

Agenda Item #1

The following have requested City Council approval for Commissioner of Deeds for the term from June 1, 2011 to May 31, 2013 .
This is in accordance with provision of the Niagara Falls City Charter, Article II, Section 7, Subdivision 5.

Wasson, Nadine	City Clerk's Office
Frame, Peggy	8403 Buffalo Ave. #3, Niagara Falls, NY 14304
Friend, Kenneth R.	616-73 rd St., Niagara Falls, NY 14304
Joyce, James	2744 Thornwood Dr., Niagara Falls, NY 14304
Merino, Gail	9365 Rivershore Dr., Niagara Falls, NY 14304
Shaffer, Brian	1401 Lafayette Ave., Niagara Falls, NY 14304
Smith, Pam	628 Chestnut Ave., Niagara Falls, NY 14305
Trimmer, Maureen	3622 Chapin Ave., Niagara Falls, NY 14301

Agenda Item #2

A contract for the above referenced project was awarded to Accadia Site Contracting, Inc. on May 17, 2010 in the amount of \$2,564,587.50.

Subsequent to the start of construction, soil stabilization issues and sewer lateral relocation, encountered throughout the length of the project, presented the necessity for extra excavation and additional pipe installations. Although the quantity and locations were undetermined prior to starting, the existence of those issues was anticipated, and contractually-obligated "contingency items" that were included in this project's proposal, to assure the City a predetermined, controlled unit price.

Additionally, extra work necessitated by current stormwater pollution control regulations and the discovery/removal of potential sanitary hazard predating the annexation of Lasalle, was also performed during this project. The total extra cost to the contract is \$395,055.64, bringing the final contract total to \$2,959,643.14.

It is important to note that approximately \$381,640.00 of the final contract total above is reimbursable to the City by the Niagara Falls Water Board as a result of an existing inter-agency agreement.

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 #3

The Department of Community Development recently issued a Request for Proposal (RFP) for architectural services relating to the City's Commercial Façade Program. The scope of services to be provided include design renderings, cost estimates, construction drawings and project monitoring.

The following proposals were received by the Department and were rated based on compliance with the required elements of the RFP, including the ability to deliver services in a timely manner, prior experience and the fee schedule.

Firm Name	Staff	Hourly Rate	Scope of Work	Max. Fee Per Building
Giusiana Architects Lewiston, New York	architect	\$40	Minor:	\$750
			Moderate	\$1,800
			: Substantial	\$2,500
David Deboy, Architect Buffalo, New York.	Architect Designer Production	\$75 \$65 \$45	Minor:	\$1,120
			Moderate	\$2890
			: Substantial	\$4,510
Flynn/Battaglia PC Buffalo, New York	Architect & staff	\$100 Avg hrly rate	Minor:	\$1,600
			Moderate	\$4,000
			: Substantial	\$6,000
Left Coast Design Lancaster, New York	manager	\$60	Minor:	\$2,000
	architect	\$75	Moderate	\$3,600
	: draftsper son	\$45	Substantial	\$4,600
HHL Architects, Buffalo, New York	Architect & staff	\$95 Avg.hr ly rate	Minor:	\$4,000
			Moderate	\$8,500
			: Substantial	\$10,500
TRM Architect Buffalo, New York	Architect	\$140	Minor:	\$5,000
	Assoc.	\$120.	Moderate	\$10,000
	Arch. Manager	\$85	Substantial	\$20,000
			ial	

Agenda Item #4

The following are the result of bids received on April 19, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Apollo Dismantling Services, LLC 4511 Hyde Park Boulevard Niagara Falls, NY 14305	\$1,462,000.00
Metro Contracting & Environmental Mark Cerrone, Inc.	\$1,488,700.00 \$1,629,000.00
Scott Lawn Yard, Inc.	\$1,794,786.00
Cambria Contracting Inc.	\$2,833,000.00
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Sabre Demolition	\$1,158,000.00*

*NOTE: Apparent low bidder requested to withdraw their bid

Upon review of the lowest bidder's submission and confirmation of scope of work, it was determined an error occurred in their estimating. Therefore, the City accepted Sabre Demolition's request to withdraw their bid.

