 14094	\$438,000.00
Hydrolawn of Buffalo, Inc.	\$438,900.00
Sicoli Construction Services, Inc.	\$463,700.00
Tedesco Construction Services Inc.	\$484,678.00
Dyno Group Inc.	\$487,600.00
Picone Construction Corp.	\$499,000.00
Sicoli & Massaro Inc.	\$553,700.00

It is the recommendation of the undersigned that this project be awarded to the low bidder RB Mac Construction Co. Inc. at their base bid of \$438,000.00. Funding is available in code H1119.2011.1119.0449.599.

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 #8

A contract for the above referenced project was awarded to CATCO Construction, 1266 Townline Road, Alden, New York 14004, in the amount of \$1,223,678.00

Subsequent to the start of the project, rock removal related to drainage structure installations and undercutting necessitated by poor soil conditions were encountered by the contractor. Neither of these tasks were a portion of the project's original scope of work. The cost associated with these extra tasks, and the addition of extra sidewalk replacement, is \$88,952.70. However, under runs in bid item quantities elsewhere in this project will allow the additional tasks noted above to be performed with no increase to the original contract total (\$0.00 net change)

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 #9

The following was the result of bids received on August 2, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
O'Connell Electric Company, Inc.	\$32,127.83
CIR Electrical Inc. 678 Sheridan Drive Tonawanda NY 14150	\$58,200.00
M&M Electric Construction Co.	\$58,500.00

It is the recommendation of the undersigned that this project be awarded to the second low bidder CIR Electrical Inc. at their base bid of \$58,200.00. Funding is available in code H1119.2011.1119.0449.599.

The apparent low bidder, O'Connell Electric Company, Inc., had withdrawn his bid of \$32,127.83 after it was realized that an error was made and integral work associated with the contract was not included. It was the recommendation of the Corporation Counsel, based on General Municipal Law, that this withdrawal be accepted.

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 #10

The following was the result of bids received on August 28, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
South Buffalo Electric Inc. 1250 Broadway St. Buffalo NY 14212	\$80,731.00
CATCO	\$98,343.00

It is the recommendation of the undersigned that this project be awarded to the low bidder South Buffalo Electric Inc. at their base bid of \$80,731.00. Funding is available in code H1115.2011.1115.0449.599.

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 #11

The following was the result of bids received on August 2, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Ackerman Plumbing Inc. 678 Sheridan Drive Tonawanda NY 14150	\$101,997.00
Gross PHC	\$131,300.00

It is the recommendation of the undersigned that this project be awarded to the low bidder Ackerman Plumbing Inc. at their base bid of \$101,997.00. Funding is available in code H1119.2011.1119.0449.599.

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 #12

A contract for the above referenced project was awarded to Industrial Power and Lighting, 701 Seneca Street, Buffalo New York 14210, on July 8, 2010 in the amount Of \$139,000.00.

On July 18, 2011 the City Council approved Change Order #1 in the amount of \$388.00

IPL is requesting a change order for \$29,000.00 for an extensive delay claim based upon the fact that Resiterits, the general contractor, did not complete the installation of interior plaster, windows and doors on time. IPL had no control over the general contractors schedule and although no fault of their own attempted to mitigate the delay cost.

At this time IPL has not been able to reach final completion due to the general contractor's refusal to replace a defective door hinge but once that issue is resolved, IPL will commission the security system and be able to close out their contract.

Through the efforts of the City's Legal Department and the Construction Managers at Wendel, they were able to negotiate what is believed to be a fair agreed upon amount to resolve all outstanding claims by IPL.

With the approval of this Change Order #2 the total contract with IPL will be \$168,388.00. It is the recommendation of the undersigned that Change Order #2 be approved in the amount of \$29,000. Sufficient funds presently exist in Code H0401.2002.0401.0449.599.

Will the Council vote to so approve?

