



JANUARY 9, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the January 9, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:08 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 December 27, 2011.

Yeas	5
Nays	0

APPROVED

Brian Skinner of National Grid presented a check for \$6400 to Mayor Paul Dyster and Arborist Paul Dickinson as reimbursement for trees planted in the City as part of the "Right Tree, Right Place" Program.

In the Administrative Update:

1. City Administrator Donna Owens reported that the positions of Fire Chief, Human Resources Director and Community Development Director had been advertised in the Niagara Gazette, Buffalo News and various professional publications. The deadline for responses is January 26, after which time the interview process will begin, and the filling of the Department Head positions is a priority for the Administration. Chairman Fruscione asked Controller Maria Brown if giving the Battalion Chiefs in the Fire Department acting pay in the absence of a Chief has cost more in overtime than the actual salary of a Fire Chief, and Mrs. Brown responded that the Battalion Chiefs have been very watchful of the overtime expenditures, but she will research the actual costs and report back to the Council. Mayor Dyster added that he would contact the persons who had applied for the Fire Chief position before the November Election to see if any of them were still interested in the position. The City Administrator added that the Human Resources and Community Development Departments have Acting Department Heads who are within the Department. Council Member Choolokian asked if any persons within the various Departments had expressed an interest in the Department Head position, and the City Administrator responded that there had been some applications from persons within the Departments. Council Member Choolokian asked that consideration be given to promoting persons within the Departments wherever possible.

2. Director of Public Works David Kinney spoke on the process for the paving of the City Hall Parking Lot, and Mrs. Brown added that the Project cost will be in the six figure amount.

Mayor Dyster spoke on the Governor's State of the State Address, and said that he feels the City will benefit from the Governor's economic initiative for Buffalo.

Chairman Fruscione asked the Mayor if he had any further information on the status of the Casino funds that were due to the City, and the Mayor stated that the City will continue to push for the funds that are due. Council Member Choolokian stated that the Mayor and Council must work together to resolve the issue. Council Member Anderson added that, in negotiating a new package for use of Casino funds, one use for the funds must be to reduce taxes.

This Session ended at 4:40 PM

Chairman Fruscione reconvened the Meeting at 7:00 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Anderson and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The scheduled Presentation by the National Historic Trust/Preservation Buffalo-Niagara, honoring the Niagara Day Organizers, was not given.

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

Paul Gromosiak	War of 1812 events in Niagara Falls; Niagara Experience Center
Ron Anderluh	National Grid check to the City; Landlord Registration Ordinance; privatize parking; vacant Department Head positions; Revitalization Coordinator Positions funding
Candace Corsaro	Congratulations to Council Members Anderson and Choolokian; KABOOM meeting; Hyde Park Business Association Dinner & Awards
Arthur Garabedian	Work with NFR to build International Center downtown using State incentives

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF DECEMBER 2011
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

NFC DEVELOPMENT CORP., GRANT FOR 2012 BUDGET

Agenda Item #2

The 2012 N.F.C. Development Corp. operating budget requires an additional \$6,890 to meet anticipated expenses. As you recall, NFC is being funded entirely with casino revenues. Funds are available from the local share of casino revenues received by the City. State Finance Law 99-h states funds may be used to accommodate and enhance economic development.

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

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

Yeas
Nays

5
0

APPROVED

CONTRACT: 1128 LINWOOD AVE., DEMOLITION, MARK CERRONE, INC., CHANGE ORDER

Agenda Item #3

Mark Cerrone, Inc., the demolition contractor for contract CD 2010-3, contacted Community Development in early 2011. The contractor stated that they had removed an additional 1,000 square feet of plaster containing asbestos from 1128 Linwood Avenue, one of the houses demolished in December, 2010. The contractor had removed the plaster without contacting the City for authorization. The report of JMD Environmental, Inc., the City asbestos services contractor which monitored the demolition, did not indicate that additional asbestos containing material had been removed.

Mark Cerrone, Inc. was asked to provide some documentation of the additional material. On August 2, 2011, Mark Cerrone, Inc. provided a revised project monitor final inspection report from JMD Environmental, Inc. for 1128 Linwood. The revised report stated that all ACM (asbestos containing materials) that was listed on the initial survey was removed, plus an additional 1,000 square feet of plaster. JMD also submitted a revised asbestos survey listing the additional plaster.

During August, the City was in litigation with JMD Environmental over the award of the 2011-2012 asbestos services contract. In that litigation, the City successfully defended its award of the 2011-2012 asbestos services agreement through RFP, without sealed bids. Since the litigation is now resolved, it is felt that the City can rely on the documentation provided by Mark Cerrone, Inc. and JMD Environmental, Inc. to approve the change order. The charge for the removal and disposal of the additional 1,000 square feet of plaster containing asbestos is \$8,999.00. Funds to pay for the additional cost are available for project CDR 399 in budget line CD1.8666.0000.0450.500.

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

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

Yeas	5
Nays	0

39TH STREET SCHOOL, ASBESTOS ABATEMENT, BROWNFIELD DEVELOPMENT GRANT

Agenda Item #4

The City has received a \$200,000.00 grant from the Niagara County Brownfield Development Corporation for asbestos abatement at the former 39th Street School.

No City match is required under the grant.

Will the Council approve acceptance of the grant and authorize the Mayor to execute grant agreements and other documentation in a form acceptable to the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

PUBLIC WORKS DEPT., STREET OPENINGS, FUNDING

Agenda Item #5

The Director of the Department of Public Works is requesting the sum of \$100,000 to be utilized for street openings. Funding is available from Special Projects Fund Balance to be replenished when Casino Revenues become available.

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

Council Member Choolokian said the Council & Mayor need to work together to get the Casino Funds released for projects like this.

THE FOLLOWING CLAIM WAS SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: SPANBAUER, MARY

Agenda Item #6

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 Frontier Radiology	11/16/11	\$16.42
Federico Doldan MD	12/20/2011	\$914.73
Mount Saint Mary's Hospital	12/20/2011	\$1187.97

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

Yeas 5
Nays 0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #7

Please be advised that Mayor Paul A. Dyster, on December 29, 2011, Duly approved the following:

Resolution 2011-100, relative to Amending Chapter 365 of the Codified Ordinances Entitled "Taxicabs & Taxicab Drivers."

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: KING, JR., DR. MARTIN, HONORING, 2011-4
BY: ALL COUNCIL MEMBERS

Agenda Item #8

Whereas, the Rev. Dr. Martin Luther King Jr. was born January 15, 1929 and died April 4, 1968 from an assassins bullet. Our world, our nation, our city, our community suffered a tremendous loss; and

Whereas, the legacy of Dr. King who sacrificed in the struggle to create a just world, is important to all who seek to make America that sweet land of liberty; and

Whereas, the Rev. Dr. Martin Luther King Jr. who was considered our countries greatest advocate of nonviolent liberation went to Memphis to build a coalition to redirect our nations spending from fighting wars to creating jobs and ending poverty; and

Whereas, January 16th, 2012 will mark the 26th anniversary of the Rev. Martin Luther King federal holiday. The campaign for a federal holiday in King's honor began soon after his assassination. Former President Ronald Reagan signed the holiday into law in 1983, and it was first observed in 1986; and

Whereas, as we also recognize that there is much to be done, just as Dr. King did when in the wake of historic gains in civil and voting rights, he sought to direct our attention to the need for fundamental changes in the political and economic life of the nation, so that justice could truly prevail and opportunity could flow to every American.

Therefore, we the Niagara Falls City Council join our nation on January 16, 2012 in celebration of the Life and Legacy of the Rev. Dr. Martin Luther King Jr., and ask all citizens on this day and in his memory, to commemorate Dr. King's vision and at the same time, invigorate ourselves with resolve and forbearance to make his dream a reality from sea to shining sea.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: TOURISM ADVISORY BOARD, CONTINUATION & APPOINTMENTS, 2011-5
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #9

WHEREAS, the Niagara Falls Council by this Resolution, re-establishes the Tourism Advisory Board and by Resolution - set its membership at sixteen (16); and

WHEREAS, the Council deems it desirable to continue the Tourism Advisory Board during 2012;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Niagara Falls, New York continues the Tourism Advisory Board consisting of sixteen (16) members appointed by the City Council; and

BE IT FURTHER RESOLVED that the Board in its function shall cease one (1) year from the date of the adoption of this Resolution.

BE IT FURTHER RESOLVED that the following individuals are hereby appointed to the City of Niagara Falls Tourism Advisory Board effective January 1, 2012 for the expiration date which appears opposite their names:

<u>APPOINTMENTS</u>	<u>TERM EXPIRES:</u>
Adrienne Bedgood-2256 South Ave. Niagara Falls, NY 14305	12/31/2012
Denise Easterling-1306 Willow Ave. Niagara Falls, NY 14305	12/31/2012
Jerauld Genova- 57 Seymour Ave. Niagara Falls ,NY 14305	12/31/2012
Charles Knoll-5820 Buffalo Ave. Niagara Falls, NY 14304	12/31/2012
Mark Mistriner-NCCC Niagara Culinary Institute 3111 Saunders Settlement Road - Sanborn, NY 14132	12/31/2012
Vince Mameli-462 - 77 th Street,Niagara Falls, NY 14304	12/31/2012
Gay Molnar-2114 River Road, Niagara Falls, NY 14304	12/31/2012
Randy Ubriaco-837 - 15 th Street Niagara Falls NY 14301	12/31/2012
Lisa Vitello-4859 Terrace Drive Niagara Falls ,NY 14305	12/31/2012
Laurie Davis-1316 - 24 th Street Niagara Falls, NY 14301	12/31/2012
Phillip Villella-795 Rainbow Blvd Niagara Falls, NY 14303	12/31/2012
Robert Ventry-1884 Niagara Avenue Niagara Falls, NY 14305	12/31/2012
Yeas	5
Nays	0
	ADOPTED

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 7:30 p.m.

Carol A. Antonucci
City Clerk



JANUARY 23, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the January 23, 2011 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 of the Organizational Meeting of January 1, 2012 (amended to read January 2 at meeting of February 6) and the City Council Meeting of January 9, 2012.

Yeas 5
Nays 0

APPROVED

Council Members Anderson and Choolokian took the Oath of Office for Urban Renewal Agency

Daria Sterner and Karl Bauer, representing the WNY Blues Society, spoke about the Society and that it's been around for about 20 years. Daria Sterner was dismissed from the Blues Festival but is now involved with the Blues Society. They spoke on making the Festival a success. Council Member Grandinetti asked if there has been a strong push to stay involved with each other, and Chairman Fruscione stated if there was anyway possible for the two organizations to get together. Karl Bauer wants to keep the Society going and they are open to cooperation. They are seeking \$24,000 from the City to hold a 2012 Blues Festival. Remy Oslowski, spokesperson for the Niagara Blues Festival, stated her father, Toby Rotella who is the President of that Organization, has been largely responsible for the festival's recent success. She is also asking for \$24,000 from the City to continue to fund the Festival. Chairman Fruscione said the ball is now in the Mayor's court to choose. The Mayor sated it would be better if one unified group instead of 2 Separate groups.

In the Administrative Update:

1. City Engineer Jeffrey Skurka stated that the Lewiston Road Project has been shut down for now. In response to Council Member Choolokian's questions: there is no completion date for the Project; the Project is not on schedule; the budget for the Project is not on track; he is not sure of the total price for the Project or when it will be done; the radiation discovery was anticipated; he could not comment if the same Company will be finishing the Project; and there will be a meeting on February 3 to discuss strategy. Council Member Walker stated we have to sit down and see if it is cost effective to continue. Chairman Fruscione asked what if the March 18 deadline is not met, and Mr. Skurka responded that there will probably be another extension.

2. Mr. Skurka said National Grid is concentrating on the Pine Avenue Project. Mayor Dyster said the Council wants Pine Avenue lights first and Council Member Walker said Pine Avenue is important, but they have lights and Center Court doesn't. The Mayor talked to National Grid about Center Court lights, and he said the developer was to install the

lights. They are pushing National Grid on 3 Projects: the Hospital, Center Court & Pine Avenue.

3. Regarding the SPCA, there was a conference call January 3 with Craig Johnson, Morgan Dunbar, Animal Advocate, and Peter Reese, Legal Counsel for Animal Allied. Barbara Carr, of the Erie County SPCA, the entity doing the investigation, cannot be biased, and this also was confirmed by Mayor Tucker of Lockport. The City's contract with the SPCA expired the end of 2011, and is proceeding on a month to month basis. The SPCA has been put on notice. Mayor Dyster talked to Sheriff Voutour, who is ready to move immediately if there is any misconduct at the SPCA.

4. City Controller Maria Brown said the Water Board has paid their bill, and 2011's bill is not due until the end of the Audit Period.

5. Mayor Dyster thanked Director of Business Development Fran Iusi, who is retiring at the end of this month, for her years of service to the City. Mayor Dyster said he was thrilled with the initiative taken by Governor Cuomo in pledging \$1,000,000,000 to the Niagara/Buffalo region. This money is for Business & Industrial Attractions, and the Mayor will report back to the Council with the progress. Council Member Walker asked of the Administration has been talking to anyone about Development. Council Member Choolokian asked if the Administration is looking "in house" to fill the position, and the Mayor responded.

This session ended at 5:04 PM

Chairman Fruscione reconvened the Meeting at 7:00 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Choolokian 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:

Morgan Dunbar	spoke on what her organization hopes to accomplish in Niagara Falls; independent investigation of SPCA is needed; need cost effective ways to run SPCA
Kelley Casale	talked about stray cats; no help from the SPCA when they're called; being harassed by SPCA
Jean Kiene	addressed the SPCA situation; thanked Council for their support; need to appoint members from the Community to the SPCA Board; need outside investigation
Cynthia Gerber	issues on hand from the SPCA; Council can make a huge difference; need No-Kill Shelter; independent investigation
Peter A. Reese	talked about No-Kill Shelter; wants to stop breeding of animals temporarily in Niagara Falls
Jeanette Miller	talked about dealing with Erie Co. SPCA, how can they judge Niagara County SPCA; contract needs to Be changed
Arthur Garabedian	Governor Proposal, no Resolution for this on todays Agenda; supports Culinary School
Dorothy West	LaSalle Preparatory School light not installed yet; Council Member Anderson said there was a gas line breakage & that stopped production, it is now fixed and the light will be installed Tuesday; needs independent investigation of SPCA
Hannah Jacobs	12 year old student; need independent investigation; they need to listen to the voice Of todays youth

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CITY CLERK'S MONTHLY REPORT FOR THE MONTH OF DECEMBER 2011
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

BLACK HISTORY MONTH CELEBRATION, CONTRIBUTION

Agenda Item #2

The Community Awareness Committee has requested that the City contribute the cost of the production of the black history month celebration to take place February 3, 2012 and February 4, 2012 at the Niagara Arts and Cultural Center (NACC). It appears that the sum of \$2,000.00 may be made available to help fund this event from the Tourism Fund. Any contribution will be subject to the terms and conditions contained in a funding agreement satisfactory to the Corporation Counsel.

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

CITY PROPERTY, 159 13TH STREET/340 12TH STREET, EXCHANGE WITH NFR

Agenda Item #3

The City is the owner of 159-13th Street and 340-12th Street. The above referenced companies, which are subsidiaries of Niagara Falls Redevelopment (NFR), own 426-13th Street, 426 1/2-13th Street, 432-13th Street and 412-10th Street. The Director of Code Enforcement believes that it would be in the best interest of both parties to accomplish the exchange of the City's parcels for the NFR controlled parcels. It appears that this may be mutually beneficial as the City's parcels to be acquired by the NFR subsidiaries are in the NFR development "footprint" and the parcels to be acquired by the City are located in an area of the City that the City is attempting to redevelop.

There will be no exchange of money as these parcels are relatively similar in value; the structures erected on the parcels to be acquired by these NFR subsidiaries will be demolished within 12 months after closing.

The exchange of these parcels will be accomplished pursuant to the terms and conditions contained in a Property Transfer Agreement acceptable to the Corporation Counsel.

The Planning Board recommends that these real estate exchanges be accomplished. Attached is a recommendation from the Niagara Falls Planning Board. Will the Council confirm the acceptance of the parcels to be transferred to the City from the NFR subsidiaries and find that the best interest of the City will be subserved by dispensing with the sale of the City owned parcels at public auction and authorize the conveyance of the City owned properties to the NFR subsidiaries and authorize the Mayor to execute a real estate exchange agreement satisfactory to the Corporation Counsel and also authorize the Mayor to execute appropriate documents/deeds in form satisfactory to the Corporation Counsel in order to accomplish the conveyances/acquisitions?

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

Yeas

5

Nays

0

APPROVED

LAW DEPARTMENT, TRANSFERRING OF FUNDS, OUTSIDE CONSULTANTS

Agenda Item #4

THIS ITEM WAS PULLED FROM THE AGENDA

HOME IMPROVEMENT BOARD, APPOINTMENTS

Agenda Item #5

I hereby appoint the following to the Home Improvement Board:

Name & Address	Term Expires
Ernest Lucantonio (Businessman) 2450 Forest Avenue Niagara Falls, NY 14301	12/13/13
Timothy Polka (Design Professional) 4020 Barton Avenue Niagara Falls, NY 14305	12/13/13
Joseph Luna (Carpenter) 1220 - 9 th Street Niagara Falls, NY 14305	12/31/12
Scott Heisner (Contractor) 1248 - 95 th Street Niagara Falls, NY 14304	12/31/14
John Pallaci (Retired) 2711 Linwood Avenue Niagara Falls, NY 14305	12/31/13

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

CITY PROPERTY, 47TH STREET, ENCROACHMENT BY COVANTA

Agenda Item #6

In 2002 the Council approved a request from American Refuel (the owner of the cogeneration plant at the time) to allow an encroachment in the 47th Street right-of-way for the construction of a pipe bridge and steam line and related return condensate line between its plant and the Norampac plant. The current owner of the energy plant is asking for an additional encroachment along the same right-of-way to allow an additional steam line and return condensate line for the new Greenpac facility. The Planning Board has approved this proposal (on file in City Clerk's Office) and subject to the following provisions, it is recommended that the Council approve same:

1. Covanta Energy LP will indemnify and hold harmless the City for any injuries or damage related to the Pipe Bridge or encroachment and will provide an indemnification agreement in a form acceptable to the Corporation Counsel.
2. Covanta and any contractors will provide insurance certificates with the City's usual coverage requirements naming the City as an additionally insured.
3. After approval by the City Council, all the appropriate permits must be obtained.
4. Construction within the right-of-way is subject to the review and approval of the City Engineer.

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

CLAIM: STANEK, KIMBERLY

Agenda Item #7

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	12/19/2011 -	01/06/2012
\$299.57		
Niagara Family Medicine Associates	11/23/2011 & 12/14/2011	\$98.42

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

Yeas	5
Nays	0

APPROVED

IN REM AUCTION, APPROVAL OF BIDS

Agenda Item #8

Attached (on file in City Clerk's Office) is the list of bids from the December 12, 2011 Auction.

With respect to Schedule A serial numbers 13, 23, 24, 25, 107, 127, 137, 169, 209, 248, 253, 282, 342, 348, 364, 372, 380, 404, 422, 423, 467, 496, 503, 531, 532, 542, 543, 544, 545, 567, 568, 574, 622, we recommend approval of the bids subject to payment of any delinquent taxes on other properties within 30 days. If the taxes are not paid by that time the bids are rejected and deposits and auctioneer fees forfeited pursuant to the terms of sale.

With regard to Schedule A, we recommend that the bids for serial numbers 120 and 363 be rejected.

With the exception of the above we recommend that the bids on Schedule A be approved. The bids on Schedule B do not require Council approval and are submitted for your information.

With respect to Schedule B serial numbers 74, 131, 256, 525, the bids are subject to the payment of any delinquent taxes on other properties within 30 days.

Will the Council so approve and authorize the Mayor to execute deeds to the successful bidders in accordance with the terms of sale?

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE TRAFFIC ADVISORY COMMISSION

VANDERBILT AVENUE, INSTALL ALTERNATE OVERNIGHT PARKING

Agenda Item #9

At a Traffic Advisory Commission meeting held on January 11, 2012 the Commission recommended APPROVAL of the following item:

INSTALL ALTERNATE OVERNIGHT PARKING ON VANDERBILT AVENUE BETWEEN LEWISTON ROAD AND MACKLEM AVENUE (2 BLOCKS)

Petitions were received from the residents of these blocks with 100% signatures from residents of Lewiston Road to Washington Street and 83.3% from residents of Washington Street to Macklem Avenue.

Submitted By: Michael Gawel, 919 Vanderbilt Avenue and Petition/Residents of Blocks

It is requested that City Council approve this recommendation. Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

1806 NIAGARA STREET, INSTALL HANDICAPPED ACCESS SPACE

Agenda Item #10

At the Traffic Advisory Commission meeting held on January 11, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 1806 NIAGARA STREET

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: Charlene Heller, 1806 Niagara Street

It is requested that City Council approve this recommendation. Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

710 & 722 CEDAR AVENUE, INSTALL HANDICAPPED ACCESS SPACE

Agenda Item #11

At a Traffic Advisory Commission meeting held on January 11, 2012, the Commission recommended APPROVAL of the following item:

INSTALL 5' HANDICAPPED ACCESS SPACE SIGNS TO PREVENT CARS FROM PARKING/BLOCKING THE "LEAD IN" SIDEWALKS IN FRONT OF 710 & 722 CEDAR AVENUE

This request was made to allow handicapped clients of Family and Children's Service of Niagara easier access to their facility. Signs will be installed for the lead in walks: (1) in front of 710 Cedar Avenue & (2) at the western end of 722 Cedar Avenue.

Submitted By: Debra Aloian, Residential Services Coordinator, Family & Children's Service of Niagara, 1522 Main Street

It is requested that City Council approve this recommendation. Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

EMPIRE ZONE, 2012 APPOINTMENTS

Agenda Item #12

Pursuant to the Empire Zone Local Law approved by Council 2001, the City Council appoints eight members of the Empire Zone Board. Each appointment is for a one year period. The appointments are to be made from a list submitted to the City Council by the Empire Zone Board Chairperson.

All of the current board members wish to remain for an additional year. Accordingly, Mrs. W. Lee Whitaker, Mr. Thomas Pryce, Mr. Art Ray Sr., Mr. Abdul Labi, Mrs. Lucy Muto, Mr. Eddie Palmore and Mr. Thomas Bruss are proposed for reappointment to the Niagara Falls Empire Zone Board for 2012.

Will the Council vote to appoint the eight individuals to the Empire Zone Board through December 31, 2012

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

Yeas 5
Nays 0
APPROVED

RESOLUTION: PAWN BROKERS/SECOND-HAND DEALERS, EXTENSION OF MORATORIUM, 2012-6

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #13

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 subsequently extended; and

WHEREAS, this Moratorium expires on January 31, 2012; and

WHEREAS, the review and amendment 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 April 30, 2012.

Yeas 5
Nays 0
ADOPTED

RESOLUTION: LOBBYING ESTABLISH AD HOC COMMITTEE, 2012-7

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE, COUNCIL MEMBER CHOOLOKIAN

Agenda Item #14

WHEREAS, the City of Niagara Falls, along with the cities of Buffalo and Salamanca, are beneficiaries of a certain compact (the "Compact") executed by and between the State of New York (the "State") and the Seneca Nation of Indians (the "Senecas") on or about August 18, 2002 which authorizes casino gambling in certain Seneca owned geographic areas in the State of New York; and

WHEREAS, pursuant to legislation adopted arising from the execution of this Compact, the City of Niagara Falls is designated to receive dollars each year ("Casino Revenues") for various purposes, including economic development purposes; and

WHEREAS, State and the Senecas are embroiled in a dispute over the Compact involving allegations by the Senecas that the State violated various provisions contained in the Compact; and

WHEREAS, as a result of this dispute, rather than tender the money due the State pursuant to the Compact, the Senecas advise that they have paid that money into an escrow account pending the resolution of the dispute with State; and

WHEREAS, as a result of this action by the Senecas, the City of Niagara Falls has not received its allocation of Casino Revenues since March of 2010 which was money earned in year 2008; the City of Niagara Falls is now due and owing its allocation of Casino Revenues for years 2009, 2010 and 2011 which totals approximately Sixty Million Dollars (\$60,000,000); and

WHEREAS, this City Council strongly believes that the City of Niagara Falls must receive the Casino Revenues due it as those dollars are critical to the implementation and success of programs and projects developed by the Mayor and the City Council to improve the quality of life for the taxpayers and residents of the City of Niagara Falls; and

WHEREAS, this City Council believes that the City of Niagara Falls must escalate its efforts to obtain the Casino Revenues due the City of Niagara Falls that are being held in escrow by the Senecas by any means legally available to it.

NOW, THEREFORE, BE IT RESOLVED that this City Council does hereby create an ad hoc lobbying committee to consist of three (3) individuals appointed by this City Council to assist the City Council in its efforts to obtain the Casino Revenues due the City of Niagara Falls; and .

BE IT FURTHER RESOLVED that the members of this ad hoc lobbying committee must have the background and qualifications required by the City Council in order to advance the City's position in this regard; and

BE IT FURTHER RESOLVED that the individuals serving on this ad hoc committee will not be compensated for services rendered but rather out-of-pocket expenses incurred may be reimbursed in the discretion of this City Council.

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

ADOPTED

RESOLUTION: MARRIAGE OFFICER, APPOINTMENT, 2012-8
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #15

WHEREAS, Niagara Falls has an international reputation as "The Honeymoon Capitol"; and

WHEREAS, couples arrive at the City Clerk's Office from all over the world to obtain a marriage license; and

WHEREAS, it is advantageous for the City and convenient to the couple to have these marriages solemnized within the confines of the City of Niagara Falls.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that in accordance with Section 11-c of the New York State Domestic Relations Law the following employee in the City Clerk's Office, Leonard G. Lapp, Jr. be appointed as Marriage Officer for the City of Niagara Falls for a term of four years; and be it further

RESOLVED, that the fee for such marriage service shall be \$100.00; and be it further

RESOLVED, that the fees for all marriages performed by said Marriage Officers during normal business hours be deposited to the credit of the City of Niagara Falls.

Yeas	5
Nays	0

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 8:20 p.m.

Carol A. Antonucci
City Clerk

01/23/2012



FEBRUARY 6, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the February 6, 2011 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes of the Organizational Meeting of January 2, 2012 and the City Council Meeting of January 23, 2012.

Yeas

5

Nays

0

APPROVED

Merrell Lane, Chairman of the Niagara Military Affairs Council, gave a report on the status of the Niagara Falls Air Reserve Base. He said that decisions for Base Realignment and Closures need Congressional action, the Force Structure decisions do not. He asked for funding from the City to maintain a lobbying presence to keep the Base open and operating. Chairman Fruscione asked for a breakdown of funding received from other local municipalities towards this effort.

Rita Majka, Director of Development for the Niagara Falls Boys and Girls Club, said that the group has moved their Annual Auction back to Niagara Falls to be held at the Conference Center, and asked that the City waive parking fees for the event.

In the Administrative Update:

1. Deputy Director of Parks and Public Works John Caso spoke on the downtown storefronts and said that a meeting will be held to relative to relocating the electrical conduit. Council Member Choolokian commended the City workers for doing the work.

2. Senior Planner Tom DeSantis reported that the consultant hired by the City for work on the Old Stone Chimney had estimated a cost of \$200,000 to dismantle and reassemble the chimney. Mr. DeSantis said that the City would be looking at other options. Council Member Choolokian asked for the amount paid to the consultant to date.

3. Mr. Caso also reported that, weather permitting, the basketball court at Caravelle Drive Park would be relocated as a half court, with a playground as the other half, and green space where the court was formerly located. This work would be done in house.

Council Member Walker asked about moving the poles at the Legends Court, and Mr. Caso will look into it.

Chairman Fruscione asked Purchasing Agent Dean Spring about the Lease Agreement for the Ice Pavillion, which is expiring this year. Mr. Spring responded that the Request for Quotes was being reviewed, and a recommendation should be ready for Council action in June. Council Member Choolokian asked that it be brought to the Council for action in May.

Mayor Dyster reported that of the two groups that were involved with conducting a Blue Festival, one group has withdrawn it's funding request, and he is trying to get all to work together to put on the Festival.

Corporation Counsel Craig Johnson distributed copies of a communication relative to the In Rem Auction to be added to the Agenda.

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 #17.

Council Member Walker asked that the Administration keep the public engaged in the process for the development of Tract I and Tract II. Mayor Dyster noted that the public wants to see economic development for the parcels. Council Member Walker asked about a commitment from the City towards the project, and said that this was a good project and the City should find the funds to support it (Agenda Item #2).

Council Member Choolokian asked if the funding for the Summer Concert Series would be taken from Tourism funds, and he was informed that it would.

Council Member Choolokian asked if this was the final cost for the Pine Avenue Crossing Signal (Agenda Item #6), and City Engineer Jeffrey Skurka responded that the total cost would not be known until the project was put out for bid. Mrs. Brown added that any funds not used for this project would be returned to the Special Projects Fund.

This Session ended at 4:45 PM

Chairman Fruscione reconvened the Meeting at 7:03 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Grandinetti 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 A. D'Agostino	Agenda Items #1, #3, #4
Charles VanEpps	Agenda Item #1
Ken Hamilton	Agenda Items #2, #6, #7, #11, #15; would like to be considered for appointment to the Library Board
Ron Anderluh	Landlord Registration Ordinance, no not use as revenue source, should be part-time
Roger Spurback	Landlord Registration Ordinance, change fees, needs enforcement
Nicholas A. D'Agostino	Landlord Registration Ordinance, amend and enforce; garbage in alleys; support NIMAC and African Americans
Marybeth Abramson	Landlord Registration Ordinance, re-instate window for no charge registration
Gerald Skrlin	area around his home needs to be cleaned up, level playing field for all
Ernie Lucantonio	Landlord Registration Ordinance, not a revenue source
Emma Chapman	Landlord Registration Ordinance, no renewal fee
Lou Rizzo	Landlord Registration Ordinance, no renewal fee, hold bad tenants accountable
Diane Tattersall	Garbage/unkept areas, clean up
Art Garabedian	build International Center
Ken Hamilton	congratulations to TOPS; wheelchair accommodations in Council Chambers; Landlord Registration Ordinance, protect landlords not tenants; honor Charles Palmore at Ontario Ave. Fire Hall; offer reward for pedestrian accident
Lisa Routhier	support Air Base; fund Music Festival; Jayne Park; Landlord Registration Ordinance, no fee for renewal

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: DEMOLITIONS, REGIONAL ENVIRONMENTAL DEMOLITION, INC.

