



SEPTEMBER 3, 2013

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the September 3, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:03 P.M. in the Council Chambers.

Present: Council Chairman Glenn Choolokian, Council Members Robert Anderson, Samuel Fruscione, Kristen Grandinetti and Charles Walker.

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Walker moved to approve the Minutes from the City Council Meeting of July 24, 2013.

Yeas	5
Nays	0

APPROVED

Corporation Counsel Craig Johnson gave an update on the Hamister Project. He said that he had met with Council Member Fruscione to discuss the Council Member's concerns on the Project, and he would follow up and brief the Council Chairman and other Council Members. Mr. Johnson also said that the City, USA Niagara and Hamister are all working diligently together on an agreement for the Project. Council Member Grandinetti asked what the time frame was for the agreement, and Mr. Johnson responded that he had hoped to bring the agreement to the Council for a vote at this Meeting, but was not able to do so. Council Member Anderson added that this was not an extraordinary amount of time to negotiate an agreement on a project, and asked about also including a Performance Bond in the agreement.

Chairman Choolokian said that he had received inquiries about fracking taking place at the BFI landfill, and noted the Ordinance adopted by Council against fracking. He asked that Mr. Johnson look into enforcement of this Ordinance.

Chairman Choolokian also said he had received complaints that the new water meters could be a source of radiation and health problems. He also asked that Mr. Johnson look into this.

Mr. Johnson distributed copies of three Items to be added to the Agenda:

1. A communication relative to hiring a contractor to cut brush and grass on the Old Railroad Bed between Frontier and Stephenson Avenues.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #16.

2. A communication relative to funding to continue services of a Seasonal Clerical Aide in the DPW Administration Division.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #17.

3. A communication relative to funding to keep the Golf Course open later in the season
Council Member Fruscione moved to add the communication to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #18.

Mayor Dyster said that Community Development Director Seth Piccirillo was available to speak on Agenda Item #8, and Susan Sherwood was available to speak on Agenda Item #15.

This Session ended at 5:18 PM

Chairman Choolokian reconvened the Meeting at 6:03 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Walker and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The Chairman asked if anyone wished to speak on Agenda Items or Community Interests, and the following spoke:

Nicholas D'Agostino	Agenda Items #4, #8, #13, #15
Diane Tattersall	Agenda Item #8
Paul Gromosiak	Loss of Delores Marino; lectures at Library & display at Library
Ron Anderlugh	Gill Creek Park partners; thanks to DPW; Cameras in Park; raise rental rates & charge deposit for rentals; downtown Hotels height
Nicholas D'Agostino	Make good use of Casino funds; Council Members doing a good job; Gill Creek Park
Doug Brown	Loss of business when Old Falls St. is closed for concerts; issues with Global Spectrum contract
Rick Crogan	Thanked candidates for participating in Forum; encouraged citizens to come out and vote
Ram Patel	Concerned about fair market price for 310 Rainbow Blvd. parcel
Ricky Patel	Concerned about fair market price for 310 Rainbow Blvd. parcel
Ronda Grose	Thanked Council Members who attended Neighborhood meeting regarding rats; housing demos & rehab; Water Board issues; truck traffic in neighborhood
Diane Tattersall	More dog owners are cleaning up

City Clerk read a statement from Owen Steed Sr. in support of the Niagara Falls Housing Authority's Summer Enrichment Program for Youth.

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

CLAIM REPORT FOR THE MONTH OF JULY 2013
Agenda Item #1
THIS ITEM WAS RECEIVED AND FILED

CITY CLERK'S REPORT FOR THE MONTH OF JULY 2013
Agenda Item #2
THIS ITEM WAS RECEIVED AND FILED

09/03/2013

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

TRACT I AND TRACT II, EXTENSION OF REMEDIATION/DEVELOPMENT DATES,
BRIGHTFIELDS CORP.

Agenda Item #3

On February 6, 2012, City Council approved the transfer of Tract I and Tract II, consisting of 23± acres for \$1.00. The Brightfields Corprations received the land and have undertaken to remediate and develop the real property. The sites are being remediated in accordance with DEC-approved Remedial Measure Work Plans. The original plans called for completion of the work and a final engineering report to be submitted by October 31, 2013. Due to additional remedial work that is necessary on the sites, the new date for completion of the work on both sites is March 17, 2014.