Agenda Item #13

Attached is a proposed Facility Usage Agreement with Niagara University so that the Police Department may use the Kiernan Center on September 11, 2012 to conduct Civil Service fitness tests.

Will the Council so approve and authorize the Mayor to execute same?

Niagara University Kiernan Center Facility and Service Agreement

Thank you for working with us! The mission of Niagara University's Kiernan Recreation Center is to support Niagara University's Vincentian mission by developing and maintaining healthy and life-enhancing recreational opportunities for the University community, and we are happy to make you a part of that.

Please work with our staff member to complete this document and determine the arrangements that best suit your needs.

Facility Usage Agreement

Niagara University, a not-for-profit education corporation duly authorized to conduct business in the State of New York, and **City of Niagara Falls** with a primary address of **City Hall at 745 Main St. Niagara Falls NY, 14301** (hereinafter, "Customer"), here by agree to the use of the University's Kiernan Center Facility/Fields (hereinafter, the "KC") as follows:

1. Facilities and Service Arrangements

Please work with our staff to describe your event and to select the services you require, and fill in the appropriate dates, start and end times, estimated attendance, and fee:

The following facilities and services will be provided on **September 11, 2012 from 8:30AM-9:30AM** for the Niagara Falls Police Department to provide a civil service fitness test:

- a. Facility will be available 15 minutes prior to scheduled starting time.
- b. The facility usage fee for this event will be **\$50.00**. The fee will be covered by an external operation budget and the City of Niagara Falls will not be required to make a payment.
- c. The Kiernan Center front gym has been reserved for this event. Event organizers should review facility to ensure it meets the needs of the program that will be offered.
- d. It is understood that no additional requirements or set-up have been requested for this event other than having gym space for event.

2. Total Cost, Deposit, Refunds

Based on the agreed-upon arrangements set out on the preceding information, the total cost of your event shall be **\$50.00**. A deposit of \$ NA is due by NA, in order to secure the facility.

The deposit will be applied to the event charges. The balance for the final rental and personal charges will be due on the day of the event unless other arrangements have been made and approved by the Director. Events late in starting or ending will be subject to additional charges.

All deposits are refundable, but will be reduced by any cost incurred by the Kiernan Center in anticipation of your event; **a minimum service charge of \$50.00 is charged to all cancellations.**

3. Arrival

Please check in with KC administrative staff before the start of your event, but because Niagara University makes security a priority, do make sure you let the front desk staff know who you are.

4. Food and Beverages

There are vending machines on the premises, but other than that, refreshments and food are the responsibility of the patrons. Please indicate on the space below if you are planning to use a catering service or have any food delivered by a third party (this does not include food you or your guests bring):

5. Security and Privacy

Please know that the KC Facility is open to members at all times, and changing room are open spaces restricted by gender. **With that in mind, parties must provide supervision to any child under the age of 13 in changing areas.** Customer is expected to assist in the ensuring their guest follow the posted rules regarding appropriate behavior and restricting the use of cell phones and cameras in locker areas.

6. Winding down your event

Customer agrees that for scheduling and staff purposes, Customer must adhere to the concluding time outlined in a contract. There will be a fifteen-minute grace period at the conclusion of your contracted facility rental to clear the facility/field. **Any additional time will be billed at the rate of \$25.00 per quarter hour and (if being used) a \$10.00 per quarter hour per lifeguard.**

7. Values of Niagara University

- a. Niagara University is a Catholic, Vincentian institution with an obligation to ensure an environment free of discrimination on the basis of religion, national origin, gender, race, sexual orientation, age, disability, veteran status, predisposing genetic characteristic, domestic violence victim status, or any other category protected by law. By entering into this agreement you agree to uphold these values while on the campus and while conducting business with Niagara University. Similarly, if you feel you have not been treated in a manner that fits these values, please let a staff member know.
- b. You, and any of your employees, agents, or guests, are expected to abide by the request of campus officials and Campus Safety officers while on the campus of Niagara University.
- c. You will be expected to abide by the "smoke free" campus policy that applies to all university premises and vehicles.
- d. Please do not to use the Niagara University name or trademarks to publicly promote your event without permission of the Niagara University Department of Public Relations. This includes on any publicity for your event (birthday invitations do not count as publicity!).
- e. Customer (you), its officers, employees, agents, and guests, are expected to abide by all applicable laws and regulations.