Agenda Item #1

THIS ITEM WAS PULLED FROM THE AGENDA

TRACT I AND TRACT II, TRANSFER TO BRIGHTFIELDS, LLC

Agenda Item #2

Brightfields, LLC which will undertake to remediate and develop the real property. 18.5 acres of the site is known as Tract II. Tract II is a New York State Superfund site, and is eligible to be remediated under the New York State Incentive Hazardous Waste Site Program (copy of map filed in the City Clerk's Office). Tract II is currently designated a Class 2 site (ID Number 932136). An Interim Remedial Measure Work Plan has been submitted to DEC and is awaiting approval. The remediation is being undertaken in concert with Honeywell, which is paying remediation costs.

The real property is generally described as: a 23± acre parcel of real property and identified as tax lot SBL Nos. 144.06-2-2 (3201 Highland Avenue), 144.06-2-25 (3001 Highland Avenue), 144.06-2-26 (3079 Highland Avenue), 144.06-2-27 (3123 Highland Avenue), 144.23-1-8 (3121 Highland Avenue), 144.23-1-9 (3115 Highland Avenue), 144.23-1-10 (3109 Highland Avenue) and 144.23-1-11 (3103 Highland Avenue). A property list and diagram of the Real Property is annexed hereto.

After remediation, the property will be developed with commercial development consistent with a DEC-approved remediation plan and the City's Comprehensive Plan. Five acres of the property will be conveyed back to the City to become a City Park. This park will replace the Center Court Park land which became part of the HOPE VI housing development.

The sale will be for \$1.00. The remediation, commercial development and park development will be additional consideration. The conveyance will have a reverter clause, revesting title in the City if the agreed upon work is not completed.

The Planning Board acted on a recommendation for the proposed sale at its February 1, 2012 special meeting. The report of the Planning Board will be provided to Council on February 6, 2012 prior to Council action.

Due to the fact that the purpose of the sale is to accommodate the remediation, the best interest of the City shall be subserved by dispensing with a sale at public auction.

Will the Council vote to find that the best interest of the city are subserved by dispensing with a sale at public auction, to approve sale as set forth herein, and to authorize the Mayor to execute any documents with Corporation Counsel approval 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

PURCHASE: GILL CREEK PARK PICNIC SHELTER ROOF KIT, TAYLOR SUPPLY LLC

Agenda Item #3

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

TO: Taylor Supply LLC
125 Palmetto Drive
Davenport, FL 33897

FOR: One (1) Hipped Roof, 30' x 44' metal picnic shelter kit:
\$37,000.00

This structure will be assembled by City Staff. The City Purchasing Agent certifies that all bids (on file in City Clerk's Office) 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 six (6) vendors. Three bids were received. The above referenced company submitted the lowest bid.

Funds for this expenditure are available from Community Development Block Grant funds (CPW073).

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

Yeas 5
Nays 0
APPROVED

SUMMER CONCERT SERIES, 2012, FUNDING

Agenda Item #4

The Niagara Fine Arts Program Inc. has submitted a proposal to the City to undertake and carry out the Summer 2012 Friday at the Falls Concert Series consisting of ten (10) events at a total cost of \$14,000.00. The Niagara Fine Arts Program Inc. has also submitted a proposal to undertake and carry out the Sunday on the Steps of the NACC Concert Series consisting of eight (8) events plus a special event to take place on August 26, 2012 which will be the Ontario House Jazz Tribute. The total cost for these nine (9) events will be \$16,200.00.

Proposals for both of these programs are attached (on file in the City Clerk's Office).

Funding is available from budgeted funds and Tourism Fund Balance. 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

CITY MARSHALL, APPOINTMENT

Agenda Item #5

The City Council has previously approved the creation of the position of City Marshal to serve as an independent contractor for the purpose of serving process and other duties as the City Marshall of the City of Niagara Falls. Currently, the City has two individuals serving this capacity. It is requested that the appointment be extended to a third person in order to make performance of duties more efficient and effective.

It is recommended that Gary A. Bevilacqua be designated as a City Marshal for a term to commence upon execution of his contract and to expire on December 31, 2014 and that said individual be required to provide proof of insurance, naming the City of Niagara Falls as an additional insured in a form satisfactory to the Corporation Counsel in connection with the performance of his duties. Mr. Bevilacqua's resume is available for your review.

Will the Council so approve and authorize the Mayor to contract with the above for the term and on the conditions specified?

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

Yeas 5
Nays 0
APPROVED

PINE AVENUE, PEDESTRIAN CROSSING SIGNAL, FUNDING

Agenda Item #6

The City Engineer advises that he has secured a proposal from a Traffic Engineer for both the design component and the construction component of a pedestrian crossing light on Pine Avenue. The total cost of these items is estimated to be \$80,500.00. Funding is available from Special Projects Fund Balance.

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

Council Members Choolokian & Grandinetti suggested that more work be done In House

CONTRACT: BRIDGE CLEANING/DECK SEALING/REPAIRS TO 11TH ST. BRIDGE TO CSX TRANSPORTATION, INC.

Agenda Item #7

The City Council has previously approved agreements with the New York State Department of Transportation for the above projects which are related to bridges over CSX facilities.

In order to progress the project it is necessary to enter into construction agreements with CSX Transportation. For CSX to review and perform work related to the projects the bridge cleaning and deck sealing agreement requires an advanced deposit in the amount of \$25,187 and the 11th Street bridge repair project requires an advance deposit in the amount of \$33,024.

These amounts are included in the previously approved overall budget for the projects.

Will the Council approve the construction agreements and authorize the Mayor to execute both agreements in a form acceptable to the Corporation Counsel?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: NIAGARA COUNTY OFFICE FOR THE AGING

Agenda Item #8

The 2012 Budget contains an appropriation in the amount of \$27,500.00 for the Niagara Community Action Program Inc. so that it may continue to provide assistance to qualified City residents during fiscal year 2012. This will require that the City enter into a Funding Agreement with this entity (Program Agreement on file in the City Clerk's Office). Will the Council so approve and authorize the Mayor to execute a Funding Agreement in form satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: NON-PROFIT AGREEMENTS, VARIOUS ORGANIZATIONS

Agenda Item #9

The 2012 Budget contains appropriations of \$2,500.00 for NIMAC; \$5,000.00 for the Niagara Falls Beautification Commission; \$10,000.00 for the Niagara Falls Block Club Council; \$30,000.00 for the Niagara Arts & Cultural Center; \$10,000.00 for OSC-21. In order to effectuate these, appropriation agreements with each respective agency is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for each non-profit agency?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: NIAGARA COMMUNITY ACTION PROGRAM, FUNDING AGREEMENT

Agenda Item #10

The 2012 Budget contains an appropriation in the amount of \$27,500.00 for the Niagara Community Action Program Inc. so that it may continue to provide assistance to qualified City residents during fiscal year 2012. This will require that the City enter into a Funding Agreement with this entity.

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

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

Yeas 4
Anderson, Choolokian, Grandinetti, Walker
Nays 0
Abstain 1
Fruscione

APPROVED

LIBRARY BOARD, REAPPOINTMENT/APPOINTMENT

Agenda Item #11

THIS ITEM WAS PULLED FROM THE AGENDA

OLD FALLS STREET, EUROCOBBLE UNITS, MEMORANDUM OF AGREEMENT

Agenda Item #12

In connection with the reconstruction of Old Falls Street between First Street and Prospect Street there have been portions of the Eurocobble units which have deteriorated and are in need of repair/replacement. A Memorandum of Agreement has been developed which addresses the repair and replacement of these Eurocobble units going forward.

This Agreement stipulates that USA Niagara will make available any remaining funds currently held for project contingencies for the maintenance/repair of these Eurocobble units. There are sufficient USA Niagara project contingency funds available to cover a program of maintenance/repair of Eurocobble units through the established term of the Memorandum of Agreement which is the fall of 2013. It is requested that the City be authorized to expend \$10,000.00 at this time to purchase Eurocobble units. This sum will be reimbursed by USA Niagara.

Will the Council so approve and authorize the Mayor to execute a Memorandum of Agreement satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

CLAIM: SPANBAUER, MARY

Agenda Item #13

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:

Provider	Date of Service	Amount
Mount Saint Mary's Hospital	11/16/2011	\$3645.00
Advanced Care Physical Therapy	1/16 & 1/18/2012	\$152.89

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

RESOLUTION: COUNCIL MEETING, RESCHEDULING, 2012-9
BY: ALL COUNCIL MEMBERS

Agenda Item #14

BE IT RESOLVED by the City Council of the City Niagara Falls, New York that the council meeting scheduled for February 21, 2012 will be held on Wednesday February 22, 2012 with the work session at 4 p.m. and the regular meeting at 7 p.m.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: TOPS FRIENDLY MARKETS, RECOGNIZING, 2012-10
BY: ALL COUNCIL MEMBERS

WHEREAS, on February 8th, 2012, Tops Friendly Markets will have their 50th Anniversary Kick-off Celebration of being "TOPS" in the WNY Community. Founded in 1962, Tops Friendly Markets has never stopped saving customers money, providing quality selection and service and giving back to the community; and

WHEREAS, headquartered in Williamsville, NY, Tops operates 126 full-service supermarkets and five franchise supermarkets. Tops is a leading full-service grocery retailer in upstate New York, and northern Pennsylvania, and the company shows no signs of slowing down; and

WHEREAS, Tops considers its stores to have a "neighborhood grocer" feel - each store customized to fit the community it surrounds. It strives to meet the dynamic needs of the time-sensitive consumer with such amenities as in-store pharmacies, in-store butchers, in-store bakeries and ready to eat prepared foods in the stores' Carry Out Cafe; and

WHEREAS, part of the plan for the future of Tops is an extensive remodel and expansion plan over the next five to seven years. Tops will continue to build on its successes in its core market areas with an increased emphasis on value, health and wellness, technology and customer convenience.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulates TOPS FRIENDLY MARKETS in celebrating their 50th Anniversary in the WNY Community and its goal to keep the same close-knit customer association and neighborhood feeling as a vital part of its success, just as it did in the beginning.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: ICE PAVILLION, AD HOC COMMITTEE, CREATION, 2012-11
BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, the City of Niagara Falls owns an ice pavilion in Hyde Park; and

WHEREAS, on July 25, 2002 the City of Niagara Falls entered into an agreement with a third-party which allowed that third-party to exclusively operate the ice pavilion; and

WHEREAS, the City of Niagara Falls, over the past few years, has spent \$5,513,971.95 to upgrade the ice pavilion; and

WHEREAS, the agreement allowing this third party to operate the ice pavilion expires on July 31, 2012; and

WHEREAS, this City Council believes that the City of Niagara Falls should circulate a Request for Qualifications/Request for Proposals for the operation of the ice pavilion going forward.

NOW, THEREFORE, BE IT RESOLVED that this City Council does hereby create an ad hoc committee to make recommendations to the City regarding the future operation of the ice pavilion and the details to be included in any kind of request for proposals.

BE IT FURTHER RESOLVED, that this ad hoc committee will consist of five (5) individuals to be selected and appointed by this City Council.

BE IT FURTHER RESOLVED, that this ad hoc committee will serve in an advisory capacity only and meet on an "as needed" basis.

Yeas 5
Nays 0

ADOPTED

IN REM AUCTION, APPROVAL OF BIDS

Agenda Item #17

At your January 23, 2012 meeting you voted on the acceptance of the bids from the December 12, 2011 Auction. Upon review of additional information we recommend the following changes:

With respect to Schedule A serial numbers 301 and 302 that the bids be approved subject to payment of any delinquent taxes on other properties within 30 days. If the taxes are not paid by that time the bids are rejected and deposits and auctioneer fees forfeited pursuant to the terms of sale.

With regard to Schedule A, we recommend that the bids for serial numbers 209 and 248 be approved and with regard to Schedule A serial numbers 82, 107 and 364 we recommend that they be rejected.

Will the Council so approve and authorize the Mayor to execute deeds to the successful bidders in accordance with the terms of sale?

Council Member Choolokian 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 Fruscione adjourned the Meeting at 8:20 p.m.

Carol A. Antonucci
City Clerk



FEBRUARY 22, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the February 22, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 February 6, 2012.

Yeas	5
Nays	0

APPROVED

Chris Schoepfin of USA Niagara gave a presentation on the proposal received for the use of the Balloon Launch Property at 310 Rainbow Boulevard. He explained the process by which the proposals were received and reviewed, and added that the Council's approval of Agenda Item #6 would only give the Corporation Counsel and USA Niagara the ability to negotiate with the preferred developer. The preferred developer was identified as the Hamister Group, who proposes to building a mixed use building on the property, with retail on the street level and upscale hotel rooms and residential units on the upper floors. The Project would provide permanent jobs as well as construction jobs, and Council Member Choolokian asked that hiring be done locally and the prevailing wage rates be paid for labor.

Desman Associates gave a presentation on a downtown parking program. Their recommendation is to establish a Division of Parking with a Parking Manager and a Downtown Parking Committee who will work with a private parking management company.

This Session ended at 5:05 PM

Chairman Fruscione reconvened the Meeting at 7:08 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:

Gerald Skrlin	Agenda Item #4
Arthur Garabedian	Agenda Item #4
Anthony Gara	Accounting from Holiday Market
James Hufnagel	Niagara Falls Water Board "fracking"
Gerald Skrlin	Conditions of property in the City; student summer workers

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF JANUARY 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CITY CLERK'S REPORT FOR THE MONTH OF JANUARY 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: DEMOLITIONS, REGIONAL ENVIRONMENTAL DEMOLITION, INC.

Agenda Item #3

The bids for utility abandonment, asbestos abatement and demolition of 20 buildings (on file in the City Clerk's Office) in the City were opened on January 26, 2012. The bid results are as follows:

S.C. Martin Group, Inc.	\$499,763.00
Metro Contracting & Environmental, Inc.	501,300.00
Regional Environmental Demolition, Inc.	514,000.00
Mark Cerrone, Inc.	658,858.00
Empire Dismantlement Corp.	714,600.00
Newcal Construction, Inc.	980,000.00

The S.C. Martin bid was incomplete. There was no bid bond and no price for individual buildings. At the bid opening, the Martin representative was advised that the bid was incomplete and would be rejected. He agreed with the rejection of the bid.

As the bids were totaled, it was discovered that the bid amount of the Metro Contracting bid did not include one of the pages of individual properties. If the page of properties was added, the bid would be \$715,350.00. A representative of Metro emailed a letter to the Community Development office advising of the error and withdrawing the bid.

Accordingly it is our recommendation that the contract be awarded to Regional Environmental Demolition, Inc., as the responsible bidder which submitted the lowest responsible bid. Funds are available in budget line H0910.2009.0910.0449.599. Will the Council vote to approve the award of contract CNF 2012-1 to Regional Environmental Demolition, Inc. 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

NIAGARA MILITARY AFFAIRS COUNCIL, CONTRIBUTION

Agenda Item #4

The City has been asked once again to make a contribution to the Niagara Military Affairs Council (NIMAC) to help support the many projects it is involved in. Among the significant projects NIMAC is advancing is the project aimed at securing the longevity of the Air Base.

The City has been asked to contribute the sum of \$40,000.00. Funding is available from Special Projects Fund Balance.

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

POLICE DEPT., COMPUTER EQUIPMENT, GRANT

Agenda Item #5

The City has received a State Grant of \$2,500.00 to purchase computer equipment.

No City match is required.

Will the Council approve the acceptance of this Grant and authorize the Mayor to execute any documentation necessary to receive same?

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

Yeas

5

Nays

0

APPROVED

BALLOON LAUNCH PROPERTY, 310 RAINBOW BLVD., DEVELOPMENT, HAMISTER GROUP

Agenda Item #6

Pursuant to the terms of the Development Agreement entered into on November 30, 2011 by and among Niagara County Community College, the City of Niagara Falls ("City") and USA Niagara Development Cooperation ("USAN"), USAN is responsible for soliciting proposals for development of the Balloon Launch Property which is owned by the City. A request for proposals was issued by USAN on October 5, 2011 and several were received by USAN by the deadline established which was December 9, 2011. The proposals received were reviewed and interviews were conducted. Using the criteria established in the request for proposals and the responses received, the proposal received from a particular developer appears to be most responsive and provides the most benefit in terms of what is proposed to be developed as weighed against the request for public dollars for the development.

The identity of the preferred developer will be revealed during a public presentation at the City Council Committee of the Whole meeting scheduled to take place at 4:00 p.m. on Wednesday, February 22, 2012. The Council will be requested to designate the developer as a Preferred Developer. The Preferred Developer will have the exclusive right to negotiate a development agreement for 310 Rainbow Blvd. with the City and USAN. The Preferred Developer's status as Preferred Developer will continue for 120 days or until the Preferred Developer enters into a development agreement with the City and USAN.

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

CLAIM: CHUILLI, CATHERINE

Agenda Item #7

Date Claim Filed:	December 13, 2011
Date Action Commenced:	N/A
Date of Occurrence:	November 10, 2011
Location:	Stephenson Avenue, Niagara Falls, NY
Nature of Claim:	Automobile damage sustained in an accident with City vehicle.
City Driver:	Gary D'Angelo
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$976.86
Make Check Payable to:	Catherine L. Chuilli
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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: STANEK, KIMBERLY

Agenda Item #8

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	1/30/2012-2/8/2012	142.08
Niagara Family Medicine Association	2/06/2012	\$49.21

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

Yeas	5
Nays	0

APPROVED

RESOLUTION: PLANNING BOARD, APPOINTMENT, 2012-12

BY: COUNCIL MEMBER ROBERT A. ANDERSON, JR.

Agenda Item #9

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Planning Board effective immediately to fill the unexpired term of Mr. Owen Steed:

<u>APPOINTMENT</u>	<u>TERM:</u>
---------------------------	---------------------

Mr. Willie Dunn	12/31/2013
3075 Macklem Avenue	
Niagara Falls, New York 14305	

Yeas	5
Nays	0

ADOPTED

RESOLUTION: POLLING PLACES, USE FOR SCHOOL ELECTION,
2012-13
BY: ALL COUNCIL MEMBERS

Agenda Item #10

WHEREAS, the Annual School Election will be held on Tuesday, May 15th, 2012.

Attached (on file in the City Clerk's Office) 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.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: ELECTRICIAN LICENSING AND REGULATIONS, ORDINANCE AMENDMENT,
2012-14
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE, COUNCIL MEMBER CHOOLOKIAN

Agenda Item #11

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1113 of the Codified Ordinances entitled "Electrician Licensing and Regulations" is hereby amended as follows:

1113.01 PURPOSE.

This electrical ordinance governs electrical work, including but not limited to the installation, repair and/or testing of electrical wires, devices and fixtures, for light, heat, power, control, grounding, signs, security, fire alarms and communications in the City of Niagara Falls, except public utility power houses, ~~and~~ factories where regular in-house electricians are employed. and facilities of the City of

Niagara Falls.

•••

Yeas 5
Nays 0

ADOPTED

RESOLUTION: NFTA, PORTION OF NIAGARA COUNTY SALES TAX REVENUES, 2012-15
BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, the NFTA operates an airport and a comprehensive surface system in Niagara County; and

WHEREAS, while the airport has enjoyed success, the surface bus system is in serious peril with the loss of significant amounts of subsidy funding; and

WHEREAS, the NFTA is taking both short-term and long-term steps to provide stability and predictability to the system and, most importantly, to the riders that depend on it for their livelihood; and

WHEREAS, Erie County provides the NFTA with not only a portion of its mortgage recording tax but also a portion of its sales tax; and

WHEREAS, presently Niagara County provides to the NFTA a portion of its mortgage recording tax only to support public transportation; and

WHEREAS, the NFTA has asked the Niagara County legislature to consider the adoption of a resolution providing to the NFTA an allocation of a portion of Niagara County sales tax to be specifically directed to the maintenance of transportation routes within Niagara County in addition to the mortgage recording tax provided.

NOW, THEREFORE, BE IT RESOLVED the Mayor and the City Council support the request of the NFTA that calls upon the Niagara County Legislature to consider the adoption of a Resolution providing an allocation of a portion of Niagara County sales tax to be specifically directed to the maintenance of transportation routes within Niagara County.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: NFC DEVELOPMENT, NYS PENSION FOR EMPLOYEES, 2012-16
BY: ALL COUNCIL MEMBERS

Agenda Item #13

WHEREAS, City of Niagara Falls Empire Zone and Minority Business Coordinator Clara Dunn and Renewal Community Coordinator Thomas Tedesco were hired by the NFC Development Corporation on June 5, 1989 and August 9, 1994, respectively; and

WHEREAS, while working for the NFC Development Corporation, Ms. Dunn and Mr. Tedesco worked under the direction of the City's Directors of Community Development, in furtherance of the City's development mission; and

WHEREAS, during the period from 1991 through September 1997, Ms. Dunn was paid directly by the City of Niagara Falls and therefore received retirement credit for this time period from the New York State and Local Retirement System. Likewise, Mr. Tedesco was paid and credited in the same manner from his date of hire through September 1997; and,

WHEREAS, from September 1997 through April 2008, Ms. Dunn and Mr. Tedesco were paid directly by the NFC Development Corporation, despite performing the same job functions as when they were directly paid by the City. Since the NFC Development Corporation does not participate in the New York State and Local Retirement System, Ms. Dunn and Mr. Tedesco have not received any retirement system credit for the period between September 1997 and April 2008; and,

WHEREAS, Clara Dunn and Thomas Tedesco are now seeking retirement system credit for the time period in question, and

NOW, THEREFORE, BE IT RESOLVED that the Niagara Falls City Council supports the application of Clara Dunn and Thomas Tedesco which seeks retirement credit from the New York State and Local Retirement System for the periods of September 1997 through April 2008.

BE IT FURTHER RESOLVED, that the Niagara Falls City Council requests that Ms. Dunn and Mr. Tedesco receive retirement credit from the New York State and Local Retirement System commencing with their original dates of hire by the City, i.e. June 5, 1989 in the case of Ms. Dunn and August 9, 1994 in the case of Mr. Tedesco, consistent with a resolution adopted by the Niagara Falls City Council on April 21, 2008, a copy of which is attached hereto, which considered their employment history and status, and granted Ms. Dunn City benefits retroactive to her original date of hire which was June 5, 1989 and Mr. Tedesco City benefits retroactive to his original date of hire which was August 9, 1994.

Council Member Grandinetti moved to add the Resolution to the Agenda	
Yeas	5
Nays	0
	APPROVED

The Resolution was added to the Agenda as #13

Council Member Choolokian moved to Adopt the Resolution	
Yeas	5
Nays	0
	ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:35 p.m.

Carol A. Antonucci
City Clerk

02/22/2012



MARCH 5, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the March 5, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 February 22, 2012

Yeas	5
Nays	0
	ADOPTED

Henry Sloma, Chairman of the Niagara County IDA, spoke on the organization's plan for marketing the downtown area. A Marketing Director has been hired to promote the area, and he wants his organization to work together with the City to accelerate the permitting process for downtown development.

In the Administrative Update:

Mayor Paul Dyster noted the passing of the wife of the former Mayor of Lewiston, and extended condolences to the family of CiCi Soluri. He also commended the Forestry Department and workers from other City Departments and National Grid for their work during the weekend wind storm. Public Works Director David Kinney also noted the work done by the City crews during the storm. Council Member Walker asked Mr. Kinney what the plan was going forward to deal with trees that need to be cut/removed, and Mr. Kinney responded that additional funding was needed to bring in an outside contractor to address the trees that are too large for City crews to cut down. Mr. Kinney also spoke on damage done to the fence at the Municipal Complex by the wind.

Mayor Dyster introduced Thomas Colangelo as the new Fire Chief, and Ruby Pulliam as the new Director of Human Resources/EEO Director. The Mayor thanked the Battalion Chiefs for running the Fire Department until the new Chief was appointed. Council Member Choolokian asked about the status of filling other Department Head vacancies, and the Mayor responded that he is close to filling the Department Head vacancy in the Community Development Department. Council Member Choolokian commended the Mayor for filling the Fire Chief and HR Director Department Head positions in house, and asked that the Mayor continue to fill Department Head vacancies in house with Niagara Falls residents.

City Administrator Donna Owens credited Sherry Shepherd-Corulli, the City's Grants Writer, for working with our Legislators to get member grants. Chairman Fruscione asked for an update at the next Council Meeting of ongoing and upcoming grants.

City Engineer Jeffrey Skurka reported that:

1. Bids for the Pine Avenue lights are due March 14, National Grid has the parts in stock and ready, and the contractor hired for their part of the installation.
2. The design for the Center Court lights is being worked on, and should be ready by June. After a lengthy discussion, Chairman Fruscione informed Mr. Skurka that the Council wanted the job done quickly.
3. The poles for the lights in front of the school on Buffalo Avenue should be delivered by April 9.
4. He will check on the schedule for the design of the Pine Avenue crossing light.

Chairman Fruscione asked Mr. Skurka to look into the 3 tiered condition of the sidewalks on Buffalo Avenue between 74th and 78th Streets.

The City Administrator noted the Mayor's State of the City Address at the Conference Center on March 15 at 5:30 PM. She also said that she will go back to the contractor for a discussion of the street lights at Center Court, and Council Member Walker asked that the Council be presented with the facts at the next Council Meeting.

Corporation Counsel Craig Johnson asked that the Council approve amendments to two Agenda Items:

1. Approval of three additional conditions for Agenda Item #4.

Council Member Grandinetti moved to approve the amendment.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

2. Approval of addition of a name to the list of appointments of Commissioner of Deeds (Agenda Item #7).

Council Member Anderson moved to approve the amendment.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

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

1. A communication relative to terms and conditions of employment for the Superintendent of Police.

Council Member Anderson 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 #9.

2. Resolution relative to adopting Chapter 929 of the Codified Ordinances.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #10.

3. Resolution relative to the dangers of hydraulic fracturing.

Council member Choolokian moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #11.

This Session ended at 5:00 PM

Chairman Fruscione reconvened the Meeting at 7:07 p.m. in the Council Chambers with all Council Members present. The Chairman said the Opening Prayer and 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:

Ron Anderluh	Agenda Items #10, #11
Rita Yelda	Agenda Items #10, #11
Roger Spurbach	Agenda Items #10, #11
Amy Hope Witryol	Agenda Items #10, #11
Andrea Duncan	Agenda Items #10, #11
Debbie Retzloff	Agenda Items #10, #11
Karen Labosky	Agenda Items #10, #11
Charley Bowman	Agenda Items #10, #11
Steven Martin	Bid rejected for Property purchased at In Rem sale

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: CSX BRIDGE REPLACEMENT/RECONSTRUCTION OF MAIN STREET,
MARK CERRONE, INC., CHANGE ORDER

Agenda Item #1

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.

Since the start of the project, several small-scale tasks not originally included in the original scope were performed by the contractor at City direction. These tasks range from the removal of asbestos-containing conduit to the installation of new street lighting appurtenances within the right-of-way. Other scope changes are the result of CSX mandated shoring and bracing requirements not included in our project's specifications. The total dollar amount for the entire small-scale task completed to date is \$86,402.25. However, tasks not completed to date will allow this change order to be processed at this time for \$0.00.

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

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

Yeas 5
Nays 0

APPROVED

PURCHASE: AGRICULTURAL CHEMICALS, VARIOUS VENDORS

Agenda Item #2

We respectfully request you award the above referenced bid as follows (on file in City Clerk's Office):

- TO: Andre & Son, Inc.
2 Mill Street
Montrose, PA 18801
FOR: Items: 1 and 4 per the attached tally sheet. \$1,133.00
- TO: John Deere Landscapes
1301 East 9th Street
Suite 1300
Cleveland, OH 44114-1849
FOR: Item: 8 alt. per the attached tally sheet. \$351.00
- TO: Professional Turf Surfaces, Inc.
8704 Brickhouse Drive
Corfu, NY 14036
FOR: Items: 5 and 6 per the attached tally sheet. \$836.00
- TO: Helena Chemical Co.
3367 Adams Road
Penn Yan, NY 14527
FOR: Items: 2, 3 and 7 per the attached tally sheet. \$2,085.85

TOTAL: \$4,405.85

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 bid requests were sent to Five (5) vendors. Five (5) bids were received. The above referenced companies submitted the lowest bids to meet our specifications for each respective item.

Funds for this expenditure are available in the Golf Course Fund code: GC7250.0200.0419.009.

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

Yeas 5
Nays 0

APPROVED

CAYUGA CREEK HABITAT RESTORATION PLAN, COOPERATIVE AGREEMENT WITH US FISH & WILDLIFE

Agenda Item #3

\$220,000.00 is available for habitat restoration in the Cayuga Creek watershed. U.S. Fish and Wildlife and City propose to enter into a cooperative agreement which will allow the City to utilize \$22,000.00 of these funds for the preparation of a habitat restoration plan.

Will the Council vote to approve the cooperative 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: 2616 PINE AVE., SALE TO NELSON FASCIANO, JR.

Agenda Item #4

The City recently acquired the above referenced premises as part of the 2011 In-Rem proceeding. Attached (on file in the City Clerk's Office) hereto is an offer to purchase the above premises. The offer is from Nelson Fasciano Jr., the owner of the abutting premises. He is proposing to pay \$5,000.00 to the City for this lot. The Planning Department supports this sale and the Planning Board has recommended that the City Council approve the sale with conditions. Attached is the Planning Board recommendation with conditions with which Nelson Fasciano Jr. must comply.

Will the Council find that the best interest of the City will be subserved by dispensing with the sale at public auction and authorize the conveyance of the subject premises to Nelson Fasciano Jr. for the sum of \$5,000.00 and authorize the Mayor to execute appropriate documents/deeds to accomplish the conveyance in form satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

CLAIM: SPANBAUER, MARY

Agenda Item #5

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>
Advanced Care Physical Therapy	1/31/11 2/21/2012	\$242.30

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 Walker 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

Agenda Item #6

Notice of Mayor's Approval of Resolution 2012-14, relative to Amending Chapter 1113 of the Codified Ordinances entitled "Electrician Licensing and Regulations"

THIS ITEM WAS RECEIVED AND FILED

COMMISSIONER OF DEEDS, APPOINTMENTS

Agenda Item #7

The following have requested City Council approval for Commissioner of Deeds for a term from April 1, 2012 to March 31, 2014.