Within 18 months of completion of remediation, Brightfields will construct playground improvements costing a minimum of \$250,000.00 on five acres of the Tract II property. That land will be conveyed back to the City to become a City Park. This park will replace the Center Court playground which became part of the HOPE VI housing development. Within 24 months of completion of the remediation, Brightfields will complete on Tract I or Tract II at least one aspect of the proposed development at a cost, exclusive of remediation, of at least \$1.5 Million.

Due to the new completion date in the DEC-approved Work Plans, will the Council vote to approve the extended remediation completion date, which will also extend the park completion and development completion dates, and to authorize the Mayor to execute any documents, with Corporation Counsel approval, necessary to effectuate the same?

Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

CONTROLLER: VARIOUS FEES

Agenda Item #4

The City Controller is recommending the following fees be implemented immediately:

First, that the "All in One Search" tax search fee be increased from \$25.00 to \$35.00 to more accurately reflect the cost to the City in obtaining the information and providing the tax search.

Second, the creation of a fee of \$20.00 for checks returned to the City for insufficient funds to offset the City's cost for same.

Third, the creation of a fee of \$10.00 for a parking violation records check. This fee will offset the cost of conducting the check and providing the information when it is requested and is the same fee New York State charges for their check.

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

NIAGARA COUNTY OFFICE FOR THE AGING: USE OF LASALLE FACILITY

Agenda Item #5

For more than 35 years the NCOFA has provided senior citizen residents of the City of Niagara Falls with a nutrition program, including providing high-quality meals, as well as the organization of programs such as bingo, exercise programs and many more. Approximately 30 to 40 seniors benefit from these programs, including the daily lunch program, on a regular basis.

The NCOFA has previously paid the City \$2,431.00 on an annual basis for the use of the LaSalle Facility for this purpose. The NCOFA has requested that this annual fee be eliminated due to adverse budget issues facing the NCOFA. The NCOFA advises that most of their other nutrition sites in other communities have allowed NCOFA to use available space with no payment. NCOFA has advised that it will re-locate to an alternate site outside of the City if this issue is not resolved, which would be detrimental to resident City seniors.

Given the benefit to City seniors by NCOFA every day with no payment from the City, it would appear that sufficient consideration exists to the City and its residents to justify allowing the NCOFA to use the LaSalle Facility during year 2013 for no charge. Attached (on file in the City Clerk's Office) is a copy of a communication from NCOFA in this regard together with a memo of support from the City's Senior Services Program Coordinator.

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

CONTRACT: FAMILY & CHILDREN'S SERVICE OF NIAGARA FALLS (FACS), EMPLOYEE ASSISTANCE PROGRAM (EAP)

Agenda Item #6

The City has agreements in place with FACS to provide an Employee Assistance Program (EAP). In order to comply with the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") FACS has requested that the City enter into a Business Associate Agreement that complies with the new HIPAA privacy regulations and protects the privacy of protected health information of individuals for whom FACS provides services. The agreement defines the responsibility of both parties. Attached (on file in the City Clerk's Office) is a communication from FACS in this regard.

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

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

PURCHASE: PURCHASING DEPT., MICROFILM READER-PRINTER

Agenda Item #7

The Principle Purchasing Clerk is requesting that the City purchase a Microfilm Reader-Printer to replace the existing reader-printer which is 14 years old and breaks down frequently. Repairs for this item are expensive. This item is necessary in order for the records center to fulfill departmental requests that are stored on microfilm.

The cost of this item is \$11,494. Funding is available from casino interest.

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

Agenda Item #8

A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached. All Council Members received the DRAFT Action Plan via memo and email on July 26, 2013 to allow ample time for review, as well as an invitation from Community Development Director Seth Piccirillo to review the plan in person. The proposed budget is the key component of the City's 2014 Annual Plan and Strategy, a United States Department of Housing and Urban Development (HUD) mandated planning document that assesses community needs and identifies how the City will address those needs.

The 2014 Annual Plan is the end result of a lengthy, detailed, and well advertised, citizen participation process that included four neighborhood based meetings in May/June 2013 and a new paper and online citizen survey designed to encourage comments, suggestions, and ideas from various community groups, residents, business persons, and other interested parties. The Community Development Department successfully followed the transparent schedule (attached) presented to the City Council in May 2013. The DRAFT Action Plan was made available for public review on July 24, 2013, a public hearing was held on July 25, 2013, and a month long public comment period concluded on August 26, 2013. The public hearing reviewed the plan specifics, and a copy of the public hearing minutes is included with this agenda item (on file in the City Clerk's Office).