It is the recommendation of the undersigned that this project be awarded to the lowest qualified bidder, Apollo Dismantling Services, LLC, at their Base Bid of \$1,462,000.00 due to the withdrawal of Sabre Demolition. Funding is available in Code H1014.2010.1014.0449.599 that 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 are the result of bids received on April 19, 2011, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
JMD Environmental Inc. P.O. Box 821 Grand Island, NY 14072	\$24,900.00

It is the recommendation of the undersigned that this project be awarded to the low bidder, JMD Environmental Inc., at their Base Bid of \$24,900.00. Funding is available in Code H1014.2010.1014.0449.599 that 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 City has been asked by the Niagara Parks Commission of Niagara Falls, Ontario, Canada to partner with it and 13 other stakeholders in the weekly fireworks displays over Niagara Falls during the 2011 tourist season. The fireworks will commence in late May, 2011 and run through Labor Day, 2011. The displays will take place on Friday nights, Sunday nights and holidays. Wednesdays may be added as a value "add on" by the fireworks vendor depending upon proposals. The City has been asked to contribute the sum of \$5,000 to this event. Any contribution by the City will be subject to the development of a funding agreement satisfactory to the Corporation Counsel. Funding is available from the Tourism Fund.

Will the Council approve this funding request and authorize the Mayor to sign an agreement satisfactory to the Corporation Counsel?

Agenda Item #7

Several companies with experience in parking management and equipment responded to the Request for Proposals circulated by the City. Meetings were held with three of these companies. The unanimous selection of those interviewing the responders was Desman Associates from New York City. The proposed cost for their services, inclusive of expenses for travel and lodging, is \$47,330.00. Funding is available from Casino Funds - Economic Development.

Will the Council authorize the City to engage Desman Associates, appropriate the cost for services as proposed, and authorize the Mayor to execute an engagement letter?

Agenda Item #8

The LaSalle Business Association has requested that a Revitalization Coordinator be appointed in the LaSalle area, much like other business associations in the City. The purpose of this Revitalization Coordinator position is to accommodate and enhance economic development and neighborhood revitalization. The annual compensation for a Coordinator is \$12,000. This would be prorated for the balance of year 2011. Funding is available from Casino Funds - Economic Development.

Will the Council so approve?

Agenda Item #9

During the period of time the City was transitioning into the Rainbow Mall, the City utilized the security services provided by the Cordish Company. That arrangement ended on March 31, 2011. The City is now utilizing Morris Security for those security services pursuant to an agreement in place. The monthly charge for those services is approximately \$10,304.40. Utilities have also been switched over. The Culinary School is in the process of addressing its utility needs as construction commences. The City has been invoicing NCCC for one-third of security charges, as well as utilities. This arrangement will continue until further notice. It is estimated that the City's cost for the balance of 2011 (April 1 - December 31, 2011) will be approximately \$80,000.00. Funding is available from Special Projects Fund Balance.

Will the Council so approve?

Agenda Item #10

Attached hereto is a list of equipment for the department deemed necessary by the Director. The cost to acquire these items totals \$662,221.63. Funding is available from Special Projects Fund Balance.

Will the Council so approve?

Agenda Item #11

It is desirable to reinstitute again this year Trolley Service in the City in cooperation with the Niagara Frontier Transportation Authority. Attached is a proposed agreement and map showing the trolley route. The total cost is estimated to be \$418,225.00. Funding is available from the Tourism Fund.

Will the Council so approve?

Agenda Item #12

The City has received a request from the New York State Department of Environmental Conservation to install a monitoring well in the City parking lot at 916 Cleveland Avenue.

The well is part of the Department's responsibility for characterizing any potential off-site bedrock groundwater contamination that may have come from the Civic Building site.

It is anticipated that the well will only be installed on a temporary basis and after some testing will be removed and the site restored.

Will the Council so approve and authorize the Mayor to execute any documentation necessary to effectuate this in a form acceptable to the Corporation Counsel?

Agenda Item #13

The Niagara Falls Boys and Girls Club will be sponsoring its 4th Annual 5-K "Run in the Mist" to be held on Wednesday, June 22nd, at 7:00 p.m. This event is attended by over 500 runners, walkers and friends of the Niagara Falls Boys and Girls Club.

A contribution from the City in the amount of \$1,000.00 would go far to make this event a success. Funding is available from Tourism Fund Balance.

Will the Council so approve and authorize the Mayor to execute a funding agreement in form satisfactory to the Corporation Counsel?

