



NOVEMBER 12, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the November 12, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:08 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, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Special Meetings of October 8, October 9, and Council Meetings of October 15, October 28, 2013.

Yeas 5  
Nays 0

APPROVED

In the Administrative Update, Mayor Paul Dyster reported that the contract for the Hamister Project is in the process of being finalized, nothing new has been added to the Agreement, and the contract may be signed by Friday. Council Member Anderson stated that "no one pressured him" regarding the Agreement.

Council Member Fruscione asked when repairs to the second floor staircase in the lobby of City Hall would be done, and the Mayor said that he would look into the matter.

Council Member Walker asked if bids had been received for the lighting in the City lot at Wrobel Towers. The Mayor replied that the bids had come in much higher than the amount that had been budgeted for the lighting, and ways were being looked into to get the costs down. Council Member Fruscione asked about using Casino funds, and Chairman Glenn Choolokian asked to get a price for portable lights until the matter can be worked out. Council Member Fruscione asked about the two City Electricians doing the work "in house", and the Mayor responded that the lights had deteriorated to the point where they could not be repaired. Council Member Walker added that the work needs to be done, and said that it should be the Council's decision on the amount spent to get the work done. After a lengthy discussion, Council Member Fruscione made a motion to allocate \$90,000 to pay for lighting of the City lot at Wrobel Towers.

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

MOTION APPROVED

The communication was added to the Agenda as Item #11.

Corporation Counsel Craig Johnson distributed copies of an Item to be removed from the table and Items to be added to the Agenda.

1. A communication relative to the 2014 Community Development Annual Plan and Budget.

Council Member Grandinetti moved to remove the communication from the table.

Yeas	5
Nays	0

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

The communication was added to the Agenda as #12.

Council Member Grandinetti moved to amend the communication by substituting the Action Plan dated October 28, 2013 for the draft dated July 25, 2013.

Yeas	5
Nays	0

MOTION TO AMEND COMMUNICATION APPROVED

2. A communication relative to funding for installation of video systems at various DPW facilities.

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 #13.

3. A communication relative to funding for remediation of mold-type substances at the 72<sup>nd</sup> Street Fire House.

Council Member Grandinetti 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 #14.

This Session ended at 5:35 PM

Chairman Choolokian reconvened the Meeting at 6:08 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:

Paul Gromosiak	Prospect Point; Portage & Niagara Experience Center
Ken Hamilton	Veterans Memorial; North Main St. Entertainment Center
Doug Brown	Closing of Old Falls St.
Gerald Skrlin	Thanking Sam Fruscione for helping him; offered to sell the façade of his house to the City; equal protection of the Law and equal prosecution

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: POLICE CAPTAINS/LIEUTENANTS ASSOCIATION PROPOSED 2013  
MEMORANDUM OF AGREEMENT

Agenda Item #2

Attached (on file in the City Clerk's Office) please find the proposed 2013 Memorandum of Agreement between the City of Niagara Falls and the Police Captains and Lieutenants Association. This proposed Agreement is a four (4) year extension of the parties' collective bargaining agreement.

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

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

Yeas 5  
Nays 0  
APPROVED

PURCHASE: MIS DEPARTMENT, IT HARDWARE/SOFTWARE FOR ALL DEPARTMENTS

Agenda Item #3

The Director of MIS has requested that the sum of \$300,000.00 be made available from casino revenues in order to provide for the needs of various departments in the immediate future as well as to make improvements/replacements to the City's website. Attached (on file in the City Clerk's Office) is a summary of the request prepared by the Director.

In addition, amendments have been made to the MIS Computer Equipment/Software Purchase Policy along with the Replacement/Disposal of Computer Equipment Policy. The amended policy is attached hereto.

Funding is available from casino revenues.

Will the Council so approve?

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

Yeas 5  
Nays 0  
APPROVED

CONTRACT: ELECTRONICS RECYCLING, SUNNKING, INC.

Agenda Item #4

We respectfully request you authorize the Mayor to enter into an agreement as follows:

WITH: Sunnking, Inc.  
1800 Broadway, Unit 4A  
Buffalo, NY 14212

FOR: Collection of Used Electronic Equipment.  
Payments to the City (including CRT material)  
\$.006/lb.

The Corporation Yard at New Road is a collection point for used electronic equipment. The City started this program in 2012 and generates approximately \$6,000.00 - \$7,000.00 per year by recycling electronics.

The City Purchasing Division solicited Quotations from three Companies; in addition to the above mentioned quote, one was also received from Rochester Computer Recycling & Recovery, LLC. that would pay the City \$0.00/lb. for electronics and would charge the City a handling fee of \$.25/lb. to collect any CRT material.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: WALNUT AVENUE HOMES DEVELOPMENT, HOUSING VISIONS CONSULTANTS, INC.

Agenda Item #5

THIS ITEM WAS PULLED FROM THE AGENDA.  
THERE WAS NO ACTION TAKEN ON THIS ITEM

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CITY PROPERTY: SALE OF 636 ASHLAND AVE TO KIM A. FASCIANO

Agenda Item #6

The City has received a request from the adjoining property owner to purchase the above referenced City-owned property for the sum of \$200.00. This property was approved for sale by the Planning Board (on file in the City Clerk's Office).

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.

Will the Council further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

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

Yeas	5
Nays	0

APPROVED

CITY PROPERTY: SALE OF 426 13<sup>TH</sup> ST. TO LINDA GIBBONS

Agenda Item #7

The City has received a request to purchase the above referenced City-owned property for the sum of \$500.00. This property was approved for sale by the Planning Board (on file in the City Clerk's Office).

Will the Council approve the sale of this premises for this price in an "as is" condition and 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.