Failure to abide by these values while fulfilling this contract may result in immediate termination and cancellation and a demand to leave the campus.

8. INSURANCE

Please see the requirements attached as "A."

9. INDEMNIFICATION

To the extent allowable by law, Customer agrees to defend, indemnify and hold harmless Niagara University, Niagara University Ice Complex INC., its trustees, officers, employees and agents, from and against any and all claims, proceedings related to the facilities or services provided under this Agreement.

10. VENUE AND CHOICE OF LAW

This contract shall be governed by the laws of New York State. In the event of a dispute, venue shall be the Western District of New York or the County of Niagara.

11. ENTIRE AGREEMENT

This document constitutes the complete agreement of the parties with regard to the services being arranged. Any further terms must be formalized in a written, signed document.

FOR CUSTOMER:

FOR THE UNIVERSITY

BY: _____ BY: _____

PRINT NAME: _____

Christy Ferguson
Director, Business Services

"A"

Customer will, at its own cost and expense, maintain with respect to the service set out in "A" and Contractor's use Niagara University's premises, the following insurance coverage's written for not less than the limits specified for each coverage or required by law, whichever is greater and including the provisions enumerated below:

I. Commercial General Liability, on an occurrence basis, with a Bodily Injury and Property Damage Limit of \$1,000,000 each occurrence, a Products/Completed Operations Limit of \$2,000,000 aggregate, a Personal Injury & Advertising Injury Limit of \$1,000,000 each person and a General Aggregate limit of \$2,000,000 with Niagara University named as an Additional Insured on a primary basis. Certificate Holder should be designated as **Niagara University, Department of Business Services, and P.O. Box 1940, Niagara University, NY 14109.**

II. Workers' Compensation & Employers' Liability providing statutory coverage complying with New York Workers' Compensation Law.

III. Commercial Automobile Liability covering owned, non-owned and hired autos with a combined Bodily Injury and Property Damage Limit of \$1,000,000 each accident.

IV. Contractor shall request insurance broker to submit a copy of the Additional Insured Endorsement or policy provision.

The insurance carriers providing the required coverage's shall be licensed to do so in New York State, and shall be rated no lower than "A" by the most recent Best's Key Rating Guide, and shall have a Best's Financial Size Category of not less than VIII, unless otherwise agreed to by Niagara University. Contractor will deliver to Niagara University, prior to the Performance; Certificates of Insurance acceptable to Niagara University evidencing the required coverage's have been issued and are in effect. Upon cancellation of any policy prior to the Performance, the Contractor shall immediately deliver to Niagara University a Certificate of Insurance evidencing current coverage.

No further requirements.

Agenda Item #14

A contract for the above referenced project was awarded to Mark Cerrone, Inc. on September 23, 2010 in the amount of \$4,215,484.73.

The Contractor, Mark Cerrone Inc. (MCI) has experienced several Excusable Non-Compensable delays that warrant an extension of time on the above referenced project. These delays include the following items:

- Unidentified Conduits on South Bridge. During the demolition of the existing South Bridge, the Contractor encountered buried utility conduits. These conduits were not previously identified by CSX as part of the utility screening process during design. As a result, the Contractor was unable to advance bridge demolition operations until CSX confirmed that these conduits were no longer in service. The time associated with this delay item is 16 days.
- Unidentified Conduits on North Bridge Stage 1 Demolition. During Stage 1 Demolition of the existing North Bridge, the Contractor encountered buried utility conduits. These conduits were not previously identified by CSX as part of the utility screening process during design. As a result, the Contractor was unable to advance bridge demolition operations until CSX confirmed that these conduits were no longer in service. The time associated with this delay item is 56 days.
- Non-Hazardous and Radioactive Contaminated Soils during Abutment Excavation. During Stage 1 Demolition of the existing North Bridge, the Contractor encountered radioactive contaminated waste in an area that also included non-hazardous contaminated soils. As a result, the Contractor was unable to advance abutment excavation until a monitoring protocol could be established for the combined materials. In addition, this protocol required CSX approval prior to resuming excavation operations. The time associated with this delay item is 38 days.
- Delay in Railroad Furnished Materials. In accordance with the provisions set forth in the Contract Documents relative to the coordination of the work with CSXT, the railroad is to furnish the materials associated with the Stage 2 detour for installation by the Contractor. Accordingly, the Contractor was delayed while waiting for CSX to furnish all materials required for installation of the Stage 2 detour. The time associated with this delay item is 5 days.
- Installation of the Stage 2 Detour by CSXT Forces. In accordance with the provisions set forth in the Contract Documents relative to the coordination of the work with CSXT, railroad forces are responsible for connection of the Stage 2 Detour to the existing main line track. Accordingly, the Contractor was delayed while waiting for CSX to complete this connection. As a result, the Contractor was unable to advance Stage 2 demolition of the CSX Bridge. The time associated with this delay item is 11 days.
- Unidentified Conduits on North Bridge Stage 2 Demolition. During Stage 2 Demolition of the existing North Bridge, the Contractor encountered buried transite pipe utility conduits. These conduits were not previously identified by CSX as part of the utility screening process during design. As a result, the Contractor was unable to advance bridge demolition operations until CSX confirmed that these conduits were no longer in service. In addition, since these pipes consist of asbestos cement pipe, abatement must be performed in accordance with federal, state and local regulations including requirements for prior notification prior to the start of abatement work. The time associated with this delay item is 27 days.

Wendel recommends that Mark Cerrone Inc. be given an extension of 153 days to their original contracted time for completion. Since the associated delay for each of the items was Excusable, Non-Compensable, the Contractor shall be entitled to an extension of time. The current Contract Completion Date was July 28, 2012. This extension would make the new time for completion December 28, 2012. **This is a no cost change order.**

Will the council vote to approve the extension of time for the CSX Bridge contract with Mark Cerrone Inc. to December 28, 2012?

Agenda Item #15

The above claimant has incurred medical expenses for personal injuries suffered by her when she was being transported back to Niagara Falls High School in a police vehicle after serving as a volunteer at the City's recent Emergency Drill on November 16, 2011.

Under the New York State No-Fault Law, the City of Niagara Falls, as a self-insured entity, is obligated to pay the claimant's medical expenses arising out of this incident. If the same meets with your approval, please vote to direct the City Clerk to draw a warrant on the City Controller directing her to issue the following check:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Niagara Falls Memorial Medical Center	3/20/12 & 3/29/12	\$238.67

Please be advised that there may be further medical bills which will have to be paid pursuant to the New York State No-Fault Law.

Will the Council so approve?

Agenda Item #16

The above claimant has incurred medical expenses for personal injuries suffered by her when she was a passenger in a City police vehicle which was involved in a motor vehicle accident on November 12, 2011.

Under the New York State No-Fault Law, the City of Niagara Falls, as a self-insured entity, is obligated to pay the claimant's medical expenses arising out of this incident. If the same meets with your approval, please vote to direct the City Clerk to draw a warrant on the City Controller directing her to issue the following check:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Cardamone Chiropractic	7/19/2012	\$35.52
Radiology Solution Associates	11/12/2011	\$61.52

Please be advised that there may be further medical bills which will have to be paid pursuant to the New York State No-Fault Law.

Will the Council so approve?

NIAGARA FALLS PLANNING BOARD

RECOMMENDATION TO CITY COUNCIL
Encroachment in City Right-of-Way

Pursuant to action taken by the Niagara Falls Planning Board on the 25th day of July 2012, your request is hereby **denied**.