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

Crawley, Donna	City Court
Kachurek, Michael	NFPD
Kinney, Dave	DPW
Lapp, Leonard	City Clerks Office
Ligammari, Nicholas	NFPD
Smith, William	NFPD
Vesci, Russ	Waterboard
Wills, Stanley R.	NFPD
Ivancic, Betty	1246 86 th St., NF NY 14304
Kensinger, Larry	1308 Cleveland Ave, NF, NY 14305
Pendola, Jaclyn	620 28 th St., NF, NY 14301
Suess, Marlene	5130 Dana Dr., Lewiston, NY 14092
Tyson, Charletta	1744 Tennessee Ave., NF NY 14305
Ward, Diane	1416 13 th St., NF NY 14305
Kaczor, Lisa	7050 Lakeside Dr., NF, NY 14304

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

Yeas
Nays

5
0
APPROVED

RESOLUTION: CERTO BROTHERS, CELEBRATING 100 YEARS, 2012-17
BY: ALL COUNCIL MEMBERS

Agenda Item #8

WHEREAS, The Certo family has been distributing beer since 1912;
and

WHEREAS, Certo Brothers Distributing Company will celebrate their 100th Anniversary this year. When Peter Certo arrived in the United States from Sicily, he began to take notice of the popularity of soft drinks. Certo Bottling Works---a soft drink bottling plant---was born;
and

WHEREAS, After the repeal of Prohibition, Certo applied for a license and became the first beer wholesaler in Niagara Falls in 1933. "To say we were the first beer wholesaler in the area is not completely true," Certo said as he smiled at his remark at the time. "We were just the first legal one!"; and

WHEREAS, During the 1930's, Certo's three sons and three daughters began to play major roles in the business, which they would maintain and be a part of throughout their adult lives. A fourth son, Anthony, became an attorney and then chief city court judge of Niagara Falls. Today, a third generation of Certos is guiding the family business as they continually update and modernize the company, contributing to its success, as its "state-of-the-art" facility improves; and

WHEREAS, Certo Brothers continues to be active in the community contributing to various colleges, hospitals and churches as well as charitable causes such as the American Cancer Society.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulate Certo Brothers Distributing Company and wish it continued success.

Yeas	5
Nays	0

ADOPTED

POLICE DEPT., SUPERINTENDENT, TERMS/CONDITIONS OF EMPLOYMENT

Agenda Item #9

In addition to the base salary and employment benefits provided Superintendent of Police in the City's Ordinance pertaining to exempt employees, the City has had an unwritten policy to allow the Superintendent of Police Chella to work overtime on an as-needed basis. An issue has arisen concerning the overtime worked by the Superintendent of Police Chella because it was not pursuant to a written agreement. This is intended to correct that. This written agreement will, among other things, require that any overtime worked be approved in advance by the City Administrator and paid at the Superintendent's "straight time" rate of \$42.34 per hour.

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

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

Yeas 5
Nays 0
APPROVED

RESOLUTION: NATURAL GAS EXTRACTION PROHIBITION, ADOPTING ORDINANCE 2012-18

BY: ALL COUNCIL MEMBERS

Agenda Item #10

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 929 of the Codified Ordinances entitled "Natural Gas Extraction Prohibition and Prohibition Against Storage, Transfer, Treatment or Disposal of Natural Gas Exploration and Production Wastes" is hereby adopted as attached (On file City Clerk's Office) hereto.

Yeas 5
Nays 0
ADOPTED

RESOLUTION: HYDRAULIC FRACTURING IN NYS, 2012-19

BY: ALL COUNCIL MEMBERS

Agenda Item #11

WHEREAS, a recent advance in techniques for extraction of natural gas from shale rock beds called hydraulic fracturing, or "fracking" has caused environmental and safety concerns across the country; and

WHEREAS, widely reported negative effects of fracking include release of gas and dangerous chemicals and carcinogens into wells and other public water supplies; and

WHEREAS, research investigating the specific risk and benefit of hydraulic fracturing procedures is lacking, with EPA study results projected for 2012; and

WHEREAS, companies engaged in fracking operations remain largely unregulated by federal or state governments and exempted; and

WHEREAS, the recent BP Gulf oil spill indicates that unregulated industrial procedures may result in catastrophic negative environmental impacts; and

WHEREAS, New York State is scheduled to begin issuing permits for hydraulic fracturing operations in the near future on the Marcellus Shale; and

WHEREAS, Such operations may potentially cast negative environmental impacts upon the residents of the City of Niagara Falls.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Niagara Falls hereby urges Governor Andrew M. Cuomo and the State of New York to issue a Moratorium suspending hydraulic fracturing operations in New York State until such time that the Environmental Protection Agency provides specific details on the dangers and possible environmental impacts of such operations.

Yeas 5
Nays 0
ADOPTED

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 7:55 p.m.

Carol A. Antonucci
City Clerk



MARCH 19, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the March 19, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

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

Absent: Council Member Robert Anderson

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 March 5, 2012.

Yeas 4
Nays 0

ADOPTED

Randal Friess of the Niagara Falls Border Patrol Station gave a Presentation on the history and work of the Border Patrol.

Senior Planner Thomas DeSantis gave an update on the International Train Station Project, and noted that the Project is scheduled to be up and running by 2014.

Rebecca Conde spoke on a \$25,000 grant that was awarded to the City for an exercise loop in the area of Hyde Park surrounding the John Duke Senior Center. She thanked the Administration and the Council for their support and funding for the Center, and also thanked the Trades Division for work done at the Center.

In the Administrative Update, Mayor Paul Dyster reported that:

1. There was a walk on for the Agenda for funding for the Pine Avenue light standards, and the City's contractor was not the same as the contractor for National Grid, but the two would work together to get the job done.
2. The City had placed 7 temporary light carts in the completed area of the Hope VI Project where residents were living. The City will keep track of the expenses for diesel fuel for the generators that power the lights, overtime for City employees to turn the lights off and on, and any other expenses related to the lights in an attempt to recoup reimbursement.
3. He was recommending Dolores Marino for reappointment to the Library Board, and would be submitting additional names for appointment to the Board at the next Meeting. He also wanted to form an Ad Hoc Committee for the Library as its needs change in the future.

Chairman Fruscione noted that Public Works Director David Kinney had provided information to him on the savings in revenue resulting from the small amount of road salt that was needed this season.

Corporation Counsel Craig Johnson distributed copies of an Item to be added to the Agenda relative to a Letter of Award for Pine Avenue light standards and street signage removals.

Council Member Choolokian moved to add the Item to the Agenda.

Yeas 4
Nays 0

MOTION TO ADD ITEM TO AGENDA APPROVED

The Item was added to the Agenda as #18.

Council Member Grandinetti questioned the amount requested to retain the former Director of Community Development as a Consultant to the Department (Agenda Item #3). Community Development Counsel Richard Zucco, who is acting as the Director of the Department, responded that the Consultant was needed to help with year end reports for the Department, and to help the new Director, who had very little experience in Community Development matters. He also said that the requested amount represented the high end, and it could be reduced.

Council Member Grandinetti moved to amend the requested amount from \$10,000 to \$5,000.

Yeas	4
Nays	0

MOTION TO AMEND APPROVED

Chairman Fruscione questioned funding for an analysis of Impediments to Fair Housing Choices (Agenda Item #5), and added that he thought that this was something that was already done by NiaCAP. He asked Mr. Zucco to look into this.

Council Member Choolokian asked if the consolidation of the Human Resources Department with the Equal Employment Opportunity & Workforce Diversity Office was against the agreement that had been made between the City and the Department of Justice, and if it was a conflict of interest to combine both Departments (Agenda Item #9). Mayor Dyster responded that the consolidation was clarified by the Attorney General's Office, and would result in a savings for the City.

This Session ended at 5:20 PM

Chairman Fruscione reconvened the Meeting at 7:03 p.m. in the Council Chambers with Council Member Anderson absent. The prayer was said by Council Member Choolokian 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:

Ron Anderluh	Agenda Item #17
Craig Avery	Agenda Item #17
Roberta Sitzman	Agenda Items #3, #9
Ken Hamilton	Agenda Item #17
Jeffrey Williams	Agenda Items #17, #18
Ken Hamilton	Thanks to Dave Kinney & John Caso for quick response to report of missing manhole/storm Sewer cover

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF FEBRUARY 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CITY CLERK'S REPORT FOR THE MONTH OF FEBRUARY 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

COMMUNITY DEVELOPMENT, SPECIAL CONSULTANT

Agenda Item #3

Permission is requested to retain Robert Antonucci as a special consultant to the Community Development Department at the rate of \$50.00 per hour, not to exceed \$10,000.00. Mr. Antonucci has been assisting in finalizing the year end Consolidated Annual Performance and Evaluation Report (CAPER) which provides information to HUD concerning the CDBG, HOME and ESG grants. In addition, Mr. Antonucci will be available on an as-needed basis throughout this year to consult with the new director and to provide assistance relating to the Community Development Department.

These services will be provided as an independent contractor. Funds are available to pay for these services in budget line CAD 029 and City budget line CD1 8686.0000.450.500.

Will the Council vote to retain Mr. Antonucci as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

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

Yeas	1
Grandinetti	
Nays	3
Choolokian, Walker, Chairman Fruscione	

DEFEATED

WEED AND SEED PROGRAM, BUDGET ADJUSTMENT

Agenda Item #4

The 2011 (July 1, 2011-June 30, 2012) Community Development allocation to the Weed and Seed program was \$30,000, to pay a portion of the salary of the Community Outreach worker. The Community Outreach worker was not hired until January, 2012. This allocation is at CD budget CPS 059 and City budget line CD1.8676.0000.0450.500.

In the past, this program was carried out in conjunction with the Niagara Falls Housing Authority as fiscal agent. The actual activities were supervised by the City's Community Policing Liaison. It appears that the costs in prior years exceeded the grant amounts.

It is proposed that the 2011-2012 allocation used for a portion of the Community Outreach salary be reduced to \$15,000.00. Of the other \$15,000.00, \$7,250.00 shall be used for documented salary and other expenses incurred by NFHA. The balance of \$7,750.00 shall be used for documented program costs, including youth transportation, t-shirts and giveaways, and equipment and supplies dedicated to the program.

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

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

Yeas	4
Nays	0

APPROVED

CONTRACT: ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICES, MULLIN & LONERGAN ASSOCIATES

Agenda Item #5

The Community Development Department advertised for proposals for the preparation of an Analysis of Impediments to Fair Housing Choices. This analysis is required for the City's CDBG and HOME federal grants.

The following proposals were received:

Robert Silverman, Ph.D.

UB Dept of Urban and Regional Planning \$71,144.00
Planning/Communications

River Forest, Il \$32,500.00

Mullin & Lonergan Associates Incorporated

Pittsburgh, PA \$20,800.00

It appears that Mullin, Lonergan Associates has the capabilities to perform this analysis for the City. The firm has conducted a substantial number of similar analyses throughout the country. The price includes all necessary travel, copying and other expenses.

Funds are available to pay for this in budget line CAD 029 and City budget line CD1 8686.0000.450.500.

Will the Council vote to approve hiring Mullin & Lonergan Associates Incorporated as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

Council Member Choolokian moved to table the communication

Yeas 4
Nays 0

TABLED

POLICE DEPARTMENT, ELIMINATE VIOLENCE AGAINST WOMEN GRANT

Agenda Item #6

The Police Department has received a State Grant in the amount of \$30,245.00 under the Eliminate Violence Against Women Program. The term of this grant is from March 31, 2012 to December 31, 2012 and no City match is required.

Will the Council approve acceptance of this Grant and authorize the Mayor to execute any documentation in a form acceptable to the Corporation Counsel?

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

Yeas 4
Nays 0

APPROVED

CENTER COURT HOUSING DEVELOPMENT, TEMPORARY LIGHTING, FUNDING

Agenda Item #7

National Grid is in the process of preparing the appropriate easements so that it may commence work on installing lights in the right-of-way to be owned by the City as per the lighting plan in place. Pending the installation of permanent lights, it is recommended that ten (10) temporary lights be obtained and located in various places as determined by the Director of DPW or his designee. The cost of these temporary lights is \$250.00 per month per light for four (4) months for a total cost of \$10,000.00. It is estimated that the cost of fuel for that period of time as a power source will be \$27,000.00. The total cost will not exceed \$37,000.00. Funding is available from the DPW salt budget line. The City is undertaking this measure in response to what is perceived to be an emergency situation. Efforts will be undertaken to recover all or a portion of this cost from third parties.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

LIBRARY BOARD, REAPPOINTMENT

Agenda Item #8

I hereby reappoint the following to the Niagara Falls Library Board:
Reappointment: Dolores Marino
Term Expires: 12/31/2016
3202 Ontario Avenue
Niagara Falls, NY 14305

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

HUMAN RESOURCES DEPT./EQUAL EMPLOYMENT OPPORTUNITY & WORKFORCE DIVERSITY OFFICE, CONSOLIDATION

Agenda Item #9

It is requested that the City combine the Human Resources Department with the Equal Employment Opportunity & Workforce Diversity Office. These two (2) departments work closely together. This request is being made in an effort to increase efficiency and at the same time achieve a cost savings. The Director will oversee the Civil Service Division, the Personnel Division and the Equal Employment Opportunity Division. The attached organizational chart (on file in the City Clerk's Office) reflects the proposed division of labor and the attached budget worksheet shows salaries with some adjustments which will result in a savings to the City of approximately \$72,000.00.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #10

Notice of Mayor's Approval of Resolution 2012-18, relative to Adopting Chapter 929 of the Codified Ordinances entitled "Natural Gas Extraction Prohibition and Prohibition Against storage, transfer, treatment or disposal of Natural Gas Exploration and Production Wastes".

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: REEDS JEWELERS , CELEBRATING 100 YEARS, 2012-20
BY: ALL COUNCIL MEMBERS

Agenda Item #11

WHEREAS, Reeds Jewelers was opened in Niagara Falls in 1912. In 1916, Reeds opened a second store in Niagara Falls. This second store opened on Falls Street in the heart of downtown Niagara Falls. For the succeeding twenty years, Reeds conducted its business from these two locations; and

WHEREAS, Since then, the company has grown to ten stores in four states. Jenss Décor has served the home décor, collectible and bridal registry needs of countless Western New Yorkers for over 100 years; and

WHEREAS, The owners of Reeds Jewelers and Jenss Décor combined forces to establish a one-stop shop for jewelry, giftware and collectibles. In 2007, Jenss Décor won the National Best Promotion Award and in 2008, they won the National Store Design Award. NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulate Reeds Jewelers and Jenss Décor and wish them continued success.

Yeas 4
Nays 0

ADOPTED

RESOLUTION: NEW HOPE BAPTIST CHURCH, CELEBRATING 75 YEARS, 2012-21
BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, The New Hope Baptist Church, located at 1122 Buffalo Avenue in Niagara Falls, New York, is celebrating its 75th Anniversary this week; and

WHEREAS, The New Hope congregation moved from McKenna Avenue to Erie Avenue to its current location on Buffalo Avenue. The brick structure is the spiritual home to more than a couple hundred congregants along with a sense of family that pervades the New Hope Community; and

WHEREAS, The church's outreach programs touch all members of the community who are in need, from scholarships to students, choirs that perform in nursing homes, pick-up service for Sunday worship, a "Clothes Closet" for those in need, and Saturday meals delivered to shut-ins. The women's fellowship makes care baskets for the sick and shut-ins and the needy throughout the year and during the holidays. The men's fellowship delivers the baskets; and

WHEREAS, these efforts are what makes the church community feel so connected. "We feel it's part of our mission to improve the quality of life for all people in Niagara Falls. New Hope has something to celebrate, being here in the city doing the work of the Lord for 75 years," said Pastor Rev. Harvey L. Kelley.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulate New Hope Baptist Church, Pastor Rev. Harvey L. Kelly and all the church members, celebrating their 75th Anniversary in the City of Niagara Falls, New York.

Yeas 4
Nays 0

ADOPTED

RESOLUTION: MUNICIPAL CIVIL SERVICE COMMISSION, REAPPOINTMENT, 2012-22
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #13

BE IT RESOLVED, that the following individual is hereby reappointed to the Municipal Civil Service Commission for the expiration date of which appears opposite his name:

RE-APPOINTMENT TERM EXPIRES:

John Fiori, Sr. 5/31/2017
1529 Pierce Avenue
Niagara Falls, NY 14301
284-6163

Yeas 4
Nays 0

ADOPTED

RESOLUTION: NFC DEVELOPMENT, NYS PENSION FOR EMPLOYERS, AMENDING
RESOLUTION #2012-16, 2012-23
BY: ALL COUNCIL MEMBERS

Agenda Item #14

WHEREAS, City of Niagara Falls Empire Zone and Minority Business Coordinator Clara Dunn and Renewal Community Coordinator Thomas Tedesco were hired by the City of Niagara Falls for work with the NFC Development Corporation on June 5, 1989 and August 9, 1994, respectively; and

WHEREAS, while working for the NFC Development Corporation, Ms. Dunn and Mr. Tedesco worked under the direction of the City's Directors of Community Development, in furtherance of the City's development mission; and

WHEREAS, during the period from 1991 through September 1997, Ms. Dunn was paid directly by the City of Niagara Falls and therefore received retirement credit for this time period from the New York State and Local Retirement System. Likewise, Mr. Tedesco was paid and credited in the same manner from his date of hire through September 1997; and,

WHEREAS, from September 1997 through April 2008, Ms. Dunn and Mr. Tedesco were paid directly by the NFC Development Corporation, despite performing the same job functions as when they were directly paid by the City. Since the NFC Development Corporation does not participate in the New York State and Local Retirement System, Ms. Dunn and Mr. Tedesco have not received any retirement system credit for the period between September 1997 and April 2008; and,

WHEREAS, Clara Dunn and Thomas Tedesco are now seeking retirement system credit for the time period in question, and

NOW, THEREFORE, BE IT RESOLVED that the Niagara Falls City Council supports the application of Clara Dunn and Thomas Tedesco which seeks retirement credit from the New York State and Local Retirement System for the periods of September 1997 through April 2008.

BE IT FURTHER RESOLVED, that the Niagara Falls City Council requests that Ms. Dunn and Mr. Tedesco receive retirement credit from the New York State and Local Retirement System commencing with their original dates of hire by the City, i.e. June 5, 1989 in the case of Ms. Dunn and August 9, 1994 in the case of Mr. Tedesco, consistent with a resolution adopted by the Niagara Falls City Council on April 21, 2008, a copy of which is attached hereto, which considered their employment history and status, and granted Ms. Dunn City benefits retroactive to her original date of hire which was June 5, 1989 and Mr. Tedesco City benefits retroactive to his original date of hire which was August 9, 1994; and

BE IT FURTHER RESOLVED, that should The Retirement System approve the application of Ms. Dunn and Mr. Tedesco, the City shall pay the amount due for the City's contribution to the Retirement System on behalf of Ms. Dunn and Mr. Tedesco, recognizing that both individuals will be obligated to pay whatever amount is due on their behalf towards their retirement contribution.

Yeas
Nays

4
0
ADOPTED

RESOLUTION: NYS OFFICE OF PARKS, RECREATION & HISTORIC PRESERVATION,
ENFORCEMENT OF STATE LAW, 2012-24
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE,
COUNCIL MEMBERS ANDERSON, CHOOLOKIAN AND WALKER

Agenda Item #15

WHEREAS, this City Council has been made aware of communications being sent from the regional office of the New York State Office of Parks, Recreation & Historic Preservation ("State Parks") directing the removal of a certain newly installed sign on a business, citing a violation of Section 13.07 of the Parks, Recreation & Historic Preservation Law, a law enacted 50 years ago, because this sign was erected without the benefit of a permit issued by State Parks which involves businesses located within 500 feet of a State Park; and

WHEREAS, this City Council believes that there are numerous signs in close proximity to the state park in Niagara Falls, New York which are located within 500 feet of the state park for which permits have not been issued by State Parks; and

WHEREAS, this City Council believes that the enforcement of this antiquated law by State Parks will have a significant adverse affect on the development of businesses in downtown Niagara Falls, New York; and

WHEREAS, this City Council believes that it is important for a business, especially a business in downtown Niagara Falls, to have adequate signage on the exterior of its business so that visitors to the area can see that the business exists and is located where it is.

NOW, THEREFORE, BE IT RESOLVED that this City Council supports the installation of signs by businesses on the exterior of their businesses identifying their location in the City of Niagara Falls, particularly in the downtown area, provided appropriate permits have been issued by the City of Niagara Falls; and

BE IT FURTHER RESOLVED, that this City Council requests that State Parks rescind any direction it has recently given any business within 500 feet of the State Park location to remove their signs and not commence any enforcement activity based upon a state law that was enacted some 50 years ago; and

BE IT FURTHER RESOLVED, that a copy of this City Council resolution be forward to the New York State Office of Parks, Recreation & Historic Preservation, Niagara Frontier Region, to the attention of Mark W. Thomas, Director, Western District.

Yeas
Nays

4
0
ADOPTED

RESOLUTION: FIRE DEPARTMENT, HOME RULE, 2012-25
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE
COUNCIL MEMBERS ANDERSON & CHOOLOKIAN

Agenda Item #16

WHEREAS, the City Council of the City of Niagara Falls has the utmost respect and admiration for those men and women who have chosen to serve our city and its residents as members of the Niagara Falls Fire Department; and

WHEREAS, said individuals protect life and property every single day in the City of Niagara Falls, often having to abandon care or concern for their own well being and safety; and

WHEREAS, in 2009, New York State hastily enacted legislation creating a new Tier V retirement plan for public employees who participate in the state retirement system, including members of the City of Niagara Falls Fire Department; and

WHEREAS, the Tier V legislation inadvertently included a clause that unintentionally and adversely affected new hires to the City of Niagara Falls Fire Department effective July of 2009 causing new hires to go without the benefit of the long recognized and adhered to "non-contributory" agreement which had heretofore been afforded members of fire departments statewide in recognition of the peril they face on a daily basis in service to those in need; and

WHEREAS, this consequence punitively applied to new hires due to the absence of a current and effective collective bargaining agreement between the City of Niagara Falls and the members of the City of Niagara Falls Fire Department; and

WHEREAS, currently before both houses of the state legislature, a bill has been proposed and supported by members of the Western New York delegation to grant equity and fairness to those mistakenly and wrongfully affected by the aforementioned Tier V legislation. It has been acknowledged that the results, as they pertain to the members of the Niagara Falls Fire Department, were indeed mistakenly punitive and unintended; and

WHEREAS, on July 11, 2011, this Honorable Body adopted a Home Rule Message requesting swift passage of both bills in the New York State Assembly and Senate. Pursuant to NYS Assembly and Senate Rules however, the City of Niagara Falls must pass a new Home Rule Message in support of these bills because the previous Home Rule Message that was passed expired at the end of the 2011 calendar year.

NOW THEREFORE BE IT RESOLVED, that this honorable body does hereby recognize, acknowledge and support Assembly Bill (A.5564.A) and Senate Bill (S.5378) and its passage to correct and offer the benefits sought by said bills. This honorable body also requests that the rights and privileges reserved by the City of Niagara Falls and guaranteed by the State of New York as stated by Home Rule Law, be recognized and adhered to in this instance; and

BE IT FURTHER RESOLVED, that the City Council of the City of Niagara Falls does hereby request swift passage of said bills in both the Assembly and Senate and additionally requests approval from the Governor of the State of New York. Certified copies of this Home Rule request be forwarded to the NYS Governor Andrew Cuomo; Assembly Speaker Sheldon Silver; Senate Majority Leader Dean Skelos; Assemblyman Dennis Gabryszak; Senator Dennis Gallivan; Chair of the Governmental Employees Committee, Assembly Peter J. Abbate, Jr.; and Chair of the Civil Service and Pensions Committee Senator Martin Goldman; and

BE IT FURTHER RESOLVED, that the Clerk of this Council is directed to complete and certify the Home Rule Requests and to forward copies to the New York State Legislature as required.

Yeas
Nays

4
0

ADOPTED

RESOLUTION: LANDLORD RENTAL/PROPERTY OWNER REGISTRATION, ORDINANCE
AMENDMENT, 2012-26
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE
COUNCIL MEMBERS ANDERSON & CHOOLOKIAN

Agenda Item #17

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1137 of the Codified Ordinances entitled "Landlord Rental and Property Owner Registration" is hereby amended as attached hereto. (on file in the City Clerk's Office)

Yeas 4
Nays 0

ADOPTED

CONTRACT: PINE AVE. LIGHT STANDARDS/STREET SIGNAGE REMOVALS, SCOTT LAWN YARD, INC.

Agenda Item #18

The following was the result of bids received on March 14, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Scott Lawn Yard Inc. 5552 Townline Road Sanborn, NY 14132	\$35,016.80
Pinto Construction	\$59,920.00
Yarussi Construction	\$67,670.00

It is the recommendation of the undersigned that this project be awarded to Scott Lawn Yard, Inc. at their Base Bid of \$35,016.80. 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?

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

Yeas 4
Nays 0

APPROVED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:35 p.m.

Carol A. Antonucci
City Clerk



APRIL 2, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the April 2, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of March 19, 2012.

Yeas

5

Nays

0

APPROVED

City Controller Maria Brown spoke on issues relative to the Casino funds that have not been received by the City. She noted that no timetable has been established for when the City would receive the funds that are due; ongoing projects that are being funded with the funds should stop now; and the City needs to be extremely cautious with spending. Council Member Choolokian asked if spending is curtailed now, will the City make it until the end of the year, and Mrs. Brown responded that it would depend on several factors. Chairman Fruscione and Council Member Choolokian added that by adopting a spending freeze, the Council's priority is to protect employees as well as maintain services for our residents. Mayor Dyster added that the Administration had the same priorities, and commended the Council for their work in adopting Budgets that address these goals, as well as planning wisely for the future. The Mayor added that he will work diligently going forward, and while he had some concerns about how the regulating of spending is addressed in the City Charter, he agreed with the substance of the Council's action. Council Member Walker suggested forming an AdHoc Committee to look into how the Casino cash is used, and going to Albany to negotiate the release of the funds due to the City. Mayor Dyster added that he is working with Lt. Governor Duffy and Mr. Porter of the Seneca Nation to resolve the issues between the two parties that are holding up the release of the Casino funds. Chairman Fruscione suggested the renegotiation of the contract for garbage pickup and the metering of utilities at the Ice Pavilion as possible sources of new revenue for the City. Council Member Choolokian also suggested trade offs/ bartering with others, and electronics recycling for additional revenue sources.

In the Administrative Update:

1. Mayor Dyster reported that replacement of the lights on Pine Avenue will begin at the end of April, and should be completed in four weeks.

2. City Engineer Jeffrey Skurka said that work on easements for the lights at the Hope VI Project will begin mid April. Council Member Choolokian asked if there will be litigation against the developer over this issue, and Corporation Counsel Craig Johnson replied that he was reviewing the contract for the Project. The Mayor also added that the cost for the temporary lights that were installed in the area would be less than originally projected. Council Member Anderson asked about the lights in front of the school on Buffalo Avenue, and Mr. Skurka replied that the lights would be delivered on April 9. Council Member Choolokian requested an update on the Pine Avenue and Buffalo Avenue lights at the next Council Meeting.

3. Mr. Skurka also reported that new stanchions at the Legends basketball court would cost between \$30,000 and \$50,000. Public Works Director David Kinney added that an alternate fix would cost between \$400 and \$500. Council Member Walker spoke on the matter being an issue of safety for those who use the Courts, and Chairman Fruscione added that funding other than Special Projects Funds must be used.

4. Mayor Dyster reported that the interview process is ready to begin for the NFC Director. Council Member Choolokian commended the two employees, who are now working in that Department, and Chairman Fruscione suggested that those two employees continue to share the duties of the Director.

Mr. Johnson spoke on an amendment to Agenda Item #18, a Resolution relative to a spending freeze, by including a freeze on travel.

Council Member Choolokian moved to amend the Resolution.

Yeas	5
Nays	0

MOTION TO AMEND APPROVED

Mr. Johnson distributed copies of a communication to be added to the Agenda relative to an agreement for use of the Pothole Killer.

Council Member Choolokian 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 #19.

Chairman Fruscione questioned a Change Order to the Community Development Demolition Contract (Agenda Item #7), and CD Counsel and Acting Director Richard Zucco and Acting Building Commissioner Dennis Virtuoso responded.

Chairman Fruscione asked if the owner of the property at 113 Sixth Street had requested historic designation for the property, and he was informed that the owner had made the request.

This Session ended at 5:10 PM

Chairman Fruscione reconvened the Meeting at 7:07 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Anderson 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:

Ron Anderluh	Agenda Item #18, also suggested additional Revenue could be realized by a small tax on Non-Profits for services they receive
Nicholas D'Agostino	Agenda Items #2, #10, #15, #16, #18
Amy Hope Witryol	Agenda Item #18
Candace Corsaro	Kiwanis World Hunger Day
Nicholas D'Agostino	Nik Wallenda Walk

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: MEDIANS AND TRAFFIC CIRCLE, LANDSCAPING & MAINTENANCE, BEAU ENTERPRISES, INC.

Agenda Item #1

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

TO: Beau Enterprises, Inc.
4250 Williams Road
Ransomville, NY 14131

FOR: Landscaping and maintenance of the medians along:
\$35,745.00
Niagara Street, John B. Daly Boulevard, Rainbow Boulevard and the Traffic Circle:

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 eleven (11) vendors. Two (2) bids were received. The above referenced company submitted the lowest bid. A bid was also received from Patrick's Landscaping (\$137,215.00).

We further request the Council authorize the use of funds from the Special Projects Fund Balance.

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

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

DEFEATED

Council Member Choolokian noted that Special Projects Fund Balance is in trouble

CONTRACT: VACANT LOTS, CLEARING, NIAGARA GRASS CUTTING

Agenda Item #2

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

TO: Niagara Grass Cutting
2637 Niagara Falls Boulevard
Niagara Falls, NY 14304 .

FOR: Furnishing of proper equipment and experienced manpower to clear, cut and/or mow all vegetation (weeds, brush, etc.) on privately and City-owned lots in the City of Niagara Falls.