Will the Council further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

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

Yeas	5
Nays	0

APPROVED

CITY PROPERTY: SALE OF 435 MEMORIAL PKWY. TO KAREN MOCK

Agenda Item #8

The City has received a request from the adjoining property owner to purchase the above referenced City-owned property for the sum of \$500.00. This property was approved for sale by the Planning Board (on file in the City Clerk's Office).

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.

Will the Council further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

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

Yeas	5
Nays	0

APPROVED

CITY PROPERTY: SALE OF 462 5<sup>TH</sup> ST. TO JACOB SARAJ

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 \$300.00. This property was approved for sale by the Planning Board (on file in the City Clerk's Office).

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.

Will the Council further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

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

Yeas	5
Nays	0

APPROVED

EASEMENT: NFR TURTLE/RED COACH INN, APPROVAL OF SETTLEMENT

Agenda Item #10

The City owns a parcel of land on Old Main Street located between the Turtle and the Red Coach Inn. The parcel was former Urban Renewal land and has traditionally been used for access to the neighboring Turtle and Red Coach and for parking.

In 1999, an easement was granted to the Turtle over the City parcel. The easement confirmed the non-exclusive right of access over the part of the parcel fronting on Main Street, and granted an exclusive right to park in the rear part of the City parcel.

In 2011 the Turtle sued the Red Coach, claiming interference with the easement rights. City officials were subpoenaed to give depositions in the action. In an attempt to mediate the dispute, in which the City parcel was literally in the middle, the City became a party to the lawsuit.

Attached hereto (on file in the City Clerk's Office) is a proposed settlement agreement. The agreement allows the Red Coach to share parking and locate a dumpster on the parking part of the City parcel. This is the portion on which the Turtle was granted exclusive parking rights under the 1999 easement. If the Turtle reopens, it can reassert its exclusive parking rights under the easement and direct removal of the dumpster. The access portion of the City parcel fronting on Main Street remains available for access, and not for parking.

The right of access over the City parcel by the Turtle and Red Coach would most likely be available as an easement of necessity absent the written easement and this agreement. In limited circumstances such as this one, private parties can have access over public property if the public property provides the sole means of ingress to and egress from the private property.

The parking portion of the parcel has been used by the Red Coach and Turtle for years. While the parking rights might not be granted if proposed for the first time today, the existence of the 1999 easement limits the City's options regarding the parcel. This settlement between neighbors represents an acceptable resolution of the dispute.

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

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

Yeas 5  
Nays 0

APPROVED

CITY PROPERTY: WROBEL TOWERS, PARKING LOT, LIGHT REPLACEMENT

Agenda Item #11

It has been called to the City's attention that the six light standards with eight luminaires in the City-owned parking lot across from Wrobel Towers are not functioning and are deteriorated to the point where repairs are not practical. It is recommended that these lights be replaced so that the parking lot is illuminated thereby benefiting users of that parking lot. \$90,000.00 is available for this purpose in funding code H1312.2013.1312.0449.599, Undesignated Services.

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

COMMUNITY DEVELOPMENT DEPT.: 2014 ANNUAL PLAN & BUDGET, HUD FUNDING

Agenda Item #12

A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached (on file in the City Clerk's Office). 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.

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	
<hr/> PROJECTED FEDERAL REVENUE	<hr/> \$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 that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

PURCHASE: DPW, VIDEO SYSTEMS, SIMPLEX GRINNELL VIDEO SYSTEM

Agenda Item #13

The Director of DPW is requesting that video systems be installed at the parking ramp cashier office, the gas pumps at the DPW facility and at the Parks Department "unenclosed facility." Losses have been sustained at these locations due to theft and vandalism. The DPW Director believes that the installation of cameras in these facilities will not only serve as a deterrent but also assist in apprehension of responsible individuals if losses are sustained in the future. The attached memo (on file in the City Clerk's Office) from the DPW Director and Deputy Director summarize this and estimate the cost to be \$52,160.00. This is available for purchase from state contract.

Funding is available from H0912.2009.0912.0449.599.

Will the Council so approve?

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

Yeas 5  
Nays 0

APPROVED

72<sup>ND</sup> ST. FIRE HOUSE: REMEDIATION OF MOLD-TYPE SUBSTANCES

Agenda Item #14

Testing has now been done at the 72<sup>nd</sup> Street Fire House by Stohl Environmental LLC. Results of that testing have identified some mold-type substances located in different places in the building. Some of this remediation is able to be done "In House" and the remainder will be done by an outside contractor. Competitive proposals will be obtained. The total amount for this remediation is not expected to exceed \$15,000.00. Funding is available from casino revenues.

Will the Council so approve?

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

Yeas 5  
Nays 0

APPROVED

CONTRACT: CLEVELAND AVE./WHIRLPOOL ST. PARKING LOT LIGHTING (WROBEL TOWERS), CIR ELECTRICAL CONSTRUCTION CORP.

Agenda Item #15

The following was the result of bids received on October 31, 2013 for the above referenced project:

<u>CONTRACTOR</u>	<u>BASEBID</u>
CIR Electrical Construction Corp. 400 Ingham Avenue Buffalo NY 14218	\$87,900.00
Yarussi Construction Co.	\$114,000.00

It is the recommendation of the undersigned that this project be awarded to the low bidder CIR Electrical Construction Corp. at their total bid of \$87,900.00. Funding is available in Code H1312.2013.1312.0449.599.

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

Council Member Fruscione moved to add the Item to the Agenda

Yeas 5  
Nays 0

APPROVED

The Communication was added to Agenda as Item #15

Council Member Anderson 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 6:35 P.M.

Carol A. Antonucci  
City Clerk