NAME OF OWNER: *Canada Partners Holdings, Inc.*

ADDRESS OF ACTION: *8676 Buffalo Avenue*

PURPOSE: *To allow installation of street side patio in front of restaurant*

This application is hereby **DENIED**.

Reasons:

- ✓ Further information needed; applicant or representative not present to answer questions of Planning Board.
- ✓ Area too constricted at that corner.

Agenda Item #18

Please be advised that Mayor Paul A. Dyster, on July 24, 2012 and July 26, 2012, duly approved the following:

1. Resolution 2012-61, relative to Amending Chapter 1328 of the Codified Ordinances entitled "Special Permit Requirements".
2. Resolution 2012-63, relative to Amending Chapter 1121 of the Codified Ordinances entitled "Signs and Billboards".

Agenda Item #19

The following have requested City Council approval for Commissioner of Deeds for a term from October 1, 2012 to September 30, 2014.

Paul, Joseph	NFPD
Parsnick, Lori	City Clerk's Office
Pokoj, Kari	City Clerk's Office
Boxer, Linda	921 Vanderbilt Ave., NF NY 14305
Davis II, Matthew	1317 Ashland Ave., NF NY 14301
DeMartin, MaryAnn	1339 James Ave., NF NY 14305
Iannarelli, Anna	461 21 st St., NF NY 14303
McCray, Kashawn	1562 Centre Ave., NF NY 14305
Ollison, Jameere	3327 9 th St., NF NY 14305
Pratt, Sharonda	3325 9 th St., NF NY 14305
Pinckrey, Chanel	23D Jordan Gardens, NF NY 14305
Searight, Ida	2736 21 st .St, NF NY 14305
Smith, Lisa	226 78 th St., NF NY 14304
Swartz, Joseph	1319 Willow Ave., NF NY 14305

This is in accordance with provision of the Niagara Falls City Charter, Article II, Section 7, Subdivision 5.

Agenda Item #20

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Board of Assessment Review effective immediately for the expiration date, which appears opposite his/her name:

APPOINTMENT

TERM EXPIRES:

Mr. Bert Donahue
8189 West Rivershore Drive
Niagara Falls, NY 14304
283-8189

9/30/2017

Agenda Item #21

WHEREAS, the Special School Vote for a Public Referendum will be held on Tuesday, September 25th, 2012; and

WHEREAS, attached is a communication from the School District of the City of Niagara Falls, New York requesting approval for the use of polling places in the City of Niagara Falls, New York.

Agenda Item #22

WHEREAS, on September 25th 2012, the YWCA of Niagara will celebrate their 2012 Niagara Awards Nominations with “A Tribute to Women” dinner.

Nominees are:

Molly Anderson	Leadership Niagara
Laurie Ferris	Greater Lockport Family YMCA
Barbara Malinowski, RN,MSN	Mt. St. Mary’s Hospital & Health Center
Judy Arlington	Lockport City School District
Luanne Finiki	Kaleida Health/DeGraff Memorial Hospital
Doreen O’Connor	Gray Line Niagara Falls/Gray Line Buffalo
Gloria Baker	First National Bank
Muriel Forte, RN,BSN	Niagara Falls Memorial Medical Center
Donna Owens	City of Niagara Falls
Stacey Branchini	It Happened to Alexa Foundation
Jennifer Govenettio	Lockport City School District
Heather Peck	Lockport Main Street, Inc.
Christine Burdick	Niagara Orleans BOCES
Carol J. Harris, PhD	Canisius College
Phyllis Phillips	Retired
Ashley Butcher	Summit Print and Mail
Melissa Junke	City of Lockport/Dept. of Youth & Recreation
Sally Reid	Curves
Jean Conley	First Niagara Bank
Nancy Kasprzak-Whitmore	Niagara County Federal Credit Union
Mildred (Peg) Smith	Community Volunteer
Linda Conlin	Lockport City School District
Judy Kay	Aquarium of Niagara
Janet Steggles	First Niagara Risk Management
Linda Covell	Retired Education
Joanne Kinney	DeSales Resources and Ministries
Donna Zellner Neal	North Tonawanda History Museum
Anne Marie Dimino Hepfer	Community Volunteer
Kathie Kudela	Niagara Arts & Cultural Center
Chris Zigler	Shear Madness