CD will directly administer the federal grant programs listed below. The funding levels indicated are projected revenues for 2013 that may change once U.S. Congressional funding appropriations are announced at a date to be determined.

Community Development Block Grant (CDBG)	\$2,202,000
HOME Investment Participation Program (HOME)	\$ 357,000
HOME Program Income	\$ 75,000
Emergency Shelter Grant (ESG)	\$ 155,000
Section 8 Leased Housing Program	\$3,100,000
PROJECTED FEDERAL REVENUE	\$5,889,000

The Consolidated Plan, including the proposed budgets, must be adopted by the City Council and submitted to HUD by November 15, 2013. HUD must review and approve the Consolidated Plan in order to establish our letter of credit with the United States Treasury. There is value in early submittal, as HUD must receive and approve plans from around the Country. Therefore, Council's approval at this time will represent the officially adopted CDBG, HOME, and ESG budgets for FY 2014. The Section 8 Leased Housing is renewed automatically by HUD but must still be adopted at this time by the City Council.

Will the City Council vote to so approve the 2014 Annual Plan and 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.

Council Member Fruscione moved to Table the communication

Yeas	4
Anderson, Fruscione, Walker, Chairman Choolokian	
Nays	1
Grandinetti	

TABLED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CITY PROPERTY: 1307 SOUTH AVE., SALE

Agenda Item #9

The City has received a request from the adjoining property owner to purchase the above referenced City-owned property for the sum of \$50.00. This property was approved for sale by the Planning Board.

Will the Council approve the sale of this premises for this price in an "as is" condition and with the requirement to combine the property, with the closing to be performed within 30 days, and with the standard pre-condition that the purchaser is not delinquent with any tax or water bill, and further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

CLAIM: STANEK, KIMBERLY

Agenda Item #10

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	07/29/2013	\$ 35.52
Cardamone Chiropractic	08/01/2013	\$ 35.52
ProScan Radiology Buffalo	08/02/2013	\$1,100.00
Cardamone Chiropractic	08/05/2013	\$ 35.52
Cardamone Chiropractic	08/08/2013	\$ 35.52
Cardamone Chiropractic	08/12/2013	\$ 35.52
		<u>\$1,277.60</u>

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?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

CLAIM: HARRIS, TESSIA C.

Agenda Item #11

RE: Request for Approval to Settle and Pay Claim of GEICO a/s/o Tessia C Harris P.O. Box 88, Woodbury, NY 11797

Council Members:

Date Claim Filed:	2/15/13
Date Action Commenced:	N/A
Date of Occurrence:	1/18/13
Location:	Intersection of 11 th Street and Niagara Ave.
Nature of Claim:	Automobile damage sustained in an accident with City vehicle
City Driver:	John Rosino
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$703.39
Make Check Payable to:	GEICO a/s/o Tessia C. Harris
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?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

COMMISSIONER OF DEEDS: APPOINTMENTS

Agenda Item #12

The following have requested City Council approval for Commissioner of Deeds for a term from October 1, 2013 to September 30, 2015.

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

Herbert, Latricia	City Clerks Office
Carter, Kimberly	Engineering
Cain, Carlton	NFPD
Jones, Daniel	NFPD
Reynolds, James	NFPD
Cannello, Leonard M	9141 Rivershore Dr., NF NY 14304
Conti, Irene	603 38 th St., NF NY 14301
Erias, David	2422 Forest Ave. NF NY 14301
Fasciano, Louisa	8321 Laughlin Dr., NF NY 14304
Genova, Jerauld	757 Seymour Ave., NF NY 14305
Mayes, William	243 77 th St., NF NY 14301
Shank, Victoria	1839 Niagara Ave., NF NY 14305
Thomas, Duane	419 12 th St., NF NY 14303
Trimmer, Maureen	3611 Chapin Ave., NF NY 14301

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

SECOND HAND DEALERS: APPROVALS

Agenda Item #13

Chapter 338 of the Codified Ordinances states: "338.03...City Council may grant a license to carry on the business of secondhand dealer within the City..."

The following have submitted applications for secondhand dealer licenses. These applications have been approved by the Niagara Falls Police Department.

Niagara Coins & Collectables
509 Third St
Niagara Falls, NY 14301
Louis Muzzillo

Niagara Metals LLC
4861 Packard Rd.
Niagara Falls, NY 14304
Jamie Hypnarowski

Rubens Buy & Sell Shop
Mikes Buy & Sell Shop
2101 Pine Ave
Niagara Falls, NY
Michael Giangreco

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

PAWNBROKERS: APPROVAL

Agenda Item #14

Chapter 337 of the Codified Ordinances states: "337.03...City Council may grant a license to carry on the business of Pawnbrokers within the City..."