Agenda Item #14

The owner of 24 Buffalo Avenue is in the process of opening a new restaurant in the building and is also in the process of opening a tourist service related business as well. There is no parking available for visitors to 24 Buffalo Avenue that is controlled by this owner. Therefore, this owner has requested use of the City-owned municipal parking lot located at the corner of First Street and Buffalo Avenue and the use of vouchers for the convenience of patrons of 24 Buffalo Avenue. A price per voucher of \$2.50 was negotiated. It is anticipated that a patron using a voucher would park in this lot for not more than three hours.

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

Agenda Item #15

We respectfully request you award a contract for fireworks display as follows:

TO: Zambelli Fireworks Mfg. Co.
PO Box 1463
New Castle, PA 16103

FOR: Fireworks displays on July 4th at Hyde Park: \$25,000.00

Requests for proposals were sent to four (4) companies. The above referenced company has provided our July 4th fireworks displays previously. Proposals were also received from Skylighters of Western New York and Pyrotechnico.

Funds are available in the Tourism Fund account code T6410.0000.0449.599.

Agenda Item #16

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

TO: NOCO Energy Corporation
2440 Sheridan Drive
Tonawanda, NY 14150

FOR: Items 3, 4, 5, 10 and 11 per the attached tally sheet.

TO: Superior Lubricants Co., Inc.
32 Ward Road
North Tonawanda, NY 14120

FOR: Items 1, 2, 6, 7, 8 and 9 per the attached tally sheet.

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 Three (3) vendors. Three (3) bids were received. The above referenced companies submitted the lowest bids for each respective item.

Funds for these expenditures are available in the Central Garage code:
MV0055.0000.0414.000.

Agenda Item #17

In accordance with Section 1903 of the Real Property tax Law, the City of Niagara Falls Council must certify the attached referenced percentages and proportions.

Assessing units using Article 19 Homestead option must certify percentages And proportions when final class equalization rates are established by the Office of Real Property Services.

The certification is now due and the attached represents the necessary certifications.

Will Council certify the attached percentages and proportions?

RELATIVE TO ADDITIONAL RESTRICTIONS ON
PAROLE AND RELOCATION FOR CERTAIN SEX OFFENDERS

BY:

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

WHEREAS, Assemblyman John Ceretto has sponsored NYS Assembly Bill #1993A, which is a bill to amend the Correction Law, in relation to establishing additional restrictions on parole and relocation for certain sex offenders; and

WHEREAS, the purpose of this bill is to allow localities to limit the number of high-risk sex offenders who are placed or located within residential areas of a municipality or portion of a municipality that already contains a high concentration of such individuals; and

WHEREAS, this measure would help prevent high concentrations of sex offenders from being placed in any one particular community. Municipalities would be authorized to accept or reject the placement of additional high-risk level 2 and level 3 sex offenders within their communities based upon the guidelines established by appropriate state agencies; and

WHEREAS, Assemblyman Ceretto noted that families and community leaders in his district have voiced concerns regarding the safety of their children. This legislation would empower local municipalities to determine where individuals will be housed and exactly where they will be placed in order to protect public safety; and

WHEREAS, the Niagara Falls City Council applauds Assemblyman Ceretto for the sponsorship of this bill and other sponsored legislation regarding requirements for sex offenders.

NOW, THEREFORE, BE IT RESOLVED, by the Niagara Falls City Council, that we fully support Assembly Bill #1993A and urges the colleagues of Mr. Ceretto to pass this legislation which will give enhanced powers to municipalities regarding this issue.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Leadership of the New York State Legislature and the local state representatives in Niagara County.

Agenda Item #19

RESOLUTION RELATIVE TO ADOPTING CHAPTER 720 OF THE CODIFIED ORDINANCES ENTILED
"PROHIBITION OF GRAFFITI AND PROVIDING FOR ERADICATION, ENFORCEMENT AND PENALTIES"

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

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 720 of the Codified Ordinances entitled AProhibition of Graffiti and Providing for Eradication, Enforcement and Penalties" is hereby adopted to read as follows:

CHAPTER 720

PROHIBITION OF GRAFFITI AND PROVIDING FOR ERADICATION, ENFORCEMENT AND PENALTIES

<u>720.01</u>	<u>Purpose</u>
<u>720.02</u>	<u>Definition</u>
<u>720.03</u>	<u>Prohibited Acts</u>
<u>720.04</u>	<u>Sale of Aerosol Spray Paint Cans, Broad-Tipped Markers And Etching Acids</u>
<u>720.05</u>	<u>Graffiti Placement Penalties</u>
<u>720.06</u>	<u>Parental Responsibility; Civil Responsibility</u>
<u>720.07</u>	<u>Notice to Remove Graffiti</u>
<u>720.08</u>	<u>Penalties for the Failure to Remove Graffiti</u>
<u>720.09</u>	<u>Enforcement</u>
<u>720.10</u>	<u>Severability</u>

720.01 PURPOSE

The City of Niagara Falls and its neighborhoods have been negatively impacted by the spreading plague of illegal graffiti. Graffiti is a public nuisance and destructive of the rights and values of property owners as well as the City's neighborhoods by promoting blight and encouraging further acts of vandalism. Pursuant to New York State Law, the practice of making graffiti is illegal and, therefore, the City must discourage the act of illegal placement of graffiti, enforce its removal from public and private property and apprehend those responsible for its placement.

720.02 DEFINITION

Graffiti - The etching, scratching, painting, covering, drawing upon or otherwise placing of a mark upon public or private property, without the consent and express permission of the owner or proprietor thereof or, in the case of public property, of the person having charge, custody or control thereof.

Deface - To mar the face or surface or disfigure, injure or spoil the appearance of.

Broad-Tipped Marker - Any felt-tip marker or similar implement containing a fluid or coloring matter that is not water soluble and which has a flat or angled writing surface of 1/2 inch or greater.

Etching Acid - Any liquid, cream, paste or similar substance that can be used to etch, carve, engrave, or otherwise impair the physical integrity of glass or metal.

720.03 PROHIBITED ACTS

A. No person shall write, paint or draw any word, inscription, design, figure or mark, or otherwise mar or deface any property, real or personal, public or private, nor any building, church, synagogue, place of worship, statue, monument, office, passenger or commercial vehicle, bridge, dwelling or structure of any kind, including those in the course of construction or any portion thereof, without the

consent and express permission of the owner or proprietor thereof or, in the case of public property, of the person having charge, custody or control thereof.

B. No person shall carry an aerosol spray paint can, broad-tipped indelible marker, or etching acid into any public building or other public facility with the intent of violating the provisions of the foregoing Subsection A of this section.

C. It shall be unlawful for any person, firm or corporation owning or otherwise being in control of any real property within the City of Niagara Falls to maintain, permit or allow any graffiti to be placed upon any structure located on such property when the graffiti is visible from the street or other public or private property after notice, in writing, has been given to such person, firm or corporation in control of said property.

720.04 SALE OF AEROSOL SPRAY PAINT CANS, BROAD-TIPPED MARKERS AND ETCHING ACIDS

No person shall sell or offer to sell an aerosol spray paint can, broad-tipped indelible marker or etching acid to any person under 18 years of age.

720.05 GRAFFITI PLACEMENT PENALTIES

Any person, firm or corporation who is convicted of violating Section 720.03 or 720.04 of this Chapter shall be guilty of a violation and shall be punished by a fine not to exceed Two Hundred Fifty Dollars (\$250.00) or by imprisonment not to exceed fifteen (15) days or both such fine and imprisonment. The Court may suspend or probate a portion or its entire sentence upon such conditions to include, but not be limited to, the restoring of the property so defaced, damaged or destroyed, or other remedial action.

720.06 PARENTAL RESPONSIBILITY; CIVIL RESPONSIBILITY

The parent or legal guardian, other than the State of New York, Niagara County Department of Social Services or Court appointed foster parent, of any minor over the age of 10 and under the age of 18 that violates any provision of this Chapter shall be liable for any damages and/or remediation costs resulting from said violation.

720.07 NOTICE TO REMOVE GRAFFITI

It shall be unlawful for the owner of any property or for any person, firm, corporation or utility owner acting as a manager, tenant or agent for the owner of the property, to fail to remove graffiti within the time period specified in the written notice given by the City.

Whenever the City becomes aware of the existence of graffiti or other unsightly conditions on any property, including structures or improvements within the City, a police officer or code enforcement officer shall give or cause to be given, written notice to the property owner, and/or owner's agent, tenant or manager to remove such graffiti or other unsightly condition there from.