Also honored will be **Carrie Mitchell**, recipient of the 2012 Lifetime Achievement Award.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York, that it extends its congratulations on behalf of all the citizens of the City of Niagara Falls in honoring the 2012 Niagara Award Nominees and the recipient of the 2012 Lifetime Achievement Award.

Agenda Item #23

WHEREAS, Greenpac Mill, LLC, 4400 Royal Avenue, Niagara Falls, New York is moving forward with a project that requires an existing industrial railroad track crossing 47th Street to be relocated to a place approximately 20 feet south of its existing location; and

WHEREAS, Greenpac Mill, LLC has applied to the New York State Department of Transportation for approval of the realignment of the existing industrial railroad track; and

WHEREAS, the existing industrial railroad track is located where it presently is because it previously served Sentry Metals which no longer receives rail service; and

WHEREAS, Greenpac Mill, LLC proposes to relocate the existing industrial railroad track to a location approximately 20 feet south of its current location so that it may serve the Greenpac Mill, LLC project; and

WHEREAS, the Greenpac Mill, LLC project is important to the City of Niagara Falls for a number of reasons including the fact that it is a “green” type project and will create in excess of 100 new good paying jobs in the City and is also a \$400 Million plus capital investment in the community.

NOW, THEREFORE, BE IT RESOLVED, that this City Council does hereby support the relocation of the existing industrial railroad track as proposed by Greenpac Mill, LLC; and

BE IT FURTHER RESOLVED, that this City Council is supportive of the Greenpac Mill, LLC project.

Agenda Item #24

WHEREAS, the first international bridge crossing between the United States of America and the Dominion of Canada took place in the Village of Suspension Bridge, New York, which subsequently consolidated with the Village of Manchester to become the City of Niagara Falls, and

WHEREAS, because the first international bridge to connect these two great nations was also a railroad bridge that created further development in both commerce and passenger services between the United States and Canada; and

WHEREAS, the Government of the United States of America saw fit to establish a Customs House on Whirlpool Street and Bath Avenue to accommodate the collections of customs as a result of the suspension bridge; and

WHEREAS, the passenger railroad operators saw fit to establish a rail passenger depot nearby on a street that was created as a result of that depot and was designated as Depot Avenue; and

WHEREAS, with the growth of rail passengers visiting Niagara Falls, the rail passenger depot was subsequently relocated to downtown Niagara Falls; and

WHEREAS, the increase in the quality of the nation's road and highway system and the greater availability of motor coach systems and personally-owned vehicles, the rail passenger depot was subsequently moved once again from downtown Niagara Falls to a location at Hyde Park Boulevard and Lockport Street; and

WHEREAS, as part of the rejuvenation of the City of Niagara Falls, the City acquired the United States Customs House for reuse once again as a United States Customs House and the establishment of a Harriet Tubman Interpretive Center as well as a part of the new passenger rail depot; and

WHEREAS, with the rail passenger station returning to its former proximate location near Depot Avenue, its location now being on the nearby Bath Avenue instead of Depot Avenue, the name Depot Avenue may cause confusion to tourists, commercial transportation operators and many community members.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that the City Council intends to rename the street that runs between Main Street and Whirlpool Street and is proximate to and north of the city's new train depot now known as Bath Avenue, to be renamed Depot Avenue West to be consistent with intentions of past Councils and the original purpose of the name containing the word "Depot"; and

BE IT FURTHER RESOLVED, that the City Clerk cause to be published a Notice of the City Council's intention to rename "Bath Avenue" as "Depot Avenue West". Such publication shall be made once in the Niagara Gazette at least one week prior to such change taking place.

Agenda Item #25

WHEREAS, the City of Niagara Falls is a participating employer in the New York State Local Police and Fire Retirement System, which previously elected to offer the optional 20 year retirement established pursuant to Section 384-d of the Retirement and Social Security Law, to firefighters employed by the City; and

WHEREAS, Richard E. Mylchreest, Jr., a firefighter employed by the City of Niagara Falls, who for reasons not ascribable to his own negligence, enrolled in the retirement plan established pursuant to Section 375-i of the Retirement and Social Security Law; and

WHEREAS, the State of New York has enacted Chapter 169 of the Laws of 2012, allowing the City to again offer the optional 20 year retirement plan pursuant to Section 384-d of the Retirement and Social Security Law to Richard E. Mylchreest, Jr.

NOW, THEREFORE, BE IT RESOLVED, that this honorable body does hereby authorize the City to offer firefighter Richard E. Mylchreest, Jr. the ability to enroll in the retirement plan pursuant to Section 384-d of the Retirement and Social Security Law; and

BE IT FURTHER RESOLVED, that the City Council of the City of Niagara Falls does hereby direct that a certified copy of this resolution, along with certification that firefighter Richard E. Mylchreest, Jr. did not bar himself from participation in the retirement plan offered under Section 384-d of the Retirement and Social Security Law as a result of his own negligence, be filed with the New York State Controller's Office.

Agenda Item #26

WHEREAS, the Zoning Ordinance and Comprehensive Plan for the City of Niagara Falls requires that land be used in the City in the most beneficial and convenient manner, preserving relationships among the residential, commercial, industrial and recreational areas within the City, and further requires that the value of land throughout the City be protected and conserved in a manner appropriate to the various districts established by the Zoning Ordinance and further requires the pursuit of gradual conformity of the uses of land and buildings throughout the City and the minimizing of conflicts among the uses of land and buildings in the City; and

WHEREAS, kennels and catteries are a type of use likely to impact adjoining property owners; and

WHEREAS, this Council believes it is important to develop a comprehensive and detailed plan regarding the location of kennels and catteries.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that:

1. There is hereby imposed from the date of enactment of this resolution a 90-day moratorium on the consideration of permits for kennels and catteries.

2. This moratorium is imposed to enable the City to develop a comprehensive and detailed plan which is in concert with the Comprehensive Plan and Zoning Ordinance for the City of Niagara Falls concerning the location and approval of kennels and catteries.

Agenda Item #27

WHEREAS, the City of Niagara Falls, New York, herein called the “Applicant”, after thorough consideration, has hereby determined that certain work, as described in its application and attachments, herein called the “Project”, is desirable; and

WHEREAS, §970-r of the General Municipal Law authorizes State assistance to eligible parties for Brownfield Opportunity Areas Program grants by means of a State Assistance Contract (SAC) and the Applicant deems it to be in the public interest and benefit under this law to enter into a contract therewith.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York:

1. That Mayor Paul Dyster is the representative authorized to act in behalf of all applicants in all matters related to State assistance under §970-r of the General Municipal Law for the Project. The representative is also authorized to sign and submit the application, execute the SAC, request SAC advances and reimbursements, redistribute SAC reimbursements as appropriate, submit Project documentation, and otherwise act for all applicants in all matters related to the Project and to State assistance;
2. That the Applicant agrees that it will complete the Project;
3. That the Applicant agrees that it will fund its portion of the Applicant’s 10% share of the Project with in-kind services; and
4. That this Authorization take effect immediately.

Agenda Item #28

WHEREAS, the Planning Board has recommended that the Council adopt 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 of the City of Niagara Falls, New York, does hereby adopt the attached zoning map amendment changing 3920 Pine Avenue (SBL #145.17-1-2) from OS Open Space to R1-D Residential-Detached Single