The following have submitted applications for Pawnbroker Dealer license. This application has been approved by the Niagara Falls Police Department.

Niagara Collateral
509 Third St
Niagara Falls, NY 14301
Louis Muzzillo

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

RESOLUTION: RELATIVE TO AUTHORIZING FUNDING FOR NF INTERMODAL TRANSPORTATION CENTER PROJECT, PRELIMINARY ENGINEERING (SCHEMATIC & DETAILED DESIGN). RIGHT OF WAY INCIDENTALS (ROW MAPPING) AND CONSTRUCTION & CONSTRUCTION INSPECTION PHASES OF THE PROJECT
BY: COUNCIL MEMBERS GRANDINETTI AND WALKER

Agenda Item #15

WHEREAS, a Project, The Niagara Falls Intermodal Transportation Center Project, in the City 01 Niagara Falls, Niagara County, PIN 5756.28 (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 or 100% Federal funds, depending on the Source of Federal funding; and

WHEREAS, the City of Niagara Falls desires to advance the above project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project, PIN 5756.28 .

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

RESOLVE, that the Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further RESOLVED, that the 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 share of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 726,000.00 is hereby appropriated from funds previously received and allocated for this project (in addition to \$ 816,000.00 previously appropriated for the project's Preliminary Engineering and Right-of-Way Incidentals Phases via City Resolution Nos. 2001-81 and 200980, adopted July 16, 2001 and October 5, 2009, respectively) and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 1,542,000.00 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds \$ 9,101,680.14 , the City of Niagara Falls shall convene its 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.

Council Member Fruscione moved to Table the communication

Yeas 3

Anderson, Fruscione, Chairman Choolokian

Nays 2

Grandinetti, Walker

TABLED

PUBLIC WORKS: BRUSH/GRASS CUTTING

Agenda Item #16

The Director of Department of Public Works has requested that a contractor be hired to accomplish the cutting of high brush and grass on the old railroad bed between Frontier Avenue and Stephenson Avenue from 56th Street to the NYS Thruway. The NYS DOT must consent to the City engaging in this activity on its real estate.

This area will first be baited for rats and then the high brush and grass will be cut.

The amount estimated to cut this high brush and grass is \$1,800.00 as per the attached (on file in the City Clerk's Office) quote from Niagara Grass Cutting. Funding is available from the City Council Contingency Fund. This amount will be transferred into account A.8510.0000.0449.080 - Grass Cutting/Cleanup. In the event the NYS DOT proceeds to cut this high brush and grass, it will be unnecessary for the City to engage this contractor to do so.

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas

5

Nays

0

APPROVED

PUBLIC WORKS: SEASONAL CLERICAL AIDE, CONTINUED FUNDING

Agenda Item #17

The Director of DPW is requesting funding to continue the services of a Seasonal Clerical Aide in the DPW Administration division thru December 31, 2013. The cost is estimated to be \$6,000.00 (inclusive of FICA). Funding is available from the City Council Contingency Budget Line and is to be transferred to account number A.1490.0001.0130.000.

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas

4

Anderson, Fruscione, Walker, Chairman Choolokian

Nays

1

Grandinetti

APPROVED

PUBLIC WORKS: PARKS/GOLF DIVISION FUNDING

Agenda Item #18

The Director of DPW is requesting the sum of \$4000.00 (inclusive of FICA) be made available to the DPW /Parks, Golf Division for the purpose of allowing the City to keep the golf course open later in the season. The funding will provide staffing at the golf course to allow the season to be extended. The Director reports that keeping the course open later will result in additional revenues for the City.

Funding is available from the City Council Contingency budget line and is to be transferred to the following account numbers:

Golf Operations Temp	GC.7250.0100.0130.000	- \$	929.00
Golf MTC Overtime	GC.7250.0200.0140.000	- \$	2,787.00
Golf Operations FICA	GC.7250.0100.0810.000	- \$	71.00
Golf MTC FICA	GC.7250.0200.0810.000	- \$	213.00

Will the Council so approve?

Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas

5

Nays

0

APPROVED

There being no further business to come before the Council,
Chairman Choolokian adjourned the Meeting at 6:50 P.M.

Carol A. Antonucci
City Clerk

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