- 1. Man Hours (est. 3,200 hrs.) \$ 11.99/hr.
- 2. Acres (est. 150 acres) 24.00/acre

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 Eight (8) vendors. The above referenced company submitted the lowest bid prices for each respective item. Bids were also received from K.J. Smith Enterprises, Inc. (\$14.00/man hour & \$30.00/acre) and Beau Enterprises, Inc. (\$35.00/man hour & \$35.00/acre).

Funds for this expenditure are available in the Community Beautification code: A8510.0000.0449.080.

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

Yeas 5
Nays 0

APPROVED

Council Chairman Fruscione noted that the money has already been budgeted

HOUSING AUTHORITY, COMPENSATION FOR UNION/NON-UNION PERSONNEL

Agenda Item #3

The Niagara Falls Housing Authority Board of Commissioners approved certain pay increases for its employees. Attached (on file in the City Clerk's Office) is a copy of the correspondence describing these pay increases. While the City of Niagara Falls does not contribute financially to the operations of the Niagara Falls Housing Authority, the New York State Public Housing Law requires the approval of the City Council for those increases.

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

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

Yeas 5
Nays 0

APPROVED

POLICE DEPT., BUFFER ZONE PROTECTION PROGRAM GRANT

Agenda Item #4

The Police Department has received a grant in the amount of \$387,505.00 under the Buffer Zone Protection Program for the period between September 1, 2008 and September 30, 2012.

No City match is required.

Will the Council approve acceptance of the grant and authorize the Mayor to execute any agreements or other documentation necessary to effectuate same?

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

Yeas 5
Nays 0

APPROVED

PUBLIC SAFETY BLDG, FENCE DAMAGE CAUSED BY WINDSTORM

Agenda Item #5

The unforeseen windstorm event earlier this month caused damage to the fence surrounding the Public Safety Building at 1925 Main Street, Niagara Falls, New York. The estimate to repair this fence is \$1,950.00. Funding is available from Special Projects Fund Balance.

Will the Council so approve?

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

Yeas 2
Grandinetti, Walker

Nays 3
Anderson, Choolokian, Fruscione

DEFEATED

Council Member Choolokian noted that the SPFB is in trouble; Council Member Walker said the fence needs to be fixed

DPW, WINDSTORM RESPONSES, FUNDING

Agenda Item #6

It was necessary to incur overtime on an emergency basis during the windstorm event which occurred earlier this month. The total cost for manpower to handle this unforeseen event was \$5,217.19, inclusive of FICA. Funding is available from Special Projects Fund Balance.

Will the Council so approve?

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

Yeas 0
Nays 5

DEFEATED

Council Member Choolokian noted that the SPFB is in trouble and suggested taking the money from the DPW budget

CONTRACT: DEMOLITION, REGIONAL ENVIRONMENTAL DEMOLITION, INC., CHANGE ORDER

Agenda Item #7

Regional Environmental Demolition, Inc. is completing demolition contract CD 2011-1. Some changes have arisen in connection with the contract.

In demolishing the building at 3700 Highland Avenue, two heat ducts with Asbestos Containing Material were discovered behind the kitchen wall. The ducts were completely enclosed and not apparent in the assessment of the property. The change order to dispose of the ducts is \$1,400.00.

In demolishing the building at 1657 Cleveland Avenue, linoleum was discovered under the flooring. The linoleum was completely covered and not apparent in the asbestos assessment. The mastic glue attaching the linoleum to the floor necessitates the disposal of approximately 480 square feet of Asbestos Containing Material. The change order to dispose of this material is \$1,000.00.

The sidewalk and curb 1124 Main Street are in excellent condition. If the driveway apron and curb were removed, future use of this location would necessitate a new driveway and curb. The credit to the City to delete the driveway removal is \$1,400.00.

The total net change order is \$1,000.00. Funds are available in budget line CDR 399.

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

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

Yeas	0
Nays	5
	DEFEATED

CLAIM: STANEK, KIMBERLY

Agenda Item #8

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Cardamone Chiropractic	1/18 - 3/14/2012	\$497.28
Niagara Family Medicine Association	3/05/2012	\$121.00
Glover Physical Therapy	11/30/2011	\$76.84
Proscan Radiology Buffalo	1/10/2012	\$2300.00

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0
	APPROVED

CLAIM: SPANBAUER, MARY

Agenda Item #9

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Radiology Solution Associates	2/28/2012	\$ 16.41
Excelsior Orthopaedics LLP	3/16/2012	\$845.57

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #10.

Please be advised that, Mayor Paul A. Dyster, on March 21, 2012, duly approved the following:

Resolution 2012-26, relative to Amending Chapter 1137 of the Codified Ordinances entitled "Landlord Rental and Property Owner Registration".

THIS ITEM WAS RECEIVED AND FILED

HISTORIC DESIGNATION, ORAMEL JOHNSON HOUSE, HISTORIC PRESERVATION COMMISSION

Agenda Item #11

Attached (on file in the City Clerk's Office) is the report from the Niagara Falls Historic Preservation Commission recommending designation of 113 Sixth Street, the Oramel Johnson House, as an historic landmark under the City Historic Preservation Ordinance. The elements designated for landmark status will be the building exterior. This proposed designation was approved with the participation of the building owners.

The Historic Preservation ordinance provides:

133.05-02(1) At its next scheduled meeting after receipt of any recommendation from the Commission, the City Council shall consider the designation or acquisition of the landmark site or historic structure, or the designation of the historic district. A majority vote shall be required by the City Council for the designation or acquisition. The Mayor shall approve or veto said designation or acquisition as provided by law.

Will the Council vote to approve the designation of the exterior of 113 Sixth Street, the Oramel Johnson House, and forward the designation to the Mayor for approval, as provided by City Ordinance?

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

Yeas	5
Nays	0

APPROVED

RESOLUTION: HEART, LOVE AND SOUL, CELEBRATING 30 YEARS OF SERVICE,
2012-27

BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, celebrating its 30th Anniversary year, the Heart, Love and Soul Food Pantry and Dining Room announced its annual recognition dinner to take place on Thursday, April 26th, 2012 at their location at 939 Ontario Avenue; and

WHEREAS, Honorees include James and Mary Glenn of the Maid of the Mist; M&T Bank; the 107th Medical Group of the Niagara Falls Air Base; Gary Smith of Modern Disposal as well as Mary Lou Curry, Carol Pettway and Gail Laster who will receive the Frances Ficorilli Volunteer Award; and

WHEREAS, Heart, Love and Soul is a non-profit organization dedicated to feeding those in need and providing opportunities to improve their quality of life; and

WHEREAS, thirty years ago, Heart, Love and Soul was initiated by a prayer group from Sacred Heart Parish led by Frances Ficorilli. Today, the food pantry and dining room remains a beacon of hope for the residents of Niagara Falls. The mission is to feed the hungry and to provide them with opportunities to improve their quality of life. To fulfill its mission, Heart and Soul serves an average of 40 breakfasts and 150 lunches daily. In addition, the pantry provides food to 650 persons each month.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulates the Heart, Love and Soul Food Pantry in celebrating 30 years of commitment and serving all those in need within our Community.

Yeas

5

Nays

0

ADOPTED

RESOLUTION: ADVERTISING STRUCTURES, NYS ASSEMBLY BILL, 2012-28

BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN,
WALKER

Agenda Item #13

WHEREAS, on March 22nd, 2012, the New York State Assembly introduced Bill A09633 which will allow for advertising structures within 500 feet of the border of Niagara Falls State Park; and

WHEREAS, this bill has been referred to the Tourism, Parks, Arts and Sports Development Department in Albany; and

WHEREAS, the bill, sponsored by Assembly Members Gabryszak and Ceretto, states that this act is to amend Section 13.07 of the Parks, Recreation and Historic Preservation Law, in relation to allowing advertising structures in geographic areas within 500 feet of the border of the Niagara Falls State Park; and

WHEREAS, on March 19th, 2012, the Niagara Falls City Council passed a resolution supporting the installation of signs by businesses on the exterior of their businesses identifying their location in the City of Niagara Falls, particularly in the downtown area, provided appropriate permits have been issued by the City of Niagara Falls; and

WHEREAS, the resolution further stated that the City Council believes that it is important for a business, especially a business in downtown Niagara Falls, to have adequate signage on the exterior of its business so that visitors to the area can see the business exists.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council supports Assembly Bill A09633 and urges the members of the Assembly to quickly remove this bill from Committee and pass this bill well before the 2012 Tourist season.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Assembly Member Margaret Markey, Chair of the NYS Office of Parks, Recreation and Historic Preservation Committee; the Niagara Frontier Region to the attention of Mr. Mark Thomas, Director, Western District; Assembly Members Dennis H. Gabryszak and John D. Ceretto; and Assembly Speaker Sheldon Silver.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: COLLATERAL LOAN BROKERS A/K/A PAWNBROKERS, ORDINANCE AMENDMENT, 2012-29

BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN AND WALKER

Agenda Item #14

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 337 of the Codified Ordinances entitled "Collateral Loan Brokers A/K/A Pawnbrokers" is hereby amended as follows:

337.04 PENALTY FOR CARRYING ON BUSINESS WITHOUT A LICENSE OR AT IMPROPER LOCATION. LOCATIONS OF COLLATERAL LOAN BROKER BUSINESS.

- A. The said license will authorize such person to carry on the business of a collateral loan broker and shall designate the ~~house~~ address in which such person shall carry on the business of a collateral loan broker, and no person, corporation, partnership or firm shall carry on the business of a collateral loan broker without being licensed nor ~~in any house~~ at any address other than the one designated in said license, under a penalty of One Hundred and 00/100 Dollars (\$100.00) for each day he/she or they shall exercise or carry on said business without such license or at any other ~~house~~ address than the one so designated.
- B. Collateral loan broker businesses, as defined herein, are prohibited in all Zoning Districts in the City of Niagara Falls except for the I2 Industrial District where such businesses are permitted to operate but only with a special permit issued by the Zoning Board of Appeals.

...

337.24 PROHIBITED ACTS; HOURS OF BUSINESS.

...

337.24 CONTINUING EDUCATION REQUIREMENT

- A. Pursuant to the requirements of Section 41-a of the General Business Law, every entity licensed as a collateral loan broker pursuant to this chapter shall, within six months of obtaining a license and during every two-year period thereafter, complete at his or her own expense at least 12 hours of continuing education instruction offered in a course or program approved by the Superintendent of Police.
- B. Every pawnbroker which employs more than three employees shall designate one individual as the manager of the collateral loan broker business and shall notify the Superintendent of Police of the identity of the manager. Every individual designated as the manager of a pawnbroker shall, within six months of obtaining a license and during every two-year period thereafter, complete not less than eight hours of continuing education instruction for such managers offered in a course or program approved by the Superintendent of Police.
- C. Each collateral loan broker shall designate a manager for each location at which such broker conducts business and employs more than three employees, and every such manager shall comply with the provisions of Subsection B of this section.

- D. Each approved provider of continuing education instruction pursuant to this section and each collateral loan broker shall maintain the records of the provision or receipts of such instruction for not less than four years.
- E. The failure to comply with the provisions of this section shall be grounds for the suspension, revocation or refusal to issue any license issued pursuant to this chapter.

Bold and Underlining indicate Additions.
 Strikethrough indicates ~~Deletions~~

Yeas 5
 Nays 0
 ADOPTED

RESOLUTION: SECONDHAND DEALERS, ORDINANCE AMENDMENT, 2012-30
 BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN
 AND WALKER

Agenda Item #15

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 338 of the Codified Ordinances entitled "Secondhand Dealers" is hereby amended as attached hereto (on file in the City Clerk's Office).

Yeas 5
 Nays 0
 ADOPTED

RESOLUTION: DOWNTOWN NIAGARA FALLS, HOME RULE REQUEST TO REDUCE SPEED, 2012-31
 BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, the City has previously requested our State Legislators to introduce bills authorizing the City of Niagara Falls to reduce the speed limit in downtown Niagara Falls to a speed limit not less than 25 miles per hour; and

WHEREAS, in accordance with said request bills are now pending before the Assembly and Senate (A.9094/S.6120) which authorize the City to reduce the speed limit to not less than 25 miles per hour in downtown Niagara Falls; and

WHEREAS, in order for the legislative process to continue, this Council is asked to adopt a Home Rule Request for passage of the pending bills.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that pursuant to article IX of the Constitution, the City of Niagara Falls requests the enactment by the New York State Legislature of the aforesaid pending bills for the authority to decrease the speed limit in downtown Niagara Falls to a speed not less than 25 miles per hour, and the Council declares that the necessity exists for the enactment of such legislation inasmuch as the City of Niagara Falls does not have the power to enact such legislation by local law; and

BE IT FURTHER RESOLVED, that the Clerk of this Council is directed to complete and certify the Home Rule Requests and to forward copies to the New York State Legislature as required.

Yeas 5
 Nays 0
 ADOPTED

RESOLUTION: NY ROUTE 104, RECONSTRUCTION, FUNDING, 2012-32
BY: ALL COUNCIL MEMBERS

Agenda Item #17

WHEREAS, a project for the Reconstruction of NY Route 104, Main Street and Lewiston Road from Ontario Avenue to the Niagara Falls North City Line, in the City of Niagara Falls, Niagara County, PIN 5045.24 (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 and Construction & Construction Inspection phases of the Project, PIN 5045.24; and

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Niagara Falls, duly convened does hereby approve the above-subject project; and

BE IT 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 of 100% of the Federal and Non-Federal share of the cost of the Preliminary Engineering and Construction Inspection phases for the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum \$836,000 is hereby appropriated from bond funds (in addition to \$2,832,000 previously appropriated; \$286,000 for the project's Preliminary Engineering phase via City Resolution No. 2000-25 adopted on March 13th, 2000 and \$2,546,000 for the project's Preliminary Engineering and Construction phases via City Resolution No. 2009-30 adopted on April 6th, 2009 and made available to cover the cost of participation in the above phases of the Project; and

BE IT 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 Preliminary Engineering and Construction & Construction Inspection phases exceeds the amount appropriated, \$3,668,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering and Construction & Construction Inspection phases exceeds \$15,662,000, the project's current Total Cost, 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

BE IT FURTHER RESOLVED, that the Mayor of the City of Niagara Falls be and is hereby authorized to execute all necessary Agreements, certifications or reimbursements requests for Federal Aid and/or Marchiselli 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 and State Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and

BE IT 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

BE IT FURTHER RESOLVED, This Resolution shall take effect immediately.

Yeas
Nays

5
0

ADOPTED

RESOLUTION: SPENDING FREEZE, 2012-33
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON AND CHOOLOKIAN

Agenda Item #18

WHEREAS, the City Controller has alerted this City Council to the serious cash flow problem the City is presently in primarily as a result of the fact that the City has not received its share of Casino Revenues for the past 2 years; and

WHEREAS, on March 26, 2012 the Niagara Gazette reported that Lt. Governor Duffy stated that there is no timeframe for resolving the ongoing Casino Revenue dispute; and

WHEREAS, this City Council will take whatever action is necessary and within its power to be fiscally responsible; and

WHEREAS, this City Council is committed to continuing to deliver services to the residents and taxpayers of this City without the necessity of tax increases and layoffs.

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

1. Unless and until advised by the City Controller to the contrary, this City Council will not approve any requests for spending from the Mayor or Department Heads for non-budgeted items.

2. Unless and until advised to the contrary by the City Controller, this City Council will not approve any requests for the hiring of non-budgeted personnel from the Mayor or Department Heads.

3. This City Council declares that any requests for spending or hiring of budgeted items or positions, inclusive of travel, must first be approved by the City Council Chairman.

4. Commencing with the adoption of this resolution and continuing through December 31, 2012, this City Council demands the Mayor and City Administrator direct all City Department Heads to cease spending on discretionary items and only spend money on non-discretionary items which are necessitated pursuant to agreements and contracts already in place

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

ADOPTED

Council Member Choolokian noted this is a serious matter; Council Member Grandinetti felt that this action exceeds the Councils power; Council Members Anderson, Choolokian, Walker & Chairman Fruscione noted that the Council and the Administration need to work together

CONTRACT: POTHOLE KILLER, PATCH MANAGEMENT, INC.

Agenda Item #19

Patch Management, Inc. has stepped forward and offered the City the opportunity to avail itself of 2 pothole killer trucks, operators, materials, service and support for a time period of 320 hours. This opportunity is available immediately. Please recall that the pothole killer is a patented sole source product.

The cost for this is \$70,000.00. Patch Management, Inc. realizes that the City is in need of the services of the pothole killers but also realizes that the City faces the inability to afford this at this time. In the past, Casino Revenues have been the source of funding for the pothole killers and those funds are not available at this time because of the continuing dispute between the State of New York and the Seneca Nations of Indians. Therefore, Patch Management, Inc. will defer payment from the City until such time as the City receives the Casino Funds it is due. In the event the City never receives the Casino Funds it is due, Patch Management Inc. will forgive this balance due. This will be memorialized in an agreement to be prepared by the Corporation Counsel.

Will the Council so approve and authorize the Mayor to execute such an agreement?

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

Yeas	5
Nays	0

APPROVED

Council Member Walker noted that the Company expects payment only if and when Casino Funds are received

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:32 p.m.

Carol A. Antonucci
City Clerk



APRIL 16, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the,2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of April 2, 2012.

Yeas

5

Nays

0

APPROVED

Jennifer Tresch and Candace Corsaro gave a Presentation on behalf of Family & Children's Services and the Child Advocacy Center. They noted that April is Child Abuse Prevention Month.

In the Administrative Update, Mayor Paul Dyster reported that:

1. The Buffalo Avenue traffic light installation will begin tomorrow, and should be operational by next week.

2. The contractor for the Pine Avenue light installation is the same contractor as for the Hope VI Project lights. The lights at the Hope VI Project should be installed by mid-May, and then the contractor will begin working on light installation on the north side of Pine Avenue. Council Member Choolokian asked about the status of the Pine Avenue crossing light, and the Mayor informed him that parking spaces in front of the Como Restaurant will need to be moved, and the City was waiting for input from the owners of the restaurant.

3. The Public Works contract for work at the Legends Basketball Courts has been completed, and the Engineering Department will prepare the specs to let out for bids. It is estimated that it will cost \$30,000 to do all the courts at the same time, and \$50,000 to do one court at a time. Council Member Walker added that the sooner the work is completed, the better.

4. An Open House for the Custom House Restoration Project Phase I will be held from 3:30PM to 5:30 PM on April 23.

5. Director of Public Works David Kinney gave an update on the areas where work has already been done by the Pothole Killer and where work will be done next. Mr. Kinney also reported that there is no schedule for tree trimming, but hazardous trees are addressed first, then trees in areas where paving is scheduled to be done. He also added that Season Pass holders will be able to use the Golf Course when it opens on April 19.

Council Member Anderson asked Mr. Kinney to replace the damaged American flag at the site of the Veterans' Memorial in Hyde Park.

City Administrator Donna Owens introduced Seth Piccirillo, the new Director of Community Development, who said that his previous experience working for the NFTA would help him in his new position. The City Administrator also thanked Richard Zucco for overseeing the Department before Mr. Piccirillo's appointment.

Corporation Counsel Craig Johnson distributed copies of a supplemental package to be added to Agenda Item #24 relative to the Niagara Falls Underground Railroad Heritage Area Management Plan.

Council Member Grandinetti moved to amend the Item by adding the supplemental package.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

Mr. Johnson distributed copies of a communication to be added to the Agenda relative to a Letter of Award for the 2012 Drainage Structure Replacement and Repair Project.

Council Member Choolokian 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 #27.

Chairman Fruscione questioned where the funding would be coming from for Agenda Item #7, relative to Renovations/Rehabilitation to the Rainbow Center Mall Parking Ramp. Mayor Dyster responded that the funds spent would be reimbursed to the City, and Chairman Fruscione asked City Controller Maria Brown where the funding would initially come from. Paul Tronolone provided the information that upfront payments would come from USA Niagara.

This Session ended at 4:30 PM

Chairman Fruscione reconvened the Meeting at 7:05 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Grandinetti 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:

Ron Anderluh	Agenda Item #25
Linda Barksdale	Agenda Item #19
Evelyn Payne	Agenda Item #19
Ken Hamilton	Agenda Item #19
Amy Hope Witryol	Agenda Item #26
William Evans	Construct Building with Solar Panels on pad where Golf Dome was located & use Solar energy for Golf Carts
Paul Gromosiak	Travel Channel interview about Niagara Falls & relocate Old Stone Chimney to Town of Niagara
Ron Anderluh	Partnership with National Grid for Gill Creek Park; Flags at Park & Niagara Street
Ken Hamilton	Working for the good of the City
Stephanie Signorelli	Unsightly dumpsters in the City

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF MARCH 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CITY CLERK'S REPORT FOR THE MONTH OF MARCH 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: MEALS FOR PRISONERS, PSNF (MCDONALDS)

Agenda Item #3

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

TO: PSNF, Inc. (McDonalds)
 1726 Pine Avenue
 Niagara Falls, NY 14301

FOR: Meals for prisoners at the Municipal Svcs. Building:
 Breakfast (est. 3,000) \$1.00
 Lunch (est. 6,700) 1.65
 Supper (est. 2,200): 1.65

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. The above referenced company submitted the lowest bid. One other bid was received from Frankies Donuts, Inc. (Breakfast \$1.00, Lunch \$1.75 and Supper \$1.75).

Funds for this expenditure are available in A3120.0001.0449.010.

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

Yeas 5
 Nays 0

APPROVED

CONTRACT: STREET MILLINGS, SALE, LAFARGE NORTH AMERICA

Agenda Item #4

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

TO: LaFarge North America
 75 Pineview Drive, Suite 100
 Amherst, NY 14228

FOR: Sale of approximately 18,000 tons of Street Millings
 generated during the 2012 paving season: \$.76/ton

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 four (4) vendors. Two (2) bids were received. The bid from LaFarge North America, Inc. was for \$0.00 (i.e. they would accept the material at no charge to the City).

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

Yeas 5
 Nays 0

APPROVED

CITY PROPERTY: 2105 FERRY AVENUE, SALE

Agenda Item #5

The City has received an offer from Jonathon Lootawon to purchase 2105 Ferry Avenue for \$18,000.00. This property was previously sold by the City through the Urban Homesteading Program, and was obtained by the City through mortgage foreclosure. The Planning Board approved the sale of this property on September 17, 2009.

The property was offered for sale to the public by the Community Development Department, and then listed with Hooper Realty. The property has been listed since 2009. It is a HUD requirement that the property be sold only to someone whose income does not exceed 80% of the median income of our metropolitan statistical area. This has limited the options in selling the property.

It appears the Mr. Lootawon will qualify under the guidelines. The sale will be subject to final income verification and qualification. The house will be owner-occupied. The house will continue to be subject to income guidelines. If resold before September 2, 2019, the home can be sold only to a qualifying individual.

Although the house was secured, there has been vandalism and the plumbing is inoperable. The sale will be in "as is" condition. This will be a cash sale.

City Charter §59 requires that real property be sold at public auction to the highest bidder. This public offer does not technically meet that requirement. Approval of the sale requires that Council determine that the best interest of the city shall be subserved by dispensing with a sale at public auction.

Will the Council vote to determine that the best interest of the city shall be subserved by dispensing with a sale at public auction, to approve sale of 2105 Ferry Avenue 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

CENTER COURT (HOPE VI), LIGHTING EASEMENT, NATIONAL GRID

Agenda Item #6

National Grid is preparing to commence work to install street lights in the new HOPE VI Center Court complex. The roadways eventually will be dedicated to the City as public rights-of-way, but are now private property owned by Center Court I, LLC, the entity created by the Housing Authority to hold title to the complex.

The City retains the playground and park next to the proposed Eagle Heights. Some of the lighting work may take place on City property, although the lights will be installed in the right-of-way. National Grid has asked the City to grant an easement for the light installation. Rather than delay while the exact location of the work is established, we feel it is prudent to grant the easement so the work can proceed. The proposed easement is attached hereto (on file in the City Clerk's Office).

Will the Council vote to approve the street light easement 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

CONTRACT: RAINBOW CENTER PARKING RAMP, RENOVATIONS/REHABILITATION,
PHASE II, HUBER CONSTRUCTION, INC (GENERAL CONTRACTOR), CHANGE ORDER

Agenda Item #7

A contract for the above referenced project was awarded to Huber Construction Inc. on September 19, 2011 in the amount of \$6,309,000.00. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract. Please note that the City will be fully reimbursed for all costs associated with the below items through a funding agreement with USA Niagara Development Corporation. As detailed below, state funds to cover these items would come from already-established contingency accounts and/or project allowances created to cover unforeseen issues.

Issue 1: Work Change Directive #001 - Additional Abatement and Demo at
Curtail Wall \$94,622.10

This work was performed to expedite work required for the NCCC project. The scope included asbestos abatement and curtain wall removal included in LP Ciminelli's bid package. Contractor provided a hard weather-tight enclosure at opening per request of LP Ciminelli. Abatement cost of \$19,749 to be applied towards Abatement Allowance GC-1, and remaining cost of \$74,873.10 to be funded by NCCC project fund.

Issue 2: Work Change Directive #006 - Stepped Roof Curtain Wall Detail
\$0.00

In lieu of installing detail A3/S706 on the Contract Drawings, the Contractor was directed to proceed with revised detail A3/S706 R1 for the curtail wall supports. This change is a zero cost add.

Issue 3: Work Change Directive #007 - Roof Floor Drain Patching
\$5,870.00

The existing concrete around two (2) floor drains at the 5th level require additional patching due to the current conditions of the slab. The repairs consist of repairing a minimum of 30" x 30" area. The cost for this change is applied towards Structural Allowance GC-2.

Issue 4: Work Change Directive #008 - Additional Curtain Wall Clips
\$9,962.25

Upon removal of the roof decking at the cube, it was discovered that the existing curtain wall was not securely fastened at the top. The Contractor was to add temporary clips to allow for the contract work at the roof area to move forward.

Issue 5: Work Change Directive #010 - Topping Material Change Near
Elevator Areas \$0.00

During the topping removal at levels 2, 4 and 5, it was discovered that the topping is approximately only 1" thick near the elevator. This thickness does not allow enough depth for the new topping material that was submitted to be installed. Contractor was directed to install 4000 PSI Lightweight Concrete at these locations due to the existing thickness. This change is a zero cost add.

Issue 6: Work Change Directive #011 - Precast Stem Repairs at NCCC
Project Side \$6,380.79

Additional concrete repair work is required at the NCCC project side, as it was found that two (2) precast tee stems had cracking in the stems and flanges of the tees. The repairs were made per the detail on the contract drawings for similar repairs.

In all, the additional costs via this change order for the issues noted above are \$116,835.14.

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas
Nays

5
0
APPROVED

CONTRACT: RAINBOW CENTER PARKING RAMP, RENOVATIONS/REHABILITATIONS,
PHASE II, CIR ELECTRICAL CONSTRUCTION CORP. (ELECTRICAL CONTRACTOR),
CHANGE ORDER

Agenda Item #8

A contract for the above referenced project was awarded to CIR Electrical Construction Corp. on September 19, 2011 in the amount of \$275,000. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract. Please note that the City will be fully reimbursed for all costs associated with the below items through a funding agreement with USA Niagara Development Corporation. As detailed below, state funds to cover these items would come from already-established contingency accounts and/or project allowances created to cover unforeseen issues.

Issue 1: Work Change Directive #001 - LED Bulbs at 5th Level Light Poles
\$21,180.00

Per direction of the City of Niagara Falls and Department of Public Works, the Contractor was directed to replace the specified bulbs in the new light poles at the 5th level to LED bulbs. The LED bulbs were to be model ARE-120-5-525ma.

Issue 2: Work Change Directive #002 - Heat Trace Power at 2 Locations in Helix
\$5,304.00

Two existing drain stack within the Helix were found to require new power for the heat trace at the piping. The Contractor was directed to disconnect the existing power and replace with new back to the electrical room at the first floor.

Issue 3: Work Change Directive #003 - Additional Type "C" Fixtures
\$25,174.00

There are an additional twenty-eight (28) existing light fixtures located at the stairwells that required to be replaced with new. The Contractor was directed to furnish and install these additional type "C" fixtures at the stairwells, per response to their RFI.

Issue 4: Work Change Directive #004 - HP-1 Panel Feed \$329.00

The existing fused switch labeled "spare" at the ramp electrical room was found to be active (with the current load unknown), and there is no other fused switch with adequate capacity available in this electrical room. The Contractor was directed to provide a new feed to panel HP-1 in the new elevator machine room from the mall electrical room switchgear.

Issue 5: Work Change Directive #005 - Stairwell Detail #2
\$11,954.00

Detail 2/A (stairwell detail for first level retail at stair #'s 2, 3, 4, and 7) on drawing E-106 was revised to properly reflect existing conditions found during construction. As a result of the change and what was found, additional electrical components were now required. The Contractor was directed to furnish and install additional emergency lighting, exit signs, fire alarm stations, and fire alarm signals/strobes at the four (4) stairwells per the updated detail drawing.

Issue 6: Work Change Directive #006 - 8 Additional Receptacles at Stairwells \$0.00

There were an additional eight (8) existing receptacles within the stairwells that were found during the construction project. The Contractor agreed to replace the receptacles with new at no additional cost to the project.

Issue 7: Work Change Directive #007 - Additional Conduit/Wire for Lights at Helix \$62,997.00

There were seventy (70) light fixtures in the Helix between the ground level and level 1 that were to remain intact. However, due to the patch work at the Helix in this area and the existing topping level thickness,

the conduit/wire (which is inside the topping slab at this area) feeding these fixtures has been cut in various locations and required replacement. The Contractor was directed to replace the conduit and wire for these fixture with surface mounted conduit. In addition, there are four (4) additional fixtures on the 2nd level and twelve (12) fixtures on the 4th level that will require new power run to them as well.

Issue 8: Work Change Directive #008 - Heat Trace Note #2, 277V Heat Trace \$3,894.00

Once exposed, the existing heat trace power was found to be 120V coming out of a 120/208V panel. The new heat trace is 277V and cannot be wired to the same panel as the existing heat trace was. The Contractor was directed to wire the new 277V heat trace to available spare breakers in panel "X" and panel "A" at the ramp electrical room. Contractor to turn off the existing heat trace panel and label not in use.

Issue 9: Work Change Directive #009 - Light Fixture Interference at Helix \$1,330.08

Upon preparing to start the concrete repairs at the Helix ceiling on the ground level, it was discovered that there are six (6) existing light fixtures in the way of the repairs. Three (3) light fixtures are located at the Helix exit to Rainbow Street and the other three (3) light fixtures are located at the exit to 1st Street. Due to way the existing fixtures were installed, they could not be removed and reinstalled. The Contractor was directed to remove the six (6) fixtures and replace with new.

Issue 10: Work Change Directive #010 - Conduit in Light Pole Base Extension \$456.00

The contract drawings called to have the existing light pole removed at column line S-4.1 (level 5) and a new light pole to be installed on the existing base. The existing base that was called to be re-used has been modified and used by the NCCC Project for the installation of their steel and can no longer be used for the light pole. The Contractor was directed to extend the existing electrical conduit and wiring to the new light pole pedestal being installed by the General Trades Contractor. This cost is to be funded by the NCCC Project fund.

In all, the additional costs via this change order for the issues noted above are \$132,618.08.

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas
Nays

5
0

APPROVED

CONTRACT: RAINBOW CENTER PARKING RAMP, RENOVATIONS/REHABILITATION, PHASE II, J.R. SWANSON CO. INC., (PLUMBING CONTRACTOR), CHANGE ORDER

Agenda Item #9

A contract for the above referenced project was awarded to J.R. Swanson Co. Inc. on September 19, 2011 in the amount of \$249,940.00. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract. Please note that the City will be fully reimbursed for all costs associated with the below items through a funding agreement with USA Niagara Development Corporation. As detailed below, state funds to cover these items would come from already-established contingency accounts and/or project allowances created to cover unforeseen issues.

Issue 1: Work Change Directive #001 - Credit for Insulation on Roof Drain (\$1,333.36)

The NCCC project will be relocating the 2 southernmost rain water leaders inside the building at levels 1 and 2. The Contractor was asked to provide a credit for the insulation at these levels that was shown on the contract drawings.

Issue 2: Work Change Directive #002 - Replacement of Test-T's at NCCC Side \$8,290.88

Two (2) test-t's at the south end of the ramp where found to be corroded and would not allow for the pressure test of the piping to take place. The Contractor was directed to replace the two (2) test-t's and associated 5' of piping required to allow for proper use and function of the test-t's. The cost for this change is applied towards Stack Replacement Allowance PC-1.

Issue 3: Work Change Directive #003 - Replace Rises at 8 Drain Locations \$2,930.74

The existing rises to the floor drains were found to be compromised and leaking at eight (8) locations. The Contractor was directed to replace the piping at these locations and retest the piping. Air pressure tests passed after completion of this work. The cost for this change is applied towards Stack Replacement Allowance PC-1.

Issue 4: Work Change Directive #004 - Replacement of Vent Piping at SE Corner \$3,775.02

The existing vent piping at the south-east corner was removed by the demo contractor during the Phase 1 interior mall demolition. The Contractor was directed to supply and install a new 3" diameter sanitary vent piping for the floor drain piping system.

Issue 5: Work Change Directive #007 - Replacement of Test-T at Stack B \$4,005.88

Due to the existing condition of the test-t at drain stack B, the Contractor was directed to replace the test-t with new. The existing test-t was found to be deteriorating due to the age of it. The cost for this change is applied towards Stack Replacement Allowance PC-1.

Issue 6: Work Change Directive #010 - 4 Additional Floor Drains at Helix \$5,118.88

There are an additional four (4) existing floor drains located at the Helix that requires replacement due the condition of the existing drains over their life span. The Contractor was directed to replace these existing floor drains at the intermediate levels between floor 1 & 2, and 2 & 3. The cost for this change is applied towards Stack Replacement Allowance PC-1.

Issue 7: Work Change Directive #011 - Insulation Through Sleeves \$2,638.33

Due to the existing size of the sleeves, the Contractor could not install the specified 1" insulation around the piping where it passes through the slabs. To allow for insulation coverage at the sleeves, the Contractor was directed to install an expandable single-component polyurethane foam sealant between the storm stacks and edge of precast concrete. The cost for this change is applied towards Stack Replacement Allowance PC-1.

In all, the additional costs via this change order for the issues noted above are \$25,426.17.

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas
Nays

5
0
APPROVED

CULINARY INSTITUTE, NATIONAL GRID EASEMENT

Agenda Item #10

In order to service the NCCC Culinary Institute, it is necessary for National Grid to install certain installations in the City's right-of-way in the vicinity of Rainbow Boulevard near the location of the Culinary Institute. The easement agreement is being prepared by National Grid.

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

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

Yeas	5
Nays	0

APPROVED

CONTRACT: NTCC, VISITOR PARKING

Agenda Item #11

NTCC has requested that the City renew its Parking Agreement for visitors to the NTCC's building at 10 Rainbow Boulevard. The arrangement proposed is identical to the arrangement which worked well last year. Five (5) undesignated spaces in the City lot at the corner of First Street and Buffalo Avenue are made available to visitors identifying themselves as patrons of the NTCC. A visitor is permitted to park for a maximum of one (1) hour for a fee of \$1.00. In the event that one (1) hour is exceeded, that visitor pays the full daily rate. This will be subject to an agreement containing terms and conditions satisfactory to the Corporation Counsel.

Will the Council so approve and authorize the Mayor to execute such an agreement?

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

Yeas	5
Nays	0

APPROVED

RELAY FOR LIFE, CO-SPONSOR

Agenda Item #12

The City has once again been requested by the Niagara Falls School District to co-sponsor with it and the American Cancer Society the "Relay for Life" in Niagara Falls which will be held on May 18, 2012 from 3:30 pm to 10:00 pm. The City's contribution to this event as a co-sponsor will be the use of the City owned bandstand and two (2) golf carts at no cost. The terms of this co-sponsorship will be memorialized in an agreement prepared by the Corporation Counsel.

Will the Council so approve and authorize the Mayor to execute an agreement?

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

Yeas	5
Nays	0

APPROVED

NIAGARA GORGE RIM STATE STUDY, FUNDING AGREEMENT, AMENDMENT

Agenda Item #13

At your September 20, 2010 meeting, you approved \$25,000.00 of City funding for partial funding of the above study, the majority of which is being funded through the Ecological Standing Committee under the Greenway portion of the Niagara Power Project Relicensing Agreements. The funding was being provided through the Niagara Falls and River Region Chapter of Wild Ones (a copy of the 2010 Council item is attached) (on file in the City Clerk's Office). Since Council approval and the City's entering into a contract with the Local Chapter, the national Wild Ones Organization has assumed responsibility for overseeing the entire study project.

It is requested that the Council authorize an amendment to the City's agreement to reflect the role of the national Wild Ones Organization in overseeing and certifying the completion of the study.

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

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

Yeas 5
Nays 0

APPROVED

RAINBOW CENTRE MALL/CITY PARKING RAMP II, CONSULTANT SERVICES, URBAN ENGINEERS OF NY, P.C., CONTRACT AMENDMENT #2

Agenda Item #14

A contract for consultant services for the above referenced project is currently in place with Urban Engineers of New York, P.C. ("Urban"), 403 Main Street, Suite 530, Buffalo, New York 14203 in the amount of \$752,820.00. This work is intended to facilitate Niagara County Community College to develop Niagara Falls Culinary Institute in a portion of the former Rainbow Centre Mall, which is scheduled to open in Fall 2012. This work has involved final design, construction documents, and construction administration services for two phases of work: Phase I, which involves interior demolition of the former Rainbow Mall and Phase II, which involves a large rehabilitation of City Parking Ramp II.

In order to advance an aggressive schedule to complete the project, Urban was requested to submit a scope of work and fee estimate for a contract amendment to undertake necessary design/construction documents for a contract amendment to the Phase I demolition effort to raze the pedestrian bridge that crossed First Street and to undertake design/coordination efforts to ensure continuity with NCCC Culinary Project. Urban has submitted a scope of services and fee estimate in the amount of \$83,347.00.

Funding is currently available in Capital Project Account Code H1014 (Culinary Institute/Ramp). Please note that the City will be fully reimbursed for all costs incurred for services under this contract amendment through a funding agreement with USA Niagara Development Corporation; the state funds to cover this amendment would come the already-established contingency account to cover unforeseen costs for the Project.

Therefore, it is the recommendation of the undersigned that Contract Amendment #2 for the contract between the City of Niagara Falls and Urban Engineers of New York, P.C. for an amount not to exceed \$83,347.00 be approved.

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

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

Yeas 5
Nays 0

APPROVED

RAINBOW CENTER MALL/CITY PARKING RAMP II, CONSULTANT SERVICES, URBAN ENGINEERS OF NEW YORK, P.C., CONTRACT AMENDMENT #3

Agenda Item #15

A contract for consultant services for the above referenced project is currently in place with Urban Engineers of New York, P.C. ("Urban"), 403 Main Street, Suite 530, Buffalo, New York 14203. This work is facilitating the development Niagara Falls Culinary Institute in a portion of the former Rainbow Centre Mall ("Mall"), which is scheduled to open in Fall 2012, and involves design services for the interior demolition/abatement of the former Mall and rehabilitation of the adjoining City Parking Ramp II (the "Ramp").

While design for the rehabilitation of the Ramp's four-car elevator tower (and associated lobbies) fronting on Rainbow Boulevard was not originally included in Urban's scope of work, recent events have triggered the need to now advance these design efforts, particularly the upcoming development at 310 Rainbow Boulevard, which would primarily utilize the Rainbow Boulevard Elevator Tower to access parking in the Ramp.

Urban was requested to submit a scope of work and fee estimate for a contract amendment to undertake necessary design development/construction administration services associated with upgrading the Rainbow Boulevard Elevator Tower. Urban has submitted a scope of services and fee estimate in the amount of \$90,000.00.

On March 28, 2012, the Board of Directors of the USA Niagara Development Corporation ("USAN") authorized the President of the Corporation to enter into a funding agreement with the City of Niagara Falls to provide funding for this work. The City will be fully reimbursed for all costs incurred for services under this contract amendment.

Therefore, it is the recommendation of the undersigned be authorized to enter into a funding agreement with USAN and that Contract Amendment #3 for the contract between the City of Niagara Falls and Urban Engineers of New York, P.C. be approved for an amount not to exceed \$90,000.00.

Will the Council vote to so approve and authorize the Mayor to enter into the funding agreement and execute a contract in a form acceptable to the Corporation Council?

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

Yeas 5
Nays 0

APPROVED

CLAIM: STANEK, KIMBERLY

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Cardamone Chiropractic	3/23 - 4/05/2012	\$177.60

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

CLAIM: SPANBAUER, MARY

Agenda Item #17

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 checks:

Provider	Date of Service	Amount
Niagara Falls Memorial Medical	2/28/2012	\$47.15
Excelsior Orthopaedics LLP	2/28/2012	\$126.66
MF Surgery Center LLC	3/16/2012	\$1,411.03
Maple-Gate Anesthesia	3/16/2012	\$130.26

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #18

Please be advised that, Mayor Paul A. Dyster, on April 3, 2012, duly approved the following:

1. Resolution 2012-29, relative to Amending Chapter 337 of the Codified Ordinances entitled "Collateral Loan Brokers A/K/A/ Pawnbrokers".
2. Resolution 2012-30, relative to Amending Chapter 338 of the Codified Ordinances entitled "Secondhand Dealers".

THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE TRAFFIC ADVISORY COMMISSION

BEECH AVE. AND 17TH STREET, INSTALL ALL WAY STOP SIGNS AT INTERSECTION/ELIMINATE PARKING OF THE SOUTH SIDE OF BEECH AVENUE

Agenda Item #19

At the Traffic Advisory Commission meeting held on April 4, 2012 the Commission recommended APPROVAL of the following item:

INSTALL ALL WAY STOP SIGNS AT THE INTERSECTION OF BEECH AVENUE AND 17TH STREET AND ELIMINATE PARKING ON THE SOUTH SIDE OF BEECH AVENUE BOTH 50' WEST AND 120' EAST OF THIS INTERSECTION

Although this intersection falls short of the Federal MUTCD Minimum Warrants for the placement of "ALL WAY" stop signs, its geometry is unusual as Beech Avenue curves as it crosses 17th Street. In addition, Kalfas Elementary School is on the northeast corner and new housing from the Hope VI project is being added on the south side of Beech Avenue, which will create more traffic in the area. Therefore, due to these extraordinary circumstances and for safety this request was approved by the Commission.

Submitted By: Ken Hamilton, 3609 Highland Avenue

It is requested that City Council approve this recommendation.

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

Yeas	5
Nays	0

APPROVED

415 25TH STREET, HANDICAPPED ACCESS SPACE

Agenda Item #20

At the Traffic Advisory Commission meeting held on April 4, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 415 - 25TH STREET

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: Joanne Thuman, on behalf of her daughter, Raven Thuman
415 - 25th Street

It is requested that City Council approve this recommendation. Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

1115 PIERCE AVENUE, HANDICAPPED ACCESS SPACE

Agenda Item #21

At the Traffic Advisory Commission meeting held on April 4, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 1115 PIERCE AVENUE

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: Charlene Hill, 1115 Pierce Avenue

It is requested that City Council approve this recommendation. Council Member Anderson moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

1315 22ND STREET, HANDICAPPED ACCESS SPACE

Agenda Item #22

At the Traffic Advisory Commission meeting held on April 4, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 1315 - 22ND STREET

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: April Vernone, on behalf of her son, Zarrian
Stellrecht, 1315 - 22nd Street, Apt. 2

It is requested that City Council approve this recommendation. Council Member Anderson moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CHAIRMAN OF THE PLANNING BOARD

2543 SENECA AVENUE, EXPAND PROPERTY

Agenda Item #23

Pursuant to action taken by the Niagara Falls Planning Board on the 28th day of March 2012, your request is hereby DENIED.

NAME OF OWNER:	City of Niagara Falls
ADDRESS OF ACTION:	Portion of Alley south of Seneca Avenue in the vicinity of 2543 Seneca Avenue
PURPOSE:	To expand property located at 2543 Seneca Avenue

This application is hereby DENIED for the following reasons:

- 1) Applicant or representative not present at Planning Board meeting
 - 2) Applicant did not indicate the intent of the use of the property
 - 3) Excessive garbage and water problem in area
- THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CHAIRMAN OF THE UNDERGROUND RAILROAD HERITAGE AREA COMMISSION

UNDERGROUND RAILROAD HERITAGE AREA MANAGEMENT PLAN, ADOPTION

Agenda Item #24

Attached hereto (on file in the City Clerk's Office) is the resource management report, Niagara Falls Underground Railroad Heritage Area Management Plan, prepared by *edr companies, inc.* on behalf of the Niagara Falls Underground Railroad Heritage Area Commission.

The Niagara Falls Underground Railroad Heritage Area represents a partnership between the New York State Office of Parks, Recreation and Historic Preservation, the City of Niagara Falls, and local stakeholders, under the guidance of the Niagara Falls Underground Railroad Heritage Area Commission.

The purpose of the Niagara Falls Underground Railroad Heritage Area Management Plan is to identify, communicate and celebrate resources within the Heritage Area associated with historic and contemporary experiences with the Underground Railroad. The Commission, working with project consultants and local stakeholders, has crafted the Plan as the initial step in directing the management and future operations of the Heritage Area. In keeping with all New York State Heritage Areas, the four main goals of the Plan are: historic preservation, interpretation and education, recreation, and economic revitalization through heritage tourism.

The Niagara Falls Underground Railroad Heritage Area (and Commission) is defined in Article 35 (Section 35.03) of the New York State Parks, Recreation, and Historic Preservation Law, and includes the entirety of the municipal limits of the City of Niagara Falls, located in Niagara County, New York (see attached Map 2 from the Heritage Area Management Plan).

The production of this Niagara Falls Underground Railroad Heritage Area Management Plan is a requirement of that legislation, as is the adoption by the City of Niagara Falls City Council. In preparation for City Council action, at its March 28, 2012 regular meeting, the NF Planning Board, acting as lead agency under SEQRA, acted to accept and approve The Niagara Falls Underground Railroad Heritage Area Management Plan Environmental Assessment and further acted to unanimously recommend its adoption.

4/16/2012

Will the Council vote to adopt the Niagara Falls Underground Railroad Heritage Area Management Plan, and forward the adopted plan to the Secretary of State, for the State of New York, as provided by Article 35 (Section 35.03) of the New York State Parks, Recreation, and Historic Preservation Law?

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: CHAMBER OF COMMERCE, DECLARING SUPPORT, 2012-34
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN

Agenda Item #25

Whereas, on June 13, 2011, the Niagara Falls, New York Chamber of Commerce was incorporated; and

Whereas, on March 8, 2012, the inaugural Board of Directors was seated for the Niagara Falls, New York Chamber of Commerce; and

Whereas, the City of Niagara Falls, New York has been without a stand-alone Chamber of Commerce since 2004; and

Whereas, the city's approximately 400 businesses deserve strong support and representation; and

Whereas, the city's six business associations deserve an agency that respects their history and supports their strong future; and

Whereas, affordable health care and a strong unified web presence is imperative for the success of local businesses; and

Whereas, the encouragement and support of start-up and entrepreneurial ventures is crucial to the growth and financial health of our great city. The marketing of local businesses, both within and separate from regional efforts, is paramount to the future of all residents of the Cataract City.

Now Therefore Be It Resolved, that the City Council of the City of Niagara Falls proclaims its support for the Niagara Falls, New York Chamber of Commerce and urges every business in the city to support this organization and their mandates for a strong business base in Niagara Falls.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: CASINO, RELEASING REVENUES, 2012-35
BY: ALL COUNCIL MEMBERS

Agenda Item #26

WHEREAS, this City Council has previously gone on record in the form of a resolution adopted on September 6, 2011 regarding the ongoing dispute between the State of New York and the Seneca Nation of Indians with respect to the lack of Casino Revenues being released to the City of Niagara Falls, the City of Buffalo, and the City of Salamanca and the necessity for the release of those Casino Revenues; and

WHEREAS, on September 6, 2011, when the City Council adopted its resolution regarding this matter it warned that the City of Niagara Falls will suffer if payments due pursuant to the Compact and Section 99-h of the State Finance Law were not paid to the City of Niagara Falls; and

WHEREAS, during a presentation to the City Council made on April 2, 2012, City Controller Maria Brown advised the City Council that the City is now suffering from the failure of Casino Revenues to be paid to the City and that the City has now reached a point where it can no longer afford to cover expenses for items tied to Casino Revenues; and

WHEREAS, this City Council understands that while the State of New York and the Seneca Nation of Indians may not be able to resolve the substance of their dispute short of the arbitration process, this City Council believes that the State of New York and the Seneca Nation of Indians can somehow reach agreement on releasing Casino Revenues due to the host communities of Niagara Falls, Buffalo and Salamanca without jeopardizing any claims each may have against the other.

WHEREAS, the City has abided by its responsibilities under the Compact and Section-99h of the State Finance Law as the host community for the Seneca Niagara Casino and has provided operational support to the Seneca Niagara Casino since its development.

NOW, THEREFORE, BE IT RESOLVED that this City Council does hereby implore the State of New York and Seneca Nation of Indians to somehow agree upon a method to release Casino Revenues so desperately needed by the City of Niagara Falls, City of Buffalo and City of Salamanca before any further detrimental financial damage is done to each respective community.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to Governor Andrew Cuomo, Senator George Maziarz and Senator Mark Grisanti, Assemblyman John Ceretto and to President Robert Odawi Porter of the Seneca Nation of Indians.

Yeas	5
Nays	0

ADOPTED

CONTRACT: DRAINAGE STRUCTURE REPLACEMENT/REPAIR PROJECT, YARUSSI CONSTRUCTION, INC.

Agenda Item #27

The following was the result of bids received on April 11, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Yarussi Construction Inc. 5650 Simmons Ave. Niagara Falls NY 14304	\$ 71,630.00
Socko Contracting Inc.	\$ 73,067.00
Mark Cerrone, Inc.	\$ 95,628.00

It is the recommendation of the undersigned that this project be awarded to the low bidder Yarussi Construction Inc. at their Base Bid of \$71,630.00. Please note all costs are totally reimbursable by New York State CHIPS Funds.

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 Walker 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 Fruscione adjourned the Meeting at 7:55 p.m.

Carol A. Antonucci
City Clerk



APRIL 30, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the April 30, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:08 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of April 16, 2012.

Yeas	5
Nays	0

APPROVED

Council Chairman Samuel Fruscione read the following statement regarding the Casino revenue:

The City of Niagara Falls is suffering due to the current impasse between the Seneca Nation and the State of New York.

For the past two years our city has remained quietly hopeful that the situation would be resolved to our benefit: that the disagreement would come to an end and the casino revenue owed to us would be given to us.

That hasn't happened.

While some have recommended that the best approach for the city is to remain quiet and hopeful a majority of the City Council has respectfully disagreed with that continued approach.

And so, on Wednesday April 25, 2012, a Council majority moved to take immediate action by participating in two important meetings. These meetings were held to gather facts and work toward a solution to the casino cash stalemate.

On the morning of April 25 Councilman Glenn Choolokian and I drove to Albany to meet with representatives of the Governor's Office. Participating in the meeting were, Howard Glaser, Director of State Operations, Seth Agata, the Governor's Counsel, Senator Mark Grisanti, Assemblyman John Ceretto and Senator George Maziarz.

Also, on the morning of April 25, Councilmen Robert Anderson and Charles Walker were joined by the members of the casino revenue ad hoc committee (Mort Abramowitz, Richard Palladino and Gary Parenti) in meeting with Seneca President Porter at the Seneca Niagara Casino.

These two meetings were fruitful. Both the Governor's representatives and President Porter were candid and completely open with us in portraying their respective positions regarding the casino revenue impasse.

I have prepared a brief written report detailing the major findings of these meetings and I'm making it available to the public and the media at this time.

In closing I want to emphasize that the City Council majority (Anderson, Choolokian, Walker and Fruscione) will continue the dialog with both the Governor's Office and President Porter that was begun on April 25, 2012.

Dear Governor Cuomo:

The City of Niagara Falls, due to the current dispute between the Seneca Nation and New York State, finds itself in a very difficult and soon to be desperate financial situation.

With our dedicated share of the casino slot revenue delayed for nearly three years and with no end to the stalemate in sight our city is nearing the point where severe reductions in city services and employee layoffs will be necessary. While we trust that a favorable outcome will be reached as the Seneca Nation and New York State proceed to arbitration we find our city's fiscal picture to be grim.

At this time I would like to respectfully ask that the State give thoughtful consideration to the proposal of making the anticipated casino slot revenue available in the form of a loan with no interest to the City of Niagara Falls. Immediate repayment would be made to the State when we receive our portion of casino funds. We estimate that the loan amount sought would be approximately fifty-five million dollars. It is my understanding that there may be a precedent for New York State to make such a loan arrangement in as much as this has been done to bridge certain school district situations with a repayment plan agreed to by the State and school district.

In the event that such a loan is not feasible I respectfully suggest that due consideration be given to Assembly bill 9284 (A.9284/S.00866B) sponsored by Assemblyman John Ceretto. This proposed legislation would authorize municipal governments hosting tribal casinos to receive payments directly from the Native American groups, thereby solving the current impasse between the Seneca Nation and New York State.

On behalf of the Niagara Falls City Council and my council colleagues, Robert Anderson and Glenn Choolokian, I thank you for your thoughtful consideration on this matter.

Please do not hesitate to call upon me should your office require additional information

City Council Chairman Samuel Fruscione reports on recent meetings held with regard to solving the casino revenue impasse

On Wednesday April 25, 2012 City Council members Sam Fruscione and Glenn Choolokian drove to Albany to meet with Howard Glaser, Director of State Operations, to discuss the casino cash impasse. Joining the meeting were Senator Mark Grisanti, Senator George Maziarz, Assemblyman John Ceretto and the Governor's Counsel, Seth Agata.

Facts found

- The Seneca Tribal Council rejected the State's recommendation to make direct payment to the City of Niagara Falls
- The Seneca Tribal Council is seeking a one-year arbitration time frame while the State is recommending an arbitration period of no more than 90 days. Arbitration is expected to begin within 10 days.
- The State is unable to provide a bridge loan to the City as the impasse is negotiated.
- Private casino operators are lobbying the State, hoping to open and operate State casinos if and when such an opportunity arises.
- The State wishes to arrive at a reasonable arbitration result but if that is impossible the State would consider the options of modifying or ending the Niagara Falls casino compact when the compact is due for review.
- The State is disappointed as to how some casino funds have been utilized by the City since the beginning of the agreement. State noted that casino funds were not meant to be used for "operational expenses" and should only be used for economic development and infrastructure repair.

4/30/2012

- The State will consider arranging an interest free loan for the City in the amount of five millions dollars with the loan amount to be dedicated to the current payment due on the bond indebtedness for the City Municipal Building.

On Wednesday April 25, 2012 City Council members Robert Anderson and Charles Walker met with Seneca President Robert Odawi Porter. Also participating in this meeting were members of the casino revenue ad hoc committee: Mort Abramowitz, Richard Palladino and Gary Parenti.

Facts found

- Seneca President Robert Odawi Porter is sincerely concerned that the City has not received its share of casino revenue and he trusts that a reasonable and mutually beneficial solution will be reached as soon as possible.
- The City Council and the ad hoc casino revenue committee will remain in contact with the Seneca President as they seek his continued input.
- The Seneca Tribal Council appears not to be in a hurry to resolve the matter.
- Members of the Seneca Tribal Council believe the host communities should receive no casino revenue.
- The Seneca President agreed with Mr. Abramowitz's request that the Seneca Niagara Casino provide for City public safety costs related to the casino.

Conclusions

In light of the two meetings the Chairman of the Niagara Falls City Council reports the following and makes related recommendations

- No casino revenue will be committed in the future for any expenditure or project not directly related to economic development or infrastructure repair. No casino revenue will be used for operational expenses. Some examples of operational expenses being: employee wages, overtime for events and temporary workers.
- A review of casino expenditures from the beginning of the compact will be conducted. Existing City projected casino revenue budgets will also be reviewed.
- The City Council will remain in close contact with the Office of the Governor in order to work closely and cooperatively to help solve this current impasse.
- The City of Niagara Falls is in the middle of the Seneca and State dispute, a dispute that hopefully can be resolved through a 90 day arbitration procedure. The City Council supports the Governor's plan to end arbitration within 90 days.
- The City is at the mercy of the arbitration outcome. That outcome could vary greatly from the awarding of a full, partial or zero portion of the anticipated casino revenue.
- The current impasse between the Seneca Nation and the State has wide-ranging ramifications well beyond the results of the pending arbitration. With the casino compact coming due for review and or renewal, this means that the City is looking at three potential scenarios: 1) continued Seneca gaming; 2) State gaming; 3) no gaming.
- The casino revenue impasse has created the need for a focused bipartisan outreach effort blending the cooperative efforts of City and State elected officials. To that end the City Council majority is working cooperatively with Governor Cuomo along with Senator Mark Grisanti, Assemblyman John Ceretto and Senator George Maziarz.

In the Administrative Update:

1. Acting Building Commissioner Dennis Virtuoso spoke on complaints received about dumpsters located along Niagara Falls Boulevard, and, at the direction of Chairman Fruscione, will work with Corporation Counsel Craig Johnson on amending the Ordinance and presenting it for Council approval.

2. Director of Public Works David Kinney reported that improvements at Caravelle Park will be done as soon as possible, but work needs to be done by City workers in other areas, as well as the Park. He also noted that a grant has been applied for that will benefit the Park if the City receives the grant.

3. City Engineer Jeffrey Skurka responded to questions on the Lewiston Road Project, and the Council decided to wait for an Executive Session before continuing with the discussion.

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

1. A communication relative to an encroachment over City Property at 615 Maple Avenue.

Council Member Choolokian 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.

2. A Resolution relative to amending Schedule 8 of the Zoning Ordinance.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #14.

Council Member Anderson spoke on Agenda Item #8, relative to funding for Trolley Service in 2012, and said that he had supported stops by the trolley at establishments along Buffalo Avenue. He also noted that 72nd and 77th Streets run straight through from Buffalo Avenue to Niagara Falls Boulevard, and four way STOP signs are needed at Perry and Edison Avenues for the safety of the residents.

Council Member Grandinetti moved for an Executive Session to discuss the Lewiston Road Project, and her motion was unanimously approved. Council Member Grandinetti moved to end the Executive Session, and motion was unanimously approved. The Executive Session began at 4:50 PM and ended at 5:15 PM.

This Session ended at 5:15 PM.

Chairman Fruscione reconvened the Meeting at 7:07 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:

Ron Anderluh	Agenda Items #1, #8
Ron Anderluh	Volunteers from National Grid who worked at Gill Creek Park; commended the Council for revenue collected on Surface Parking Lots; inquired about installation of cameras on Niagara St.
Joe LaGamba	City Employee Residency Rulings
Nicholas D'Agostino	Crime; Landlord/Tenant issues; Wallenda Walk; Casino funds; use Trolley for Festivals
Chris Castellani	punishment for shoplifting
Amy Hope Witryol	resolve Casino Funds issue
Ken Hamilton	Veterans Monument support

Council Member Grandinetti presented a copy of Agenda Item #11 to Representatives of the Elks

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

HOMESTEAD & NON-HOMESTEAD ASSESSMENT ROLL: CERTIFICATEION OF BASE PERCENTAGES, CURRENT PERCENTAGES AND CURRENT BASE PROPORTIONS

Agenda Item #1

In accordance with Section 1903 of the Real Property Tax Law, the City Council must certify the attached (on file in the City Clerk's Office) 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?

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

Yeas

5

Nays

0

APPROVED

COMMUNITY DEVELOPMENT, CONSOLIDATED ANNUAL PLAN

Agenda Item #2

The City Council approved the Fiscal Year 2012 Consolidated Annual Plan on October 17, 2011. The Consolidated Annual Plan included the Community Development Block Grant (CDBG) Program, HOME, and Emergency Shelter Program (ESG); all funded through annual Department of Housing and Urban Development (HUD) allocations. These budgets were presented to the City Council based on estimate, to accommodate the city and federal governments' differing fiscal year budget schedules. HUD's final Fiscal Year 2012 allocations were released on February 1, 2012. The City's final CDBG, HOME and ESG Budget is \$6,185 higher than the \$2,660,000 budget previously approved by the City Council. The individual programs are affected as follows:

Funding Source	12/2011 Estimate	2012 Final Allocation	Dollar Change	% Change
CDBG	2,000,000	2,121,101	121,101	6.06%
HOME	550,000	347,028	-202,972	-36.90%
ESG	110,000	198,056	88,056	80.05%
Total 2012 Allocation	2,660,000	2,666,185	6,185	0.23%

CDBG BUDGET REVISIONS

2012 Final Allocation - CDBG	\$
CDBG Allocation	2,121,101
Program Income	295,000
Total Allocation	2,416,101
12/2011 Admin. Estimate (20% of Final Allocation + Program Income)	460,000
Final Admin. (20%)	483,220
Dollar Increase	23,220
12/2011 Commercial Rehabilitation Estimate	40,000
Final Commercial Rehabilitation Estimate	70,000
Dollar Increase	30,000
12/2011 Interim Assistance	10,000
Final Interim Assistance	22,881
Dollar Increase	12,881
12/2011 Clearance/Demolition	75,000
Final Clearance/Demolition	125,000
Dollar Increase	50,000
12/2011 Code Enforcement	5,000
Final Code Enforcement	10,000
Dollar Increase	5,000

HOME Budget Revisions

City of Niagara Falls - CD	
12/2011 Home Estimate	213,000
Final Home Budget	134,190
Dollar Decrease	78,810
Center City	
12/2011 Home Estimate	182,000
Final Home Budget	114,924
Dollar Decrease	67,076
NHS	
12/2011 Home Estimate	155,000
Final Home Budget	97,914
Dollar Decrease	57,086

ESG Budget Revisions

Community Missions	
12/2011 ESG Estimate	30,000
Final ESG Budget	52,056
Dollar Increase	22,056
Family and Children's Services	
12/2011 ESG Estimate	30,000
Final ESG Budget	52,000
Dollar Increase	22,000
YMCA	
12/2011 ESG Estimate	20,000
Final ESG Budget	42,000
Dollar Increase	22,000
YWCA - Carolyn's House	
12/2011 ESG Estimate	30,000
Final ESG Budget	52,000
Dollar Increase	22,000

Per HUD and City of Niagara Falls Citizen Participation Plan Guidelines, the City will adjust programmatic budgets to meet the final allocation without deviating from the project scopes or objectives already approved by the City Council.

Will Council vote to so approve and authorize the Community Development Director to make the necessary budget adjustments?

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

Yeas 5
 Nays 0
 APPROVED

CODE ENFORCEMENT: EXPENSES INCURRED IN REPAIR, DEMOLITION OR BOARD OF STRUCTURES WITHIN THE CITY

Agenda Item #3

In accordance with Chapter 1133, Section 1133.08 of the City of Niagara Falls Codified Ordinances, we hereby submit a report relative to certain privately owned properties upon which the City has incurred expenses or Community Development funds have been expended for each property which remain unpaid and in accordance with the above noted Section (the) Council shall "order an assessment against said premises for several sums herein reported".

We recommend that all the costs incurred by the City of Niagara Falls that remain unpaid upon certain privately owned properties be assessed against said properties in the manner as prescribed in the above City provisions of the City of Niagara Falls Codified Ordinances.

A list of all chargeable costs incurred is attached. A complete record of all costs incurred and included in this report (on file in the City Clerk's Office) shall remain permanently on file in the office of the Department of Code Enforcement.

Will the Council so order?

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

Yeas 5
 Nays 0
 APPROVED

PURCHASE: STREET MILLINGS, SALE, ARMAND CERRONE, INC.

Agenda Item #4

At its meeting of April 16, 2012, the Council awarded the above referenced bid. An error in the recommendation was made. The wrong company was listed as the recommended bidder. The price bid was correct however. Therefore, we recommend the Council rescind the award and reaward as follows:

TO: Armand Cerrone, Inc.
4625 Witmer Road
Niagara Falls, NY 14305

FOR: Sale of approximately 18,000 tons of Street Millings
generated during the 2012 paving season: \$.76/ton

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 four (4) vendors. Two (2) bids were received. The bid from LaFarge North America, Inc. was for \$0.00 (i.e. they would accept the material at no charge to the City).

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

Yeas 5
Nays 0
APPROVED

MEMORIAL DAY PARADE, CITY AS CO-SPONSOR

Agenda Item #5

The City of Niagara Falls Veterans Memorial Commission has once again asked the City to co-sponsor the annual Memorial Day parade 2012. The parade will take place on Saturday, May 26, 2012. It will assemble at 10:00 a.m. in the City Market near the American Legion Post and will begin at 11:00 a.m. As a co-sponsor, the City has been asked to provide use of its bandstand with podium, mic and speakers together with approximately 40 chairs. These items will be made available pursuant to the terms of a co-sponsorship agreement to be prepared by the Corporation Counsel.

Will the Council so approve and authorize the Mayor to execute a co-sponsorship agreement?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: SIDEWALK REPLACEMENTS, VARIOUS LOCATIONS, VALERI CONCRETE CONSTRUCTION, INC.

Agenda Item #6

The following is the result of bids received on April 11, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Valeri Concrete Construction, Inc. 6655 Errick Road North Tonawanda NY 14120	\$193,127.00
Ventry Concrete Construction, Inc.	\$214,962.50
CVF, Inc.	\$243,189.50

It is the recommendation of the undersigned that this contract be awarded to the low bidder, Valeri Concrete Construction, Inc. in the amount of \$193,127.00. Please note all costs are totally reimbursable by New York State CHIPS Funds.

Additionally, the Contractor has agreed to extend the unit prices of his bid to complete sidewalk replacements for the Niagara Falls Water Authority, in the amount of \$20,000.00, under the Niagara Falls Water Board budget, pending authorization by the Niagara Falls Water Board Meeting this month. Therefore, the City of Niagara Falls and the Niagara Falls Water Board will enter into a contract with Valeri Concrete Construction, Inc., to total \$213,127.00

Will the Council vote to so approve and authorize the Mayor to execute a contract for the City Of Niagara Falls portion of this work, in a form acceptable to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

POLICE DEPARTMENT, REORGANIZATION

Agenda Item #7

As a result of the restructuring of duties and responsibilities, it is recommended that one (1) Communication Technician position be eliminated. This will result in a total savings, inclusive of benefits, of \$66,431.94. It is also recommended that an additional Administrative Lieutenant position be created. This would involve the promotion of a Police Officer to that position without filling the vacancy created. The purpose for this is to provide additional administrative support in order for the NFPD to more adequately comply with the requirements contained in the consent decree the City entered into with the New York State Attorney General's Office, Civil Rights Division. The increase for the creation of this additional Administrative Lieutenant position, inclusive of benefits, will be \$12,443.84.

The net savings to the City resulting from both of these action items is \$53,988.01.

Will the Council so approve?

THIS ITEM WAS PULLED FROM THE AGENDA

NO ACTION TAKEN ON THIS ITEM

CONTRACT: TROLLEY SERVICE, FUNDING

Agenda Item #8

It is desirable to reinstitute again this year Trolley Service in the City in cooperation with the Niagara Frontier Transportation Authority. It is recommended that Trolley Service commence on May 11, 2012 and run on a daily basis through December 31, 2012. The cost to the City for this service will be \$492,000.00. This will be subject to the terms and conditions contained in an agreement subject to approval by the Corporation Counsel which will also contain a route for service. Funding is available from the Tourism Fund.

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

CLAIM: GIGLIOTTI, PAUL

Agenda Item #9

Date Claim Filed:	January 18, 2012
Date Action Commenced:	N/A
Date of Occurrence:	January 13, 2012
Location:	11 th Street and Michigan Avenue
Nature of Claim:	Automobile damage sustained in an accident with City vehicle.
City Driver:	Vincent Jackson
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$1,133.38
Make Check Payable to:	Paul Gigliotti
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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: INSALACO, STEPHANIE AND MICHAEL

Agenda Item #10

Date Claim Filed:	July 23, 2009
Date Action Commenced:	December 22, 2009
Date of Occurrence:	May 7, 2009
Location:	Intersection of Elmwood Avenue and Sheridan Drive, Tonawanda, New York.
Nature of Claim:	Personal injuries sustained in an accident with City vehicle.
City Driver:	Nicholas Ligammari
Status of Action:	Post-verdict.
Recommendation/Reason:	Best interests of City to pay claim; contractual obligation with City's excess carrier.
Amount to be Paid:	\$750,000.00
Make Check Payable to:	Law Office of Roland M. Cercone PLLC, as attorneys for Stephanie and Michael Insalaco
Conditions:	Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. 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

RESOLUTION: NATIONAL ELKS YOUTH WEEK, 2012-36
BY: ALL COUNCIL MEMBERS

Agenda Item #11

WHEREAS, The Benevolent and Protective Order of Elks has designated the first week in May, as Youth Week to honor America's Junior Citizens for their accomplishments, and to give fitting recognition of their services to Community, State and Nation; and

WHEREAS, The Benevolent and Protective Order of Elks, Lodge 346, will sponsor observances during the Month of May in tribute to the Junior Citizens of this Community; and

WHEREAS, no event could be more deserving of our support and participation than one dedicated to these young people who represent the nation's greatest resource, and who in the years ahead will assume the responsibility for the advancement of our free society; and

WHEREAS, our Youth need the guidance, inspiration and encouragement which we alone can give in order to help develop those qualities of character essential for future leadership; and go forth to serve America; and

WHEREAS, to achieve this worthy objective, we should demonstrate our partnership with youth, our understanding of their hopes and aspirations and a sincere willingness to help prepare them in every way for the responsibilities and opportunities of citizenship.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council of the City of Niagara Falls, New York, along with Mayor Paul Dyster, declare May 6th thru May 9th, 2012 as National Elks Youth Week and urges all departments of government, civic and fraternal and patriotic groups, and our citizens generally, to participate wholeheartedly in its observance.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: COMMERCIAL DISTRICTS, ORDINANCE AMENDMENT, 2012-37
BY: ALL COUNCIL MEMBERS

Agenda Item #12

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1313 entitled "Commercial Districts" of the Zoning Ordinance is hereby amended by amending Section 1313.4.B entitled "C1-C Buffalo Avenue - 86th Street Business District" to read as follows:

B. C1-C BUFFALO AVE. - 86th STREET BUSINESS DISTRICT

Purpose: To encourage the development of a variety of residential, general commercial and mixed uses in addition to permitting limited transportation/warehouse type.

Permitted transportation/warehouse type uses shall not exceed a maximum gross floor area of 18,000 square feet and/or a maximum of 50 exterior truck/bus parking spaces for the entire sub-district.

Motor Vehicle Service and Repair. Minor uses [may only be] are permitted [as an accessory to a primary transportation/warehouse type use] in this district.

Permitted transportation/warehouse type uses shall not include:

- 1. Camper Parks
- 2. Contractor's Yards
- 3. Motor Vehicle Service and Repair, Major
- 4. Motor Vehicle Sales and Leasing
- 5. Parking, Commercial
- 6. Rail Transit Facility

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

Yeas 5
Nays 0

ADOPTED

CITY PROPERTY, 615 MAPLE AVE., ENCROACHMENT

Agenda Item #13

During its meeting held on April 25, 2012, the Planning Board approved an encroachment at 615 Maple Avenue in order to allow the owner to erect a fence. Attached (on file in the City Clerk's Office) is the Planning Board recommendation.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: ZONING ORDINANCE, AMENDING SCHEDULE 8, 2012-38
BY: ALL COUNCIL MEMBERS

Agenda Item #14

WHEREAS, the Planning Board has recommended that the Council adopt certain amendments to the Zoning Ordinance as outlined on the attached recommendation (on file in the City Clerk's Office) 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 1025, 1029 and 1031 Ontario Avenue (SBL #'s 144.46-3-7, 144.46-3-8 and 144.46-3-9, respectively) from R3-C - Multi-Family to C1-A - Neighborhood Commercial.

Yeas 5
Nays 0

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:40 P.M.

Carol A. Antonucci
City Clerk



MAY 14, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the May 14, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 April 30, 2012.

Yeas	5
Nays	0

APPROVED

John Percy, President and CEO of the Niagara Tourism and Convention Corporation, gave a report on the organization's 2011 Marketing efforts. He noted that 2011 showed the largest increase in bed tax revenues in history.

Chairman Fruscione said that a representative from Man O'Trees would attend the May 29 Council Meeting to give an update on the Lewiston Road Project.

In the Administrative Update, Police Superintendent John Chella and Nick Ligammari reported that most of the security cameras have been mounted and are operational, and a total of \$252,181 has been spent so far. Work to install additional cameras on Niagara Street and other areas should begin within the next two to three weeks.

City Administrator Donna Owens reported that an operational meeting was held regarding the June 15 Wallenda Walk. Council Member Choolokian asked if the small businesses in the City would be given the opportunity to work with the City in promoting this event, and City Administrator Owens responded that all inquiries were being referred to Global Spectrum and NTCC. Chairman Fruscione added that the City should be advertising and encouraging weekend vending permits for the event, and he and Council Member Choolokian emphasized that the City should take the lead in promoting this event. Council Member Grandinetti asked if any material that was specific to Nik Wallenda was available. Chief Chella added that the City was ready for the event, and all the Police Agencies in the area would be involved in making the event and area safe for those attending. He added that a cost estimate had been sent to the promoters of the Event, and Council Member Anderson asked about a signed legal document for the reimbursement of the City's expenses relating to the event.

Chairman Fruscione expressed his concern about the construction debris in the area of Tenth Street by the hospital, and suggested that the City take pictures for evidence. Corporation Counsel Craig Johnson said that the hospital itself is monitoring the work by the contractor, but Chairman Fruscione suggested that the City might use DPW workers to clean up the City's property.

Mayor Paul Dyster informed the Council Members that the City is now allowing the use of the LaSalle Waterfront Park.

Chairman Fruscione noted that the cost for the fireworks display (Agenda Item #7) was being paid by using bed tax revenues. Additionally, the contributions for the Niagara Street Business Association International Festival (Agenda Item #19) and the Main Street Business/Professional Association Festival/Garden Walk (Agenda Item #20) were also funded with bed tax revenues.

Council Member Grandinetti moved to amend Agenda Item #22, relative to a change order in the contract for the Tenth Street/Cedar Avenue Reconstruction, by correcting a typographical error in one of the figures on the communication.

Yeas	5
Nays	0

MOTION TO AMEND APPROVED

This Session ended at 4:30 PM

Chairman Fruscione reconvened the Meeting at 7:02 p.m. in the Council Chambers with all Council Members present. The Chairman said the Opening Prayer and 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 #5, #11, #17, #19, #20
Ron Anderluh	Importance of surveillance cameras; Carnival at Gill Creek Park; Wallenda Walk; Parking revenues; Signs & flags in downtown area; downtown cleanup before June 15
Rick Crogan	Thanks to Council for support of Business Associations; Wallenda Walk
Diane Tattersall	Disappointment in Holiday Market; odor from WWTP; City looking cleaner; Century Park is great; Wallenda Walk
Nicholas D'Agostino	Apology for previous remarks; concerns about Shut ins; Wallenda Walk

Council Member Choolokian expressed his concerns about updates from Administration regarding Wallenda Walk

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF APRIL 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CITY CLERK'S REPORT FOR THE MONTH OF APRIL 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: SIGNAL RECONSTRUCTION PROJECT, MARK CERRONE, INC.

Agenda Item #3

The following was the result of bids received on March 6, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Mark Cerrone, Inc. 2368 Maryland Ave. Niagara Falls NY 14305	\$ 433,130.88

CATCO, Inc.	\$ 508,690.40
-------------	---------------

It is the recommendation of the undersigned that this project be awarded to Mark Cerrone, Inc. at its Base Bid of \$ 433,130.88. Funding is available under Code H0630.2006.0630.0449.599.

Our design consultant, TVGA Associates, has reviewed and recommended award of this project to the above-referenced contractor. Similarly, the New York State Department of Transportation has reviewed the proposal package and granted permission to award. Please note that funding for this federal "pass-through" project is 95% reimbursable through our existing Federal and New York State Department of Transportation agreements.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: PEDESTRIAN CROSSING SIGNALS, LASALLE PREPATORY SCHOOL SITE, M&M ELECTRIC CONSTRUCTION CO.

Agenda Item #4

Following the solicitation of quotations from four municipally licensed firms for the above referenced project, it is the recommendation of the undersigned that this project be awarded to the sole responsive bidder, M&M Electric Construction Co., Inc. at their proposal price of \$28,800.00. Funding is available in code H1212.2012.1212.0449.599. Funding is available from a dormant project.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: EARL BRYDGES LIBRARY ,REPLACEMENT OF AIR CONDITIONING, D.V.
BROWN & ASSOCIATES, INC., CHANGE ORDER

Agenda Item #5

A contract for the above referenced project was awarded to D.V. Brown & Associates, Inc. on October 26, 2010 in the amount of \$220,000.00. Please note that an initial order on contract of \$8,388.00 was appropriated via funding code H0904.2004.0904.0443.000 for O&M purposes by the Department of Public Works at the July 25, 2011 Council session.

During the final installation and start-up phase of this project, alterations and replacements to the existing system were performed to both ensure the City's ability to enforce the complete manufacturer's warranty and to prevent the potential for premature equipment failure. The equipment replacements provided the added benefit of increasing the energy efficiency of the overall system. These tasks were not included in the project's initial scope and were not detectable prior to the removal of the original system. The costs associated with the repairs, ancillary valves and controls are \$19,390.00, bringing the final contract total to \$247,778.00. Funding is available in H0904.2004.0904.0444.000.

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

Yeas 5
Nays 0

APPROVED

CONTRACT: SIDEWALK REPLACEMENT/TREE REMOVAL PROJECT, YARUSSI
CONSTRUCTION, INC., CHANGE ORDER

Agenda Item #6

A contract for the above referenced project was awarded to Yarussi Construction Inc. on October 3, 2011 in the amount of \$80,425.00.

Subsequent to the start of construction, quantity overruns resulting from resident requests for handicapped-accessible load-in walks, widened curb cuts/aprons and ancillary back of walk restoration measures. The cost for lead-in these extra tasks/materials is \$4,134.74, bringing the contract total to \$84,559.74. Funding is available in H1114.2011.1114.0449.599. Funding is available from a dormant project.

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

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

Yeas 5
Nays 0

APPROVED

CONTRACT: FIREWORKS DISPLAYS, ZAMBELLI FIREWORKS MFG. CO.

Agenda Item #7

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 provided our July 4th fireworks last year. A proposal was also received from Skylighters of Western New York.

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

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

Yeas 5
Nays 0

APPROVED

CONTRACT: SIGNAL RECONSTRUCTION PROJECT, CONSULTANT SERVICES, TVGA CONSULTANTS, CHANGE ORDER

Agenda Item #8

A consultant services agreement was awarded to TVGA Consultants, 620 Main Street, Buffalo, NY 14202 on December 4, 2006 at their proposed price of \$92,000.00 for work through preliminary design phase. Change Order #1 was approved by City Council on May 10, 2011, in the amount of \$48,000.00 for final design, including plans, specifications and estimate, bringing the new contract total to \$140,000.00.

Following the successful bid and pending award for the construction portion of the above referenced project, please approve this request for initial contract administration and construction inspection services. These services are commensurate with all federally-funded "pass-through" projects and are 95% reimbursable through our existing Federal and New York State Department of Transportation agreements. The cost for these initial services is \$55,000.00, bringing TVGA's Professional Services Contract with the City for this project to a total of \$195,000.00.

The total cost for construction administration and inspection services will be \$99,295.00. An additional change order of \$44,295.00 which is also 95% reimbursable will be requested once additional funding is received from the New York State Department of Transportation.

Please note that this change order is contingent upon actual receipt of the finalized, executed agreement from New York State Department of Transportation. Therefore, it is the recommendation of the undersigned that Change Order #2 be approved in the amount of \$55,000.00.

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

Yeas	5
Nays	0

APPROVED

LASALLE WATERFRONT PARK, APPROVAL OF APPLICATION FOR ENVIRONMENTAL PROTECTION FUND GRANT, PHASE 2, GREENWAY FUNDS

Agenda Item #9

At your September 25th meeting, you authorized an application to the Environmental Protection Fund for Phase 2 of the LaSalle Waterfront Park project.

At the time of the application, it was anticipated that the required local match would be from Greenway Funds.

The application has been funded in the amount of \$102,440, requiring a local match of \$102,440.

The Greenway consistency review was for both phases of the project and found to be consistent.

Will the Council authorize the City to apply for \$102,440 of Greenway Funds as the City's match for Phase 2 and authorize the Mayor to execute any required documentation?

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

Yeas	5
Nays	0

APPROVED

LASALLE WATERFRONT PARK, ADDITIONAL GREENWAY FUNDING

Agenda Item #10

As the Council is aware, the Phase 1 construction of the LaSalle Waterfront Park was funded from a combination of an Environmental Protection Fund Grant and Greenway Funds.

The Greenway portion of the funding was in the amount of \$850,000.

There has been additional unanticipated work, which has resulted in an additional cost in the amount of approximately \$232,560. It is requested that the Council approve a request for additional Greenway Funds in this amount.

The project has been found to be consistent and all of the work was included in the consistency review.

Will the Council so approve and authorize the Mayor to execute any required documentation related to this project?

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

Yeas 5
Nays 0

APPROVED

GRIFFON PARK PLAYGROUND, SAFETY SURFACE, GREENWAY FUNDING

Agenda Item #11

The City has applied for and received a KaBOOM! Grant in the amount of \$20,000.00 for the purchase of playground equipment to be installed at Griffon Park.

This Grant requires a local match of \$10,000.00. In addition, New York State Law requires that safety surfacing be installed in and around municipal playgrounds and the estimated cost for the required safety surface is approximately \$10,000.00. The City has previously received consistency review from the Niagara River Greenway Commission for the restoration of Griffon Park including the installation of a playground and the Host Community Standing Committee has approved \$200,000.00 of funding from Power Authority Greenway funding for Griffon Park.

It is requested that the Council approve using \$20,000.00 of the Greenway funding for this project.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

POLICE DEPARTMENT, REORGANIZATION

Agenda Item #12

As a result of the restructuring of duties and responsibilities, it is recommended that one (1) Communication Technician position be eliminated. This will result in a total savings, inclusive of benefits, of \$66,431.94.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: BUFFALO NIAGARA CONSORTIUM

Agenda Item #13

It is requested that the City be a signatore to the Buffalo Niagara consortium that will be working in cooperation to complete a regional plan for sustainable development for Erie and Niagara Counties. This consortium framework will support the members and guide the implementation of the initiative. The Consortium Agreement is required by the U.S. Department of Housing and Urban Development which is the primary funding source for this project. There is no cost to the City.

Will the Council so approve and authorize the Mayor to execute the Consortium Agreement?

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

Yeas 5
Nays 0

APPROVED

MIDTOWN LITTLE LEAGUE RELOCATION, CITY ASSISTANCE

Agenda Item #14

Norampac/Greenpac is in the process of acquiring the real estate abutting its project location presently owned by Midtown Little League, Inc. ("MLL") and used by it for its Little League Baseball Program. Norampac/Greenpac is obligated to provide an alternate location for MLL to carry out its program. One scenario is MLL using a portion of the real estate owned by the New York Power Authority; another possibility is MLL acquiring real estate from the Niagara Falls Housing Authority. There may be one other alternative available as well. In the event that no alternatives present themselves, the City has been requested to assist by making city owned real estate available for the Midtown Little League Program which may include the City's then existing baseball fields.

This assistance will be memorialized in an agreement to be approved by the Corporation Counsel. Will the Council so approve and authorize the Mayor to execute such an agreement?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: CSX BRIDGE REPLACEMENT OVER NYS 104, MARK CERRONE, INC., CHANGE ORDER

Agenda Item #15

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 on the above referenced project, Mark Cerrone Inc., has experienced several Excusable Non-Compensable delays that warrant an extension of time on the above referenced project. Delays associated with inclement weather include the following items:

- Installation of the Stage 1 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 installation of the Stage 1 Track Detour. Inclement weather and ground frost prevented installation of the Stage 1 Detour until April 23, 2011. As a result, the Contractor was unable to advance Phase 1 demolition of the CSX Bridge. The time associated with this delay item is 66 days.
- Asbestos and Lead Abatement on the Existing North and South Bridges. Inclement weather prevented work associated with asbestos and lead abatement on the existing bridges. Completion of this work was required prior to demolition of these structures. The time associated with this delay item is 31 days

Wendel recommends that Mark Cerrone Inc. be given an extension of 97 days to their original contracted time for completion. Since the associated delay for each of the items was weather related (Excusable, Non-Compensable) the Contractor shall be compensated solely by an extension of time. The original Contract Completion Date is April 22, 2012. This extension would make the new time for completion July 28, 2012.

This is a No Cost Change Order

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

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

Yeas	5
Nays	0

APPROVED

FLAG DAY CEREMONY, USE OF BANDSTAND/RELATED EQUIPMENT

Agenda Item #16

The Annual Flag Day Ceremony will take place once again this year on June 14, 2012 at 7:00 p.m. at Cenotaph Park located at the corner of Pine Avenue and Main Street. This is a City event co-sponsored by the Niagara Falls Block Club Council and the Main Street Business & Professional Association. The Block Club Council and the Main Street Business & Professional Association will present a reading of historic significance regarding the American Flag and Flag Day and will also make arrangements for the Honor Guards and musical entertainment. The City's contribution to this event will be a city bandstand and related equipment. This Co-sponsorship Agreement will be in form acceptable to the Corporation Counsel.

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

EDWARD BYRNE MEMORIAL ASSISTANCE GRANT PROGRAM, 2012

Agenda Item #17

The County of Niagara and the City of Niagara Falls have jointly received \$51,341.00 under the above referenced program.

Attached (on file in the City Clerk's Office) is a proposed agreement with the County for the program which sets forth the allocation of these funds.

There is no City match required.

Will the Council so approve and authorize the Mayor to execute the attached Memorandum of Understanding and any other documentation necessary to effectuate this grant?

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

Yeas	5
Nays	0

APPROVED

BUFFALO PHILHARMONIC ORCHESTRA EVENT, CONTRIBUTION

Agenda Item #18

The City has been asked to contribute the sum of \$5,000.00 towards the cost of producing and presenting a performance by the Buffalo Philharmonic Orchestra at the Niagara Falls State Park at Goat Island on a date and time that has yet to be determined. This performance will be sponsored along with the New York State Office of Parks, Recreation & Historic Preservation.

Funding is available from the Tourism Fund Balance.

Will the Council so approve?

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

Yeas 2
Nays 3

DEFEATED

Council Member Choolokian said that since no Casino funds have been Received for almost 3 years, he'd rather use this money for Local Events.

Council Member Walker said he'd like to see the City continue its Partnership with working with the State.

Chairman Fruscione said that New York State has not been a good partner For the City of Niagara Falls

NIAGARA STREET BUSINESS ASSOCIATION INTERNATIONAL FESTIVAL, CONTRIBUTION

Agenda Item #19

Attached (on file in the City Clerk's Office) hereto is a communication from the Niagara Street Business Association requesting that the City contribute the sum of \$2,500.00 towards the cost of the International Festival to be held on June 23 and June 24, 2012. The Association advises that this contribution would be used towards entertainment costs.

Funding is available from the Tourism Fund Balance.

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

MAIN STREET BUSINESS ASSOCIATION, MUSIC & ART FESTIVAL

Agenda Item #20

The City has been requested by the Main Street Business & Professional Association to contribute the sum of \$2,500.00 towards the cost of the 2nd Annual Main Street Music & Art Festival scheduled to take place on June 23 and June 24, 2012 as well as the Niagara Historic Garden Walk to take place on July 14, 2012. Attached (on file in the City Clerk's Office) is the letter of request. Funding is available from the Tourism Fund Balance.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: LEWISTON ROAD RECONSTRUCTION NYS FROM BATH AVE. TO NORTH CITY LINE, CHANGE ORDER

Agenda Item #21

Wendel's Engineering Services Agreement was based on completion of the Construction Contract in September of 2011. Based on the time required for the Contractor, Man O' Trees to obtain a Radioactive Materials and installation of additional waterline as directed by the City of Niagara Falls, the City extended the Contract Completion Date from September 16, 2011 to March 18, 2012. The Contractor has failed to complete the work under the contract by the March 18, 2012 completion date. Presently, the City is in negotiations with Hanover Insurance Company Inc. (Performance Bond Company) relative to completion of the work.

Additional Construction Phase Services are related to an extension of the Time of Completion for the Construction Contract. This Change Order in the amount of \$ 614,070 would extend the Time for Completion for the Engineering Services Contract thru October 31, 2012.

The Scope of Construction Phase Services is defined in our original agreement for the project. In addition, a Task has been added under Construction Administration Services for Dispute Resolution support. Dispute resolution services include attendance at meetings, cost analyses and preparation of supporting documentation. This Change Order does not include services association with litigation. There is sufficient funding in the project's budget.

Original Contract Amount:	\$	724,382.04	
Change Order No. 1:	\$	538,000.00	Approved by Council 07-06-04
Change Order No. 2:	\$	112,000.00	Approved by Council 07-31-06
Change Order No. 3:	\$	20,617.96	Approved by Council 06-15-09
Change Order No. 4:	\$	1,828,030.45	Approved by Council 06-29-09
Change Order No. 5:	\$	614,070.00	
Revised Contract Amount:	\$	3,837,100.45	

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

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

Yeas	5
Nays	0

APPROVED

CONTRACT: TENTH ST/CEDAR AVE. RECONSTRUCTION SUPPLEMENTAL AGREEMENT, FOIT-ALBERT ASSOCIATES, P.C., CHANGE ORDER

Agenda Item #22

A contract for the above referenced project was awarded to Foit-Albert Associates, P.C. on May 29, 2007 in the amount of \$555,000.00. Change Order #1 was approved by City Council on September 29, 2008, in the amount of \$232,000.00, and change order number 2 on February 8, 2010 in the amount of \$494,854.00. By approving this change order number 3 by \$322,193.60 the new contract total to \$1,604,047.

Following the successful bid and award for the construction portion of the above referenced project, a contract administration and construction inspection services agreement was entered into with Foit Albert Associates. Those services are commensurate with all federally-funded "pass-thru" projects and are typical 95% reimbursable through Federal and New York State Department of Transportation agreements. The supplemental agreement is required for additional contract administration construction services resulting from the contract noncompliance and substandard workmanship by Sue-Perior Incorporated during the execution of the construction contract. The cost for these additional services to date is in the amount of is \$322,193.60 incurred by Foit-Albert for additional Professional Services.

The intent at this time is to move the remaining funding in the construction line available to the construction inspection line to zero out the amount of funding available for project.

By taking this action the city then has the ability to request additional funding from both the Federal and State government for the completion of this project. Ultimately, the intent is to recover these costs for addition contract administration and construction inspection services from the contractor given his non-compliance and substandard workmanship.

Please note that this change order is contingent upon a future executed agreement from New York State Department of Transportation. Therefore, it is the recommendation of the undersigned that Change Order #3 be approved in the amount of \$392,193.60.

Will the Council vote to so approve and authorize the Mayor to execute a contract for a supplemental agreement to Foit-Albert Associates in a form acceptable to the Corporation Counsel and move the remaining funds available in the construction line of this project to construction inspection?

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

Yeas	5
Nays	0

APPROVED

CLAIM: TATE, NICHOLAS R. & ANNETTE L.

Agenda Item #23

Date Claim Filed:	May 14, 2009
Date Action Commenced:	March 2, 2010
Date of Occurrence:	April 15, 2009
Location:	Earl W. Brydges Library 1425 Main Street, Niagara Falls, New York
Nature of Claim:	Personal injuries from trip and fall.
Status of Action:	Pretrial stage.
Recommendation/Reason:	Best interests of City to pay.
Amount to be Paid:	\$30,000.00
Make Check Payable to:	Grossman & Civiletto as attorneys for Nicholas R. Tate and Annette L. Tate.
Conditions:	Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. Will the Council so approve?

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

Yeas	5
Nays	0

APPROVED

CLAIM: MENKE, AMANDA

Agenda Item #24

Date Claim Filed:	December 5, 2011
Date Action Commenced:	N/A
Date of Occurrence:	December 5, 2011
Location:	2900 block of Pine Avenue.
Nature of Claim:	Automobile damage sustained in an accident with City vehicle.
City Driver:	Thaddeus M. Buchalski
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$894.29
Make Check Payable to:	Amanda Menke
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 Anderson moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #25

Please be advised that Mayor Paul A. Dyster, on May 2, 2012, duly approved the following:

1. Resolution 2012-37, relative to Amending Chapter 1313 of the Codified Ordinances entitled "Commercial Districts".
2. Resolution 2012-38, relative to Amending Schedule 8 of the "Zoning Ordinance".

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: FAMILY & CHILDREN'S SERVICE & THE CHILD ADVOCACY CENTER, HONORING, 2012-39
BY: ALL COUNCIL MEMBERS

Agenda Item #26

WHEREAS, in their efforts to prevent the physical and sexual abuse of children and help those affected by child abuse to heal, the Gala for Hope Niagara sponsored their second annual event to benefit the Family and Children's service of Niagara and the Child Advocacy Center of Niagara; and

WHEREAS, the Gala for Hope Niagara supports the work of the Child Advocacy Center of Niagara and Family and Children's Service of Niagara; and

WHEREAS, this year's Gala for Hope provided our adult patrons with the opportunity to explore the benefits of these two programs, all while benefitting the children in our community.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulates the dedication and endless efforts of the Child Advocacy Center of Niagara and Family and Children's Service of Niagara and supports the work of these two agencies.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: WOMEN OF DISTINCTION CLASS OF 2012, HONORING, 2012-40
BY: ALL COUNCIL MEMBERS

Agenda Item #27

Whereas, on May 15TH, 2012, the Niagara Gazette will celebrate their 2012 Women of Distinction Awards Ceremony for women who make significant contributions to their communities.

Honorees will be:

Kathleen Hall	Jayaselvi Kolli, MD
Maid Brigade	NF Memorial Medical Center
Vivian Watkins	Susana Nicholas
NF Housing Authority	NF Board of Education
Judith Nolan-Powell	Eva Nicklas
HSBC/Niagara Catholic/NFMMC	Lewiston Council of the Arts

High School Honorees:

Kate Mieth	Chelsea Colangelo
Lewiston Porter High School	Niagara Catholic High School
Anna Schultz	Irene Barry
Niagara Wheatfield High School	Niagara Falls High School
<u>College Honorees:</u>	
Kalani Personius	Morgan Waple
Niagara University	Niagara County Community College

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 recipients of the 2012 Women of Distinction Awards.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: PEDICAB/PEDICAB DRIVERS, AMENDING CHAPTER 366, 2012-41
BY: ALL COUNCIL MEMBERS

Agenda Item #28

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 366 of the Codified Ordinances entitled "Pedicab and Pedicab Drivers" is hereby amended by amending Section 366.02 entitled "APPLICATION FOR OWNER'S LICENSE and "APPLICATION FOR PEDICAB DRIVER'S LICENSE" to read as follows:

366.02 APPLICATION FOR OWNER'S LICENSE.

A. An application for an owner's license under this chapter shall be filed in the Office of the City Clerk. The application shall be signed and sworn to by the applicant and shall contain the following information:

...
4. Insurance.
...

~~10. A set of the applicant's fingerprints, or, if the applicant is a legal entity other than an individual, a set of fingerprints of the chief executive officer or chief representative of that legal entity, to be taken by the City of Niagara Falls Police Department.~~
...

B. The Niagara Falls Police Department (NFPD) shall investigate the applicant's qualifications and background. ~~The NFPD shall initiate a criminal history record search through the State Division of Criminal Justice Services (DCJS) by submitting the applicant's fingerprints and required procedures fee, which shall be paid by the applicant, to the DCJS. The results of the criminal history record search~~ **A report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application and** shall be reviewed by the Superintendent of Police, or by a member of the NFPD designated by the Superintendent of Police.

05/14/2012

366.03 APPLICATION FOR PEDICAB DRIVER'S LICENSE

A. An applicant for a pedicab driver's license shall be filed in the Office of the City Clerk. The application shall be signed and sworn to by the applicant and shall contain the following information:

•••

~~8. A set of the applicant's fingerprints, or, a set of fingerprints of the chief executive officer or chief representative of that legal entity, to be taken by the Niagara Falls Police Department.~~

•••

B. The NFPD shall investigate the applicant's qualifications and background. ~~The NFPD shall initiate a criminal history record search through the State Division of Criminal Justice Services (DCJS) by submitting the applicant's fingerprints and required procedures fee, which shall be paid by the applicant, to the DCJS. The results of the criminal history record search~~ A report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application and shall be reviewed by the Superintendent of Police, or by a member of the NFPD designated by the Superintendent of Police.

Bold and Underlining indicate Additions.
Strikethrough indicates ~~Deletions~~

Yeas
Nays

5
0
ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:35 p.m.

Carol A. Antonucci
City Clerk



MAY 29, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the May 29, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:03 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 May 14, 2012 and the Special Meeting of May 18, 2012

Yeas

5

Nays

0

ADOPTED

Representatives of Joe Anderson gave an update on his plans for Off Tract Betting at the Quality Inn and retail facility on Old Falls St. No public funding is requested and there will be 15-25 full time jobs to start. Chairman Fruscione asked what the holdup is, Mr. Wotasek stated that Empire State Development Corp. has to approve the Project. If this is turned down from USA Niagara, Joe Anderson has Reservation of Right and still has 4 years left on his contract for this property. The Project would take approximately one year for completion. Deputy Corporation Counsel Thomas O'Donnell asked if any payments from OTB would go to the City and the answer was, arrangements will be made.

Carmen Toromino, representing the Festival of Lights, presented a video, which will be online. He stated that no public money, just services, such as security, is being asked for. The Festival will run from Nov. 30 until Dec. 30 on Main St., Council Member Choolokian asked who's on board for this. Mr. Toromino said United Way, USA Niagara, Assemblyman John Ceretto, Chief Chella, Ron Anderluh, Rick Crogan, Dick Palladino and many others have signed on.

1. In the Administration Update, Council Chairman Fruscione read a statement that Dave Pfeiffer from Man-O-Trees, through his attorney, declined the meeting tonight with the Council. Mayor Dyster stated that an Administration meeting is going to be held on May 30 at 9:00 AM with Man-O-Trees. Corporation Counsel Craig Johnson will update the Council. Council Member Choolokian stated we have to move forward on this.

2. Dennis Virtuoso, Director of Code Enforcement, said that \$315,000 is left from previous years but \$146,000 has to be set aside and 12 demolitions can be done this year with CD money. There is no Casino revenue for the demolitions. Council Member Choolokian asked what was used before we had Casino money and Mr. Virtuoso said we got a lot of money from CD for this. Bonding would be an option and grants are being done. Council Member Anderson asked how many homes are on the list for demolition, and he was informed that approximately 100 homes are on the Active List. Seth Piccirillo, Director of CD, talked about grants for demolitions and that is priority in the next couple of months.

3. City Administrator Donna Owens reported that an Operation Plan with Public Works, Police/Fire Depts. exists for the Wallenda Walk. The City is working closely with NTCC and the State Parks for the Walk. The Administrator and the Mayor met with Mr. Wallenda the last day of his practice and he will be receiving the Key to the City when he returns and will then be introduced at the June 11th Council Meeting. 4000 free tickets are available through the State Parks. Council Member Choolokian asked if there were any unique ideas from the City such as Special Events and did the Administration meet with local Businesses. City Administrator Owens is working with NTCC and the Conference Center. The Mayor hopes businesses downtown will have events during the week of the Wallenda Walk.

Melissa Morinello, from NTCC and Ryan Coate, from Global Spectrum, said they're meeting with the Business Associations. They're working with Capt. Pino on Transportation Trolleys for June 15.

4. David Kinney, Director of Public Works, gave an update on ZOOM Team/Clean Neighborhood. They've received approximately 480 cleanup calls from April 2 until now. Last year there were 20 ZOOM/Clean Neighborhood Laborers, this year there are 6. With the amount of properties, cleanup cannot be done as often. The cleaning & planting of flowers on Rainbow Blvd., John Daly Blvd. and Niagara St. is being done through a grant from the Casino and is being done inhouse.

Council Member Choolokian had a question about the Gill Creek Park Playground. Mr. Kinney said the equipment is old and bad and they are looking into a grant for the replacement of equipment.

5. There was an update on the Grants Writer funding. Mayor Dyster stated that this is funded by Casino Revenue.

Council Member Choolokian had a question for Administrator Owens about funding for Zoom and the Grants Writer. Mayor Dyster stated that Zoom is funded through approval of Council from a Resolution from Dec. 2011. A discussion about funding followed between the Council, Administrator and the Mayor.

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

1. Approval of Zoning Map Amendment for 3920 Pine Ave.

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 #17

2. Approval of Reconstruction of Buffalo Avenue to CATCO

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 #18

3. A Resolution relative to amending Chapter 1335 of Historic Preservation Regulations

Council Member Grandinetti moved to add the communication to the Agenda

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #19

This session ended at 5:13 PM

Chairman Fruscione reconvened the Meeting at 7:01 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Anderson and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The Proclamation for the Girl Scouts of America was read (Agenda Item #15) and presented to the Girl Scouts by Council Members Choolokian and Grandinetti.

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

Carmen Toromino	Festival of Lights; ornaments for sale to benefit United Way
Ron Anderluh	Presentation of OTB; Festival of Lights; Wallenda Walk; Playground at Gill Creek; money from Landlord Registration; Agenda Item #16
Doug Brown	Thanks to the Council for listening to moving the Concert 1 block
Ken Hamilton	Landlord Registration Overage; Veterans Monument & Parade; thanks to the Council for continued support

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: BRIDGE COMMISSION PARKING, RAINBOW RAMP

Agenda Item #1

The Bridge Commission has been parking in the Rainbow Ramp under a 30-year agreement dating from 1997 and a 3-year agreement dating from 2010 for additional spaces. As you know, the renovation of the ramp is complete. A new parking agreement has been negotiated for the remaining 15 years on the original agreement. This new agreement consolidates the parking requirements of the two agreements, and provides for parking on the third floor of the ramp. A diagram of the new proposed parking configuration is attached (on file in the City Clerk's Office).

The new configuration provides for secure fenced parking for up to 80 vehicles. The parking fee will be \$2,500.00 per month for 5 years, with 3% escalators at five and ten years. Payment would be \$2,575.00 after five years and \$2,650.00 after ten years. The Bridge Commission will maintain the fencing and the parking area.

This new configuration frees up the former "captive" stairwell that the Commission was using. The new configuration creates the minimum of interference with other ramp users, while maintaining the security necessary for government employees working at the Rainbow Bridge. The 1,650+ space parking capacity of the ramp will be sufficient to service the demands of the Culinary Institute, along with the hoped for additional demand for parking in the renovated ramp.

Will the Council vote to approve Bridge Commission parking agreement as set forth herein, and authorize the Mayor to execute any documents 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

CONTRACT: OILS & LUBRICANTS, VARIOUS COMPANIES

Agenda Item #2

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

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

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

FOR: Items: 3, 5, 6, 7, 8 and 9 per the attached tally sheet.

TO: Emerson Oil, Inc.
545 Lyell Avenue
Rochester, NY 14606

FOR: Items: 1 and 2 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 Four (4) vendors. Four (4) bids were received. The above referenced companies submitted the lowest bids for each respective item (on file in the City Clerk's Office).

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

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

Yeas 5
Nays 0

APPROVED

CONTRACT: PINE AVENUE LIGHT STANDARDS/STREET SIGNAGE REMOVALS, SCOTT LAWN YARD, CHANGE ORDER

Agenda Item #3

A contract for the above referenced project was awarded to Scott Lawn Yard on March 19, 2012 in the amount of \$35,016.80.

Due to the unknowns involved with coordination between multiple owners and contractors and the uncertain condition of the existing lighting system, it was the City's intent prior to bidding to compensate the contractor for furnishing temporary lighting on a "per light unit per day" basis. Since the project's temporary lighting phase has finished, a final dollar amount can now be determined. At the unit cost per day that the City established, the total cost for this bid item is \$22,940.00. Funding is available under Code H1115.2011.1115.0449.599.

It is the recommendation that Change Order #1 be approved on the amount of \$22,940.00 establishing the new contract amount to \$57,956.80.

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

Yeas 5
Nays 0

APPROVED

CONTRACT: BRIDGE CLEANING/DECK SEALING PROJECT, VARIOUS LOCATIONS,
DANDROW'S PAINTING, INC.

Agenda Item #4

The following was the result of bids received on April 5, 2012, for
the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Dandrow's Painting, Inc. 103 Oak St. Plattsburgh, NY 12901	\$ 70,122.00
Acme Powerwashing, Inc.	\$124,540.00
Paul J. Gallo Contracting, Inc.	\$164,242.15
Yarussi Construction, Inc.	\$294,699.00
Hunting Valley Construction, Inc.	\$499,000.00

It is the recommendation of the undersigned that this project be
awarded to Dandrow's Painting, Inc. at its Base Bid of \$ 70,122.00.
Funding is available under Code H1112.2011.1112.0449.599.

Our design consultant Greenman-Pederson, Inc. has reviewed and
recommended award of this project to the above-referenced contractor.
Similarly, the New York State Department of Transportation has reviewed
the proposal package and granted permission to award. Please note that
this award is 80% reimbursable through the State of New York.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: BRIDGE JOINT REPLACEMENT, YARUSSI CONSTRUCTION, INC

Agenda Item #5

The following was the result of bids received on April 5, 2012, for
the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Yarussi Construction, Inc. 5650 Simmons Ave. Niagara Falls NY 14304	\$ 223,579.00

Hunting Valley Construction, Inc. \$ 224,343.75

Nichol's Long & Moore Construction \$ 246,305.00

Paul J. Gallo Contracting, Inc. \$ 263,070.00

It is the recommendation of the undersigned that this project
be awarded to Yarussi Construction, Inc. at its Base Bid of \$ 223,579.00
Funding is available under Code H1111.2011.0449.599.

Our design consultant Greenman-Pederson, Inc. has reviewed and
recommended award of this project to the above-referenced contractor.
Similarly, the New York State Department of Transportation has reviewed
the proposal package and granted permission to award. Please note that
this award is 80% reimbursable through the State of New York.

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

Yeas	5
Nays	0

APPROVED

BLUES FESTIVAL, NIAGARA FALLS, CONTRIBUTION

Agenda Item #6

The Niagara Festival & Entertainment Group has once again asked the City to contribute funding to help pay expenses for it to plan and undertake its 5th Annual Blues Festival scheduled to take place on September 7, September 8 and September 9, 2012 on Old Falls Street. The sum of \$2,500.00 is available from Tourism Fund Balance.

Will the Council so approve and authorize the Mayor to sign a Funding Agreement approved by the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

ITALIAN FESTIVAL, PINE AVENUE BUSINESS ASSOCIATION, CONTRIBUTION

Agenda Item #7

The Pine Avenue Business Association will be planning and undertaking its Annual Italian Festival on Pine Avenue between Portage Road and 15th Street on Saturday, August 4, 2012 and Sunday, August 5, 2012. The City has been requested (letter on file in the City Clerk's Office) to contribute to the expense of this festival. The sum of \$2,500.00 is available from the Tourism Fund Balance.

Will the Council approve this contribution and authorize the Mayor to execute a Funding Agreement to be approved by the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

GOOD NEWS GOSPEL FEST/HEALTH FAIR, CONTRIBUTION

Agenda Item #8

The City has been requested once again to contribute to the expenses of planning, undertaking and carrying out the Good News Gospel Fest/Health Fair planned for July 21, 2012 at Legends Park. The sum of \$2,500.00 is available from the Tourism Fund Balance.

Will the Council so approve and authorize the Mayor to execute a Funding Agreement acceptable to the Corporation Counsel?

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

Yeas	4
Nays	0
Abstain	1
Walker	

APPROVED

CITY PROPERTY, 421 THIRD ST., SIGN, PATIO ENCROACHMENTS

Agenda Item #9

The City has received a request from the owners of the property at 421 Third Street for a sign encroachment and a sidewalk patio encroachment. These have been reviewed by the appropriate City departments which recommend approval subject to the following conditions for both encroachments:

1. The owner will add the City of Niagara Falls as an additional insured on its liability insurance policy.
2. The owner will defend and indemnify the City from liability related to both encroachments.
3. The City can revoke the license for the encroachments on sixty (60) days' written notice.
4. The owner will receive all applicable permits and inspections.

In addition, the patio encroachment must comply with any conditions imposed by the City Engineer with regard to sufficient space for pedestrian passage on the sidewalk and to ensure that no damage occurs to the City's right-of-way.

In addition, these are subject to a positive recommendation being granted by the Planning Board (these are on the agenda for the Planning Board's meeting on May 23, 2012) (on file in the City Clerk's Office).

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

CLAIM: SPANBAUER, MARY

Agenda Item #10

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Niagara Falls Memorial Medical	4/03/2012	\$162.96

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

Yeas	5
Nays	0

APPROVED

CLAIM: STANEK, KIMBERLY

Agenda Item #11

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Cardamone Chiropractic	4/11 - 5/14/2012	\$390.72
Cameron B Huckell MD	5/4/2012	\$320.70

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 Walker 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

Agenda Item #12

Please be advised that Mayor Paul A. Dyster, on May 15, 2012, duly approved the following:

- Resolution 2012-41, relative to Amending Chapter 366 of the Codified Ordinances entitled "Pedicab and Pedicab Drivers".

THIS ITEM WAS RECEIVED AND FILED

Agenda Item #13

Please be advised that Mayor Paul A. Dyster, on May 18, 2012, duly approved the following:

- Resolution 2012-42, relative to Amending Chapter 341 of the Codified Ordinances entitled " Vendors and Peddlers".

THIS ITEM WAS RECEIVED AND FILED

COMMISSIONER OF DEEDS, APPOINTMENTS

Agenda Item #14

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

Dobrasz Jr., Daniel	NFPD
Freeman, Roger	NFPD
Jaroszewski, Mark	NFPD
Kunecki, Julie	Dept. of Inspections
Stack, Patrick	NFPD
Zona, Anita	Human Resources
Archie, Samuel	2133 North Ave., Niagara Falls, NY 14305
Choolokian, Pamela	1141 Garrett Ave., Niagara Falls, NY 14305
Churakos, Stephanie	564 Oak Run Dr., Lewiston, NY 14092
Corsaro, Candace	1826 North Ave., Niagara Falls, NY 14305
Curcione, Frances	3302 Walnut Ave., Niagara Falls, NY 14301
D'Aloise Jr., Nicholas	621 4 th St., Niagara Falls, NY 14301
Emassaro, Marcia	626 69 th St., Niagara Falls, NY 14304
Fiorentini, Virgil	2236 Grand Ave., Niagara Falls, NY 14301
Kennedy, Jean	1423 Wyoming Ave., Niagara Falls, NY 14305
Mariano, Kelly	2253 Michigan Ave., Niagara Falls, NY 14305
Parenti, Gary	955 Harrison Ave., Niagara Falls, NY 14305

Peplow, Kevin 669 78th St., Niagara Falls, NY 14304
 Raybon, Jemellie 1716 Ferry Ave., Niagara Falls, NY 14301
 Sirianni, Juanita 3351 Ely Ave., Niagara Falls, NY 14303
 Stopa, Todd 527 Hyde Park Blvd., Niagara Falls, NY 14301
 Smith, Laura 650 4th St., Niagara Falls, NY 14301
 Smith, Angela 1723 Caravelle Dr.A#6, Niagara Falls, NY 14304
 Smith, Margaret 410 74th St., Niagara Falls, NY 14304
 Walker, Linda 1821 16th St., Niagara Falls, NY 14305
 Zito, Peter 3351 Ely Ave., Niagara Falls, NY 14303

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

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: GIRL SCOUTS OF AMERICA, HONORING, 2012-43
BY: ALL COUNCIL MEMBERS

Agenda Item #15

WHEREAS, The Girl Scouts of WNY will "Rock Out" at one of the worlds greatest wonders. Thousands of Girl Scouts and Canadian Girl Guides of all ages will join in for this inaugural and unprecedented sing-a-long of traditional and historical Girl Scout Songs to celebrate the 100th Anniversary of the Girl Scouts of America. The event will take place on Saturday, June 23rd on Goat Island overlooking the Niagara River. On Sunday, June 24th, 100 Girl Scouts and Girl Guides will span the rainbow bridge to commemorate this momentous occasion; and

WHEREAS, in 1912, Juliette Gordon Low assembled 18 girls in Savannah, Georgia for the first local Girl Scout Meeting. Almost immediately, Juliette Gordon Low's dream for a girl-centered organization was realized. Today, Girl Scouts of the USA has a membership of over 3.2 million girls and adults in every residential zip code and in 90 countries. Nearly 60 million living women in the U.S. today are Girl Scout alumnae. With their willingness to address important issues, to their commitment to diversity and inclusiveness, Girl Scouts is dedicated to every girl, everywhere; and

WHEREAS, Girl Scout Troops are organized at six different grade levels: Girl Scout Daisies (Grades K-1); Girl Scout Brownies (Grades 2-3); Girl Scout Juniors (Grades 4-5); Girl Scout Cadettes (Grades 6-8); Girl Scout Seniors (Grades 9-10); and Girl Scout Ambassadors (Grades 11-12). The Girl Scouts of WNY currently serves approximately 9,000 adult volunteers and 20,000 girls. They service nine counties in WNY and have day and overnight camp programs as well as the Girl Scout Leadership Experience Program; and

WHEREAS, the Girl Scout Mission is to build girls of courage, confidence and character, who make the world a better place to be.

The Girl Scout Promise:

On my honor, I will try
to serve God and my country,
to help people at all times,
and to live by the Girl Scout Law

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulates the Girl Scouts of Western New York and the Girls Scouts of America in celebrating their 100th Anniversary.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: PROMOTING CITY PURCHASING OPPORTUNITIES FOR LOCAL
BUSINESSES, 2012-44
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN

Agenda Item #16

WHEREAS, the City of Niagara Falls strives to create an environment of business opportunity that nurtures businesses and supports employment opportunities; and

WHEREAS, stable and healthy local businesses are critical to maintaining a strong, varied, and diverse local economy that provides economic growth and enhances the livability of the community; and

WHEREAS, stable and healthy local businesses strengthen the local economy by creating healthy competition for goods and services, retaining existing businesses and jobs in the City, and attracting new businesses and employment opportunities to the City; and

WHEREAS, stable and healthy local businesses benefit the community by supporting local schools, charities, youth organizations and contribute to community social services and events often staffed by volunteers; and

WHEREAS, stable and healthy local businesses benefit the City of Niagara Falls by paying property taxes, business license fees, development permit fees, and utility charges; and

WHEREAS, the goals of the City of Niagara Falls can be achieved by purchasing goods and services from local businesses that pay taxes, fees and other charges that help keep Niagara Falls a livable community.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that the City shall seek to promote economic growth and enhance the livability of the community through the purchase of goods and services from local businesses and hereby creates the City's Purchasing Opportunities for Local Business Program as follow:

The City of Niagara Falls will proactively notify local businesses of how to find contract opportunities with the City by:

1. Attending meetings of the Niagara Falls/Niagara County Area Chamber of Commerce and other organizations that assist local businesses.
2. Providing information to persons with a Niagara Falls business license.
3. Regular publications of the information in the Niagara Falls Gazette, Niagara Falls Reporter or other local Niagara Falls newspaper regarding how to do business with the City of Niagara Falls.
4. Publication in local Niagara Falls newspaper of Invitations to Bid and Requests for Proposals for goods, services, and public improvements.

For any purchases, the City shall first determine if there are businesses located within the City of Niagara Falls who can supply the goods and services and shall include such local businesses when soliciting price quotations and informal proposals.

The City shall not make on-line purchases until first determining whether local businesses are qualified for the work and offer a price and quality that are comparable to those offered by non-local businesses.

BE IT FURTHER RESOLVED, as used in this resolution "local business" means a business that uses real property within the City of Niagara Falls for a commercially useful function, pays city taxes, fees and utility charges and has a current Niagara Falls business license.

BE IT FURTHER RESOLVED, nothing in this resolution is intended to apply to a local business that does not comply with all public contracting requirements or that charges substantially more than non-local businesses for comparable products and services.

BE IT FURTHER RESOLVED, that the City of Niagara Falls, acting as a market participant, encourages local companies and other public agencies to purchase from and use businesses located within the City of Niagara Falls.

Yeas	5
Nays	0

ADOPTED

Council Member Choolokian said that the process in place is very week but will strengthen

05/29/2012

ZONING MAP AMENDMENT, 3920 PINE AVE

Agenda Item #17

The Islamic Cultural Center of Niagara Falls Inc. submitted a petition and application to amend the zoning for 3920 Pine Avenue from its current classification of OS Open Space to R1-D Residential-Detached Single which would permit a house of worship to be operated at the Premises. During its meeting on May 23, 2012 the Planning Board adopted a resolution of approval of recommendation for the zoning map amendment which is attached hereto (on file in the City Clerk's Office).

Will the Council so approve the zoning map amendment?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: RECONSTRUCTION OF BUFFALO AVE, CATCO

Agenda Item #18

The following was the result of bids received on April 3, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
CATCO	\$9,979,999.00
1266 Townline Rd.	
Alden NY 14004	
Accadia Site Contracting, Inc.	\$10,498,386.30
DiPizio Construction Co., Inc.	\$10,869,000.00
Yarussi Construction, Inc.	\$11,234,856.00
Mark Cerrone, Inc.	\$11,488,488.00

It is the recommendation of the undersigned that this project be awarded to CATCO at its Base Bid of \$9,979,999.00. Funding is available under Code H0610.2006.0610.0449.599.

Our design consultant Clough Harbour & Associates, Inc. has reviewed and recommended award of this project to the above-referenced contractor. Similarly, the New York State Department of Transportation has reviewed the proposal package and found the bid award package acceptable. Please note that this award is 95% reimbursable through the State of New York.

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

RESOLUTION: HISTORIC PRESERVATION REGULATIONS, ORDINANCE AMENDMENT,
2012-45
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON AND
CHOOLOKIAN

Agenda Item #19

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1335 of the Codified Ordinances entitled AHistoric Preservation Regulations@ is hereby amended by amending Section 1335.05 entitled "Criteria and Procedures for Designation" to read as follows:

1335.05-1 Criteria for Designation of Historic Landmarks, Sites and Districts

• • •

1335.05-2 Procedures for Designation of Historic Landmarks, Sites and Districts

• • •

1335.05-3 Revocation of Historic Landmark or Structure Designations

A. Upon request of all of the owners of real property previously designated an historic landmark or structure, the City Council may revoke the historic designation. A majority vote shall be required by the City Council for the revocation of the designation. The Mayor shall approve or veto said revocation of the designation.

B. Upon revocation of an historic landmark or structure designation by the Council and Mayor, the City Clerk shall file notice of each the revocation for each property for which the historic designation has been revoked with the Niagara County Clerk, the New York State Historic Preservation Officer, the City Assessor's Office, and the Niagara Falls Planning Board.

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

Yeas 5
Nays 0

ADOPTED

Council Member Grandinetti commended that each property would have to be reviewed.

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:36 p.m.

Carol A. Antonucci
City Clerk

05/29/2012



June 11, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the June 11, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:00 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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.

Joseph Ruffalo and Sheila Kee from Niagara Falls Memorial Medical Center spoke on Agenda Item #18, relative to revocation of the historic landmark designation for the property located at 533 Tenth Street. They explained the grant that the hospital had received for the Project that would be done once the building on the property was demolished, and the Project would create an additional 12 jobs at the hospital, as well as jobs for the construction of the Project.

Jerry Genova of the Tourism Advisory Board spoke on amending the Ordinance relating to charter bus parking (Agenda Item #17).

In the Administrative Update:

1. Community Development Director Seth Piccirillo informed the Council Members that the Item relative to awarding a contract for an Analysis of Impediments to Fair Housing Choices, which was tabled at the March 19 Council Meeting, was no longer necessary, since a Regional Analysis has already been done.

2. Mayor Paul Dyster reported that an update on the Wallenda Walk will be held on June 12 at 11 AM. He commended the Niagara Tourism and Convention Corporation and the City Clerk's Office for working with vendors for the Event, and spoke on related events taking place in the City.

Chairman Fruscione thanked the Mayor for his consideration of moving the site of the Hard Rock Concerts to accommodate the area businesses, and asked the Mayor to confirm this at the next Council Meeting. Council Member Choolokian noted calls he had received concerning the number of street lights that are out in the downtown area, and Chairman Fruscione asked Deputy Director of Public Works John Caso to have crews concentrate on cleaning up the downtown area, all in preparation for the Wallenda Walk on Friday.

3. City Administrator Donna Owens spoke on the City's contract for trash, and noted that the contract extension with Modern expires at the end of 2013. She is working with Purchasing Agent Dean Spring on the contract, and one of the areas of their research is the use of "super cans", which will require an Ordinance amendment by the Council.

Chairman Fruscione inquired about contacting Covanta to burn trash, and how recycling will impact the cost of a new contract. City Controller Maria Brown added that the original contract with Modern included a rebate for recyclables, but, now, the City is being charged for recyclables. After a discussion, Council Member Choolokian asked that the Council receive a new contract as soon as possible.

Chairman Fruscione asked about the status of the lease for the Ice Pavilion, and Mayor Dyster responded that a decision is pending, and noted that in discussions with possible leases, a requirement is that all reservations made for 2013 must be honored.

Chairman Fruscione asked Mr. Piccirillo about information that was published over the weekend regarding a matter that was only under discussion, and not ready for release, and a discussion followed.

Corporation Counsel Craig Johnson spoke on amendments to Agenda Items:

1. Agenda Item #15, relative to appointments for Commissioner of Deeds, has additional names to be added.

Council Member Choolokian moved to amend Agenda Item #15.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

2. Agenda Item #16, relative to honoring Nik Wallenda, has an additional paragraph to be added to the end of the Resolution.

Council Member Choolokian moved to amend Agenda Item #16.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

3. Agenda Item #17, relative to amending the Ordinance relating to Charter buses, has a change in the map of sites for pick up/drop offs.

Council Member Choolokian moved to amend Agenda Item #17.

Yeas 5
Nays 0

MOTION TO AMEND APPROVED

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

1. A communication relative to approval of a Site Access Agreement for 310 Rainbow Boulevard, Hamister Development.

Council Member Walker 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 #19.

2. A communication relative to approval of a Memorandum of Understanding for the use of the vendor huts from the Holiday Market.

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 #20.

3. A Resolution relative to saluting volunteerism.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #21.

Chairman Fruscione noted that Agenda Item #12, relative to the 2012 Cooperative Agreement for the North Star Project, represented a savings for the City, since the cost is paid entirely by the New York State Parks Department.

This Session ended at 4:55 PM. At 5:00 PM, Council Member Grandinetti moved for an Executive Session to discuss litigation, and her motion was unanimously approved. The Executive Session ended at 5:07 PM

Chairman Fruscione reconvened the Meeting at 7:04 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Choolokian and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

A Presentation was given by David Fabrizio, Chairman of the Veteran's Memorial Commission, on the status of the Project. He noted that the main piece is in place, and the electrical work needs to be done next. The Commission is working with the New York Power Authority to possibly donate the power; and the Project should be completed by September. He added that at the present time, there is a locked fence around the monument, and that will be removed as the additional work is completed. The Commission will provide a supply of applications to the City Clerk's Office to provide to the public. Council Member Anderson suggested that the Commission get word out to the public on how to get names put on the monument, and the cost is \$125 per name.

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

Ken Hamilton	Agenda Items #17, #18
Andrea Galey	Agenda Items #14, #18
Judy Gunzelman	Drug dealers in area
Yasin Hussain	Issues with purchase at In Rem sale
Perry Jost	Holiday Market was great success
Myra Supon	Lewiston Road Project
Ken Hamilton	Enforcement of Taxi Cab Ordinance and No Parking Zones
Diane Tattersall	positive 4:00 PM Work Session

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

CLAIM REPORT FOR THE MONTH OF MAY 2012

Agenda Item #1
NOTICE OF CLAIM

Boyer, Joseph 8421 Buffalo Ave.#33	Property damages caused by police seizure.
Burg, William 677 Sara Court Lewiston, NY 14092	Property damages caused by city tree.
Williams, Athelda 800 Niagara Ave.#203	Personal injuries sustained from slip and fall in parking lot.
Williams, Athelda c/o Lipsitz Green Scime Cambria LLP	Personal injuries sustained from a fall in a city parking lot
DiGiovanni-Vogel, Anna 41 Hunting Drive Dumont, NJ 07628	Automobile damages caused by falling traffic signal
Esposito, Frank c/o Law office of Thomas Terrizzi	Personal injuries sustained with an altercation with a police officer
Carde, Roberto 134 Chaddock Ave Buffalo, NY 14207	Personal injuries sustained by hitting pot hole

06/11/2012

CONTRACT: ELECTRONICS RECYCLING, REGIONAL COMPUTER RECYCLING & RECOVERY

Agenda Item #3

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

WITH: Regional Computer Recycling & Recovery
7318 Victor Mendon Road
Victor, NY 14564

FOR: Collection of Used Electronic Equipment.
Payments to the City: \$.086/lb.

The Corporation Yard at New Road is a collection point for used electronic equipment. Last year approximately 80,000 lbs. was collected. Previously this program was operated under the auspices of Niagara County. Beginning this year the City has been operating the program independently. It is anticipated this new revenue stream will generate approximately \$6,000.00 - \$7,000.00 per year.

Quotations were also received from Sunnking Inc. (\$.07/lb.) and Maven Technologies, LLC (\$.057/lb.).

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

Yeas 5
Nays 0
APPROVED

CONTRACT: BUFFALO AVENUE, RECONSTRUCTION, CONSULTANT SERVICES, CLOUGH, HARBOR & ASSOCIATES, CHANGE ORDER #2

Agenda Item #4

A contract for the above referenced project was awarded to Clough, Harbor & Associates, LLP (CHA), 2200 Main Place Tower, Buffalo New York on April 10, 2006 in the amount of \$2,500,000.00. Change Order No. 1 was approved by City Council on January 28, 2008, in the amount of \$0.00, thereby not increasing the total cost of the contract to date.

Change Order No. 2 is composed of two separate portions. The first portion is associated with the out-of-scope tasks associated with the Consultant finishing the final design and creating final construction documents. These tasks were not originally included within the Consultant's original scope of work, but were subsequently added by the City as conditions warranted. These tasks and the associated fee for them in total are as follows:

- Radioactivity Detection/Analysis/Quantification and Remedial Action Plan
 - Comprehensive Right of Way Acquisition procedures to facilitate NYSDOT Processing/Approval
- Total for Real Estate Procurement Tasks
\$76,900.00

The second portion of this change order is for the City to add the funding for the tasks associated with Construction Contract Administration and Construction Inspection and related Direct Non-Salary Costs (DNSC) to the Consultant's current contract.

Total for Additional Contract Administration/Construction Inspection \$2,292,000.00

Therefore, it is the recommendation of the undersigned that Change Order #2 in the amount of \$2,368,900.00 be approved, bringing the new contract total to \$4,868,900.00. Please note that the City will receive an 80% reimbursement of all project costs from the Federal Highway Administration and an additional 15% reimbursement via the New York State's Marchiselli Aid fund for this project.

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

Yeas 5
Nays 0
APPROVED

CONTRACT: PARKING RAMP, CONSTRUCTION MANAGEMENT/INSPECTION SERVICES,
CANNON CONSTRUCTION SERVICES, AMENDMENT #1

Agenda Item #5

A contract for consultant services for the above-referenced project is currently in place with Cannon Construction Services ("Cannon CS"), 2170 Whitehaven Road, Grand Island, NY 14072 in the amount of \$361,288.

This work is intended to facilitate Niagara County Community College to develop Niagara Falls Culinary Institute in a portion of the former Rainbow Centre Mall, which is scheduled to open in Fall 2012. This work has involved construction management and inspection services for Phase II of the project, which involves a large rehabilitation of City Parking Ramp II.

The project met its scheduled substantial completion date of May 15, 2012, which involved completion of all construction items to allow re-opening of the ramp for public use. It was originally scheduled for full completion on June 15, 2012, at which time all work under the contract was to be complete, including a new elevator in the southeast corner of the building. However, various delays were experienced in the completion of the new elevator lobby that affected the delivery of the elevator car to the site, resulting in an approximate one month delay by the General Trades contractor for the project (Huber Construction). Cannon CS has submitted a scope of services and fee estimate in the amount of \$24,510 to continue to provide project oversight and inspection services during this period. Continuing on-site services by Cannon would also allow them to oversee additional ramp upgrades that will be financed by budget surpluses that have been realized in the base construction contract.

Funding is currently available in Capital Project Account Code H1014 (Culinary Institute/Ramp). Please note that Huber Construction has allotted up to \$12,000 toward the costs of Cannon CS services in the form of a deduct change order in Huber contract with the City. The City will be fully reimbursed for the balance all costs incurred through a funding agreement with USA Niagara Development Corporation; the state funds to cover this amendment would come from the already-established contingency account to cover unforeseen costs for the Project.

Therefore, it is the recommendation of the undersigned that Contract Amendment #1 for the contract between the City of Niagara Falls and Cannon Construction Services for an amount not to exceed \$24,510 be approved.

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

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

Yeas

5

Nays

0

APPROVED

OLD FALLS STREET, COBBLE MAINTENANCE/REPAIR, MOA AMENDMENT

Agenda Item #6

On February 6, 2012, the City Council authorized the Mayor to enter into a Memorandum of Agreement pertaining to the repair and maintenance of cobble paving on Old Falls Street. This approval also authorized the expenditure of \$10,000.00 to purchase replacement cobble units in an area damaged by a City water main break. This cost will be reimbursed by USA Niagara Development Corporation out of remaining contingency funds for the Old Falls Street project. Upon receipt of a final cost estimate, it was determined that the actual cost for the replacement cobble units is \$10,202.00 with shipping costs of \$620.00, for a total of \$10,822.00.

There are sufficient funds in USA Niagara's contingency account to cover the additional \$822.00 over the prior authorized amount. Therefore, it is the recommendation of the undersigned that the prior Council approval be amended to authorize the City to expend a total \$10,822.00 for the above-referenced cobble units, which would be reimbursed by USA Niagara.

Will the Council vote to so amend its prior approval and authorize the City to expend such additional funds?

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

Yeas 5
Nays 0
APPROVED

LASALLE WATERFRONT PARK, CO-SPONSORSHIP WITH PAL

Agenda Item #7

The City has the opportunity to co-sponsor an event at LaSalle Waterfront Park, together with the Niagara Falls Police Department and the Niagara Falls Block Clubs, which will benefit the Niagara Falls Police Department Law Enforcement Foundation. Attached (on file in the City Clerk's Office) is a description of the event which will take place on June 16, 2012 from 11:00 a.m. to 7:00 p.m. The City's contribution to this co-sponsored event will be the use of a City bandstand and related equipment.

Will the Council so approve and authorize the Mayor to execute a co-sponsorship agreement satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: SIDEWALK REPAIR, VALERI CONCRETE CONSTRUCTION

Agenda Item #8

The City recently awarded a bid to Valeri Concrete Construction, Inc. in the amount of \$193,127.00 to perform sidewalk replacements at various locations during 2012. The contractor has agreed to extend the unit prices of his bid to complete sidewalk replacements for the Niagara Falls Water Board in the amount of \$20,000.00. The Niagara Falls Water Board will reimburse the City for the total cost to repair and/or replace pavement curbing and sidewalks that are ordered/directed to be done by the contractor on behalf of the Niagara Falls Water Board for a total cost not to exceed the sum of \$20,000.00. This will be pursuant to a Municipal Cooperation Agreement with the Niagara Falls Water Board for sidewalk repair.

Will the Council so approve and authorize the Mayor to execute such an agreement in form subject to the approval of the Corporation Counsel?

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

Yeas 5
Nays 0
APPROVED

GOLF PROGRAM, PAL SPONSORSHIP

Agenda Item #9

The Niagara Police Athletic League (NPAL) has approached the City about sponsoring a youth instructional golf program at Hyde Park Driving Range and Golf Course. NPAL has volunteers from the NIKE Store and PAL including members from the Niagara Falls High School Golf Team who will be providing the instruction. The program is open to all youth of the City and Community and there will not be any fees charged to participate.

NPAL is requesting the use of the driving range and the red nine at the Hyde Park Golf Course for this program two (2) days a week starting on July 9, 2012. The program will be Mondays and Wednesdays from 1:00 p.m. to 3:00 p.m. on each of those days. The program will end on Wednesday, August 1, 2012.

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

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

Yeas 5
Nays 0

APPROVED

CITY MARSHALL, APPOINTMENTS

Agenda Item #10

The City Council has previously approved the creation of the position of City Marshal to serve as an independent contractor for the purpose of serving process and other duties as the City Marshall of the City of Niagara Falls. Currently, the City has three individuals serving this capacity. It is requested that the appointment be extended to a fourth and fifth person in order to make performance of duties more efficient and effective.

It is recommended that Joseph Sacco and David Carl Cassert be designated as City Marshals for a term to commence upon execution of their contracts and to expire on December 31, 2014 and that said individuals be required to provide proof of insurance, naming the City of Niagara Falls as an additional insured in a form satisfactory to the Corporation Counsel in connection with the performance of their duties. Messrs Sacco's and Cassert's resumes are available for your review.

Will the Council so approve and authorize the Mayor to contract with the above for the term and on the conditions specified?

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

Yeas 5
Nays 0

APPROVED

GOLF PROFESSIONAL, PETER CARLO, PROPOSAL

Agenda Item #11

The Deputy Director of DPW has received a proposal from golf professional Peter Carlo wherein Mr. Carlo proposes to donate his time and services to instruct junior golf clinics one (1) morning per week during the months of July 2012 and August 2012. These clinics are proposed to be scheduled on either Wednesday or Friday mornings from 8:00 a.m. to 10:00 a.m. and possibly 11:00 a.m. depending upon interest in the program. Mr. Carlo also proposes to assist with the operation of the City junior golf tournament free of charge.

In exchange for donating his services and time, Mr. Carlo requests the ability to post an advertisement at the Hyde Park Golf Course and Driving Range advertising his services as a golf professional for private and group lessons to take place at Hyde Park Golf Course on a limited bases commencing at the end of June and also during July 2012 and August 2012. Mr. Carlo will retain any revenues generated from those lessons.

Will the Council so approve and authorize the Mayor to execute an agreement reciting the terms and conditions of this arrangement in form satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

NORTH STAR PROJECT, 2012 COOPERATIVE AGREEMENT

Agenda Item #12

It is desirable to keep the North Star Project moving so that it may be completed. Kevin Cottrell has been "on loan" from State Parks to act as Project Coordinator for this effort and is willing to continue. He will continue to be on a leave of absence from the State Parks. Pursuant to the new Cooperative Agreement with the State Parks, the State Parks will reimburse the City the sum of \$75,000.00 to advance this project with those funds being used to pay Mr. Cottrell's salary and benefits. There will be no financial contribution by the City. This \$75,000.00 payment will be applied to Mr. Cottrell's salary and benefits for the period commencing March 3, 2012 and ending March 3, 2013 or sooner if that \$75,000.00 payment is exhausted. Mr. Cottrell's salary, commencing June 12, 2012 will be the amount he would have been making had he been performing his duties at the State Parks which is the annual amount of \$52,500.00, plus benefits. Mr. Cottrell advises that he is in the final phase of this project and he anticipates substantially completing the project prior to the State Parks reimbursement being exhausted. While the new proposed Cooperative Agreement with the State Parks provides for an extension up to an additional two (2) years, subject to approval by the New York State Attorney General and the Office of the State Comptroller, it is likely that Mr. Cottrell will return to State Parks when the \$75,000.00 payment is exhausted.

Will the Council vote to continue the temporary Project Coordinator position, approve the State Parks grant and authorize the Mayor to execute any documents necessary to effect the same?

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

Yeas 4
Nays 1
Choolokian

APPROVED

CLAIM: MARTONE, DANIEL AND JOANN

Agenda Item #13

Date Claim Filed:	April 2, 2007	November 16, 2007
Date Action Commenced:		February 15, 2007
Date of Occurrence:		Intersection of Main Street and Third Street
Location:		Personal Injuries sustained in an accident with City vehicle.
Nature of Claim:		Daniel Bird
City Driver:		
Status of Action:	Pre-trial stage.	
Recommendation/Reason:		Best interests of City to pay.
Amount to be Paid:		\$12,000.00
Make Check Payable to:		Daniel Martone, Joann Martone and Shaw & Shaw, PC, as attorneys
Conditions:		Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. 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

Agenda Item #14

Notice of Mayor's Approval of Resolution 2012-45, relative to Amending Chapter 1335 of the Codified Ordinances entitled "Historic Preservation Regulations."
 THIS ITEM WAS RECEIVED AND FILED

COMMISSIONER OF DEEDS, APPOINTMENTS

Agenda Item #15

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

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

Cunningham, Ronald	1616 15 th St, Niagara Falls, NY	14305
Brown, Tonya	511 Hyde Park Blvd. Niagara Falls, NY	14301
Smith, Richard	1021 96 th St., Niagara Falls, NY	14304
Kemp, Elyse	1543 Centre Ave., Niagara Falls, NY	14305
Dolson Sr., James	1352 Cleveland Ave., Niagara Falls, NY	14305
Manning, Terry	576 78 th St, Niagara Falls, NY	14305
Hout, Robert	516 28 th St. Niagara Falls, NY	14301
Mayberry, William	15 Pound St, Lockport, NY	14094
Tulino, Micheal	508 72 nd St., Niagara Falls, NY	14304
Schiavi, Matthew	649 Sara Ct., Lewiston, NY	14092
Palliadino, Harry	7657 Highland Dr., Gasport, NY	
Tiberi, Paul	517 29 th St., Niagara Falls, NY	
Palladino, Randy	7657 Highland Dr., Gasport, NY	14067
Grace, William	1323 104 th St., Niagara Falls, NY	14304
Pallaci, Frank	1717 Willow Ave., Niagara Falls, NY	14305
Bogan, Renee	686 Chilton Ave., Niagara Falls, NY	14301
Jones, Charleen	634 Chilton Ave, Niagara Falls, NY	14301

This is in accordance with provision of the Niagara Falls City Charter, Article II, Section 7, Subdivision 5.
 Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

RESOLUTION: WALLEENDA, NIK, HONORING/WELCOMING, 2012-47
BY: ALL COUNCIL MEMBERS

Agenda Item #16

Whereas, the Wallenda Walk at Niagara Falls will take place on Friday, June 15th, 2012 when Mr. Wallenda will attempt to transverse Niagara Falls; and

Whereas, in July of 2011, the Niagara Falls City Council passed a resolution in support of the high wire walk across Niagara Falls and requested that Governor Cuomo review and sign the legislation before him to approve the walk. The walk was not only approved by the State of New York, but also by the Canadian government; and

Whereas, Mr. Wallenda's high-wire walk over Niagara Falls is the biggest event to come to Niagara Falls and we are very excited to Welcome Nik Wallenda and the attention his spotlight will bring on the long-standing allure of Niagara's tremendous power and the draw of international attention for the Niagara region.

Now therefore be it resolved, that the Niagara Falls City Council welcomes Nik Wallenda to the City of Niagara Falls and supports his walk across Niagara Falls which is expected to draw thousands of spectators on the U.S. and Canadian sides and boost tourism to the region leading up to and long after the historic event.

And be it further resolved, that the Niagara Falls City Council, along with Mayor Paul A. Dyster, declares that Friday, June 15, 2012 be designated as "NIK WALLEENDA DAY" in the City of Niagara Falls, New York.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: TRAFFIC ORDINANCES, AMENDING, 2012-48
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN

Agenda Item #17

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 501 of the Codified Ordinances entitled "PART FIVE - TRAFFIC ORDINANCES CHAPTER 501 TRAFFIC GENERALLY" is hereby amended by amending Section 501.15 entitled "Bus Zone on Falls Street" to read as follows:

501.14 TOWAGE AND STORAGE FEES.

...

501.15 ~~BUS ZONE ON FALLS STREET~~ BUS ZONES IN THE DOWNTOWN AREA

In order to permit the loading and unloading of passenger buses, there ~~is~~ are hereby established ~~a~~ reserved bus ~~zone~~ zones to be located in the downtown area as shown on the map in Section 501.15A in this chapter. ~~on the south side of Falls Street between the crosswalk opposite Prospect Street and the intersection of Falls Street and Riverway.~~

No vehicles other than passenger buses shall use ~~this~~ these reserved zones ~~for parking~~. Buses may use these zones only when such buses are parked parallel to the curb and at no more than the legal distance therefrom, and only for the purpose of discharging or taking aboard passengers and for no more than ten minutes at any time. It shall be a violation for buses to park, load or unload passengers in any area other than the reserved bus zones shown on the map in Section 501.15A. Notwithstanding the foregoing, it shall be permissible for buses to park on 2nd Street between Niagara Street and Ferry Avenue, so long as such parking is in accordance with applicable state laws and other provisions of Chapter 501.

The City ~~Manager~~ Administrator shall ~~erect~~ cause the necessary signs and markings to be erected to carry out the provisions of this section and may provide further regulations concerning the reserved zone described above. No person shall violate the provisions of any such regulations.

Nothing contained in this section shall be construed to prevent the ordinary and normal loading and unloading of passengers by any school buses or buses owned or operated by the State of New York, any municipality or transportation authority along their respective designated routes. (C.41 C10a, adopted 4/22/46.)

501.15A MAP OF BUS ZONES IN THE DOWNTOWN AREA

Map_attached (on file in the City Clerk's Office)

501.16 PARKING ALLEYS: ANGLE PARKING.

...

Bold and Underlining indicate Additions.
Strikethrough indicates Deletions

Yeas	5
Nays	0
	ADOPTED

RESOLUTION: 533 TENTH STREET, REVOCATION OF HISTORIC LANDMARK STATUS
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN
AND GRANDINETTI

Agenda Item #18

WHEREAS, on December 14, 2009, the City Council approved Historic Landmark status for the exterior of the Evelyn Apartments at 533 Tenth Street, Niagara Falls, New York, SBL #159.23-1-62; and

WHEREAS, the property is currently owned by Niagara Falls Memorial Medical Center; and

WHEREAS, Section 1335.05-3 of the Codified Ordinances of the City of Niagara Falls, New York provides "Upon request of all of the owners of real property previously designated an historic landmark or structure, the City Council may revoke the historic designation."

The City Council of the City of Niagara Falls, New York does find:

1. Niagara Falls Memorial Medical Center (NFMCC) is the owner of 533 Tenth Street, Niagara Falls, New York, SBL#159.23-1-62 and has requested revocation of the historic landmark designation;
2. The basis of the request is the structures on the property must be demolished to construct on the 500 block of Tenth Street a new and expanded community health center and related amenities, including a covered walkway connected to the NFMCC emergency room. Construction of this high need healthcare facility is possible through a \$5 million grant to the Community Health Center of Buffalo, Inc., which currently operates the Community Health Center of Niagara in the 100 year old Hamilton B. Mizer Center at 501 Tenth Street;
3. The project will create 27 construction jobs, will create 12 new permanent full-time jobs and will retain 14 permanent full-time jobs.

NOW, THEREFORE, BE IT RESOLVED, that the historic landmark designation of the exterior of 533 Tenth Street, Niagara Falls, New York, SBL#159.23-1-62, is hereby REVOKED, and

BE IT FURTHER RESOLVED, that upon approval of this revocation as provided in City Codified Ordinance Section 1335.05-3(A), the City Clerk shall file notice of the revocation with the Niagara County Clerk, the New York State Historic Preservation Officer, the City Assessor's Office, and the Niagara Falls Planning Board.

Council Member Choolokian moved to Table the Resolution.

Yeas	4
Nays	0
Abstain	1
Walker	

TABLED

CONTRACT: 310 RAINBOW BLVD., SITE ACCESS AGREEMENT, HAMISTER DEVELOPMENT COMPANY, LLC

Agenda Item #19

As part of its due diligence pertaining to 310 Rainbow Boulevard, Hamister Development Company, LLC must perform some environmental testing on the subject premises. The physical testing on the premises will be minimal and the premises will be restored to the condition it was in prior to any testing.

Will the Council so approve and authorize the Mayor to execute a Site Access Agreement in form satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: VOLUNTEERISM, 2012-49
BY: ALL COUNCIL MEMBERS

Agenda Item #20

WHEREAS, the Niagara Falls City Council salutes volunteerism and feels one of the City's greatest attributes is its many volunteers; and

WHEREAS, on Tuesday, June 12, 2012 more than fifty parents, students and community volunteers will be recognized for their volunteer services to the Niagara Street Elementary School; and

WHEREAS, the NSS PEG and Character Education Committee will host their Third Annual Student & Adult Volunteer Recognition Celebration and Reception. The celebration will be held at Niagara Street Elementary School in the auditorium beginning at 4:30 p.m.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that we congratulate Niagara Street School and their staff of volunteers in making Niagara Street School and the City of Niagara Falls a better place to live.

Yeas 5
Nays 0

ADOPTED

VENDOR HUTS, MEMORANDUMS OF UNDERSTANDING

Agenda Item #21

Two (2) different entities have expressed interest in utilizing the vendor huts left over from the Holiday Market for a limited period of time during the tourist season. Each respective entity is offering to pay the City One Thousand Dollars (\$1,000.00) per hut during the utilization period.

Will the Council so approve and authorize the Mayor to execute Memorandums of Understanding with entities in form satisfactory to the Corporation Counsel?

Council Member Choolokian 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 Fruscione adjourned the Meeting at 7:50 p.m.

Carol A. Antonucci
City Clerk



JUNE 25, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the June 25, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meetings of May 29, June 11 and the Special Meeting Minutes from June 4 and June 18, 2012.

Yeas	5
Nays	0

APPROVED

In the Administrative Update, Mayor Paul Dyster reported that the City had filed a Summons against Man O'Trees and the Hanover Insurance Company in regard to the Lewiston Road Project. He also added that specs are being prepared for bids to finish the Project, and the Council would be asked to award a contract to finish the Project at a Special Meeting to be held after bids were opened.

The Mayor also thanked all the City employees and those others who had participated in preparing for the Nik Wallenda Event.

Lisa Routhier of the LaSalle Business Association asked that the Council contribute \$2,500 towards the Association's Blues Festival. Chairman Fruscione asked that she put the request in writing to the Administration.

Corporation Counsel Craig Johnson distributed copies of three Items to be added to the Agenda:

1. A communication relative to settlement of the claim of Roderick Vails.

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 #16

2. A Resolution relative to amending Chapter 1335 of the Codified Ordinances entitled "Historic Preservation Regulations".

Council Member Grandinetti moved to add the Resolution to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #17.

3. A Resolution relative to a decision by the Council on the appeal filed by Niagara Falls Memorial Medical Center on a decision made by the Historic Preservation Commission.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #19.

(Council Members comments attached)

Council Member Anderson asked about resurfacing and striping the parking lot at Griffon Park. Mayor Dyster and Sherry Shepherd-Corulli, who is writing Grants on behalf of the City, responded that improvements at the Park are being done in Phases as grants are awarded, and, also, Greenway funds have become available. The purchase of playground equipment (Agenda Item #6) is only part of the work that is scheduled to be done at the Park.

This Session ended at 4:20 PM

Chairman Fruscione reconvened the Meeting at 7:02 p.m. in the Council Chambers with all Council Members present. The prayer was said by Council Member Grandinetti and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The Chairman called a Special Order of Business, a Public Hearing relative to a request for the City Council to review the denial of the Certificate of Appropriateness for 533 Tenth Street, and asked if there were any speakers relative thereto. The following spoke:

Ron Anderluh	Ann Flack
Evelyn Harris	Michael Murphy
Avery Bates	Sheila Kee
Carol Sannders	Jackie Krupp

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

Nicholas D'Agostino	Agenda Items #4, #6, #11
Ken Hamilton	Agenda Item #9
Drucellia Shealey	Agenda Item #9
Michael Murphy	Agenda Item #19
Charles Knoll	Compliments to DPW, Tourism Advisory Board, Council & City Employees
Ron Anderluh	Gill Creek Park; Festival & Picnic Shelter
Nicholas D'Agostino	grants for Bridge repairs; Veterans Monument; DPW; Wallenda Walk; Pine Ave. lights & additional lights throughout the City; 1967 Niagara St. residents
Candice Corsaro	CD Grants for students; damage at Norlock Park
Donald Supon	sewer repairs due to Lewiston rd. Project
Ken Hamilton	condition of City sidewalks
Mary Ann Rolland	condemn signs on homes for delinquent Water bills

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CITY CLERK'S REPORT FOR THE MONTH OF MAY 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

1667 LINWOOD AVENUE, LEASE EXTENSION AND RENT INCREASE

Agenda Item #2

In 2008, City Council approved a lease for 1667 Linwood Avenue at \$750.00 per month plus utilities. Since March 1, 2008, the building has been used as a police substation and resource center by community groups such as the Niagara Falls Block Club Council. Community Development funds have paid the rent and utility costs.

On January 1, 2010, the rent increased to \$800.00 per month plus utilities. The building is well-maintained and has been extensively utilized by the Police Department and Block Clubs.

The landlord has requested a rent increase to \$850.00 per month plus utilities. The new rent would start July 1, 2012 and the new lease would be effective through June 30, 2013. Funds will be available to pay for this from the 2012 CDBG grant, and will be paid from Community Development budget line CD1.8676.0000.0450.500 CPS051.

Will the Council vote to approve the lease extension and rent increase 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	4
Nays	0
Abstain	1
Fruscione	

APPROVED

CONTRACT: DRAINAGE STRUCTURE REPLACEMENT/REPAIR PROJECT, YARUSSI CONSTRUCTION, INC., CHANGE ORDER

Agenda Item #3

A contract for the above referenced project was awarded to Yarussi Construction, Inc. on April 11, 2012 in the amount of \$71,630.00.

Subsequent to the start of the project, existing catch basins originally slated to remain were determined to be beyond minor repair stage and warranted replacement (2) and or/ substantial alteration (1). The cost associated with this additional basin work is \$7,130.00, bringing the contract total \$78,760.00. Funding is available from the 2011-12 CHIPS allotment.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: BOARDING UP OF VARIOUS DILAPIDATED/FIRE DAMAGED BUILDINGS,
SANTO CANDELLA CONST. CO., INC.

Agenda Item #4

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

TO: Santo Candella Const. Co., Inc.
118 74th Street
Niagara Falls, NY 14304

FOR: Boarding up of various dilapidated and fire damaged structures,
privately and publicly owned; deemed hazardous by the Department
of Code Enforcement and Fire Department
Price per square foot of sheathing used: \$1.47/sq. ft.

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 Four (4) vendors. In addition to the
above mentioned bid one was received from DeCarlo Emergency Enclosures
(\$1.53/sq. ft.).