The notice requirement by this section may be accomplished by personal service or regular mail addressed to the owner or the last known address of said owner. If this address is unknown, the notice will be sent to the property address. Such notice shall require removal of identified graffiti within a reasonable time period as specified in the written notice, not to exceed 10 days from the date of the notice.

For the purposes of giving notice to the owner of the property, the person shown as the owner of said property according to the tax records kept by the City Assessor shall be sent notice at the address shown thereon unless the City receives actual notice that another person owns said property. In addition, the owner may notify the City that the tenant, pursuant to a written lease, has control of the property or has control of that portion of the building which is the subject matter of this ordinance and, in the event the City receives such notice, the City shall notify the tenant of the notice of removal as provided in this ordinance and proceed against the tenant and not the owner. Provided, however, as to any violation of this ordinance in existence prior to the date of approval of this ordinance, any notice of removal shall give twenty (20) days for the removal thereof.

A property owner that has received proper written notice of the presence of graffiti on his/her property shall remove the graffiti themselves or through the use of a private contractor within the time period specified in the notice.

720.08 PENALTIES FOR THE FAILURE TO REMOVE GRAFFITI

A. A property owner that fails to remove graffiti before the expiration of the time period indicated in the written notice as provided by this ordinance shall be issued a summons to appear in Niagara Falls City Court in order to have there determined whether the property owner is in violation of the provisions of this ordinance. A property owner that is adjudged to be in violation of this ordinance shall be guilty of a violation and shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) or by imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment. Each day in which any such violation shall continue beyond the expiration of the time period indicated in the written notice as provided by this ordinance shall be deemed a separate offense.

B. Any person, firm, or corporation violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, and the City may maintain an action against such person, firm or corporation to recover for such expense, loss or damage, together with the costs of executing such notice or orders required. This shall include, but not be limited to, costs associated with correcting or remediating any violation of this Chapter.

720.09 ENFORCEMENT

The Director of Code Enforcement or his designee and/or any other law enforcement agency are hereby authorized to issue appearance tickets in the enforcement of this Chapter.

720.10 SEVERABILITY

If any term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining.

Bold and Underlining indicate **Additions.**
Bold and Brackets indicate **[Deletions]**.

Agenda Item #20

RELATIVE TO EXTENDING THE MORATORIUM
UPON CONSIDERATION OF APPLICATIONS FOR
PAWN BROKERS/SECOND-HAND DEALERS

BY: Council Chairman Samuel Fruscione

WHEREAS, at its November 1, 2010 meeting this Council imposed a 90-day Moratorium on the consideration of applications for pawn broker and second-hand dealer licenses; and

WHEREAS, this Moratorium was extended at the January 24, 2011 Council meeting; and

WHEREAS, this Moratorium expires on April 30, 2011; and

WHEREAS, the review of the Ordinances is not yet completed.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that: the Moratorium on the consideration of applications for pawn brokers and second-hand dealer licenses be extended to July 31, 2011.

Agenda Item #21

RELATIVE TO AUTHORIZING THE IMPLEMENTATION AND FUNDING
IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID
ELIGIBLE COSTS OF A TRANSPORTATION FEDERAL-AID
PROJECT, TO FULLY FUND THE LOCAL SHARE OF FEDERAL-AID
ELIGIBLE AND INELIGIBLE PROJECT COSTS,
AND APPROPRIATING FUNDS THEREFOR.

PROJECT TO PAINT THE PORTER ROAD BRIDGE
OVER THE CSX RAILROAD, BIN 2039560, IN THE
CITY OF NIAGARA FALLS, NIAGARA COUNTY, PIN 5760.18

BY: Council Member Charles Walker

WHEREAS, the Project to Paint the Porter Road Bridge over the CSX Railroad, BIN 2039560, in the City of Niagara Falls, Niagara County, PIN 5760.18, (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

WHEREAS, the City of Niagara Falls desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) Phase of the project PIN 5760.18 .

NOW, THEREFORE, the City Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further

RESOLVED, that the City Council of the City of Niagara Falls hereby authorizes the City of Niagara Falls to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-VI) Phase of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 15,000 is hereby appropriated from Casino Revenue and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the amount required to pay the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-VI) Phase exceeds the amount appropriated above, the City of Niagara Falls shall convene its City Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Mayor of the City of Niagara Falls be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Niagara Falls with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal-Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible, and it is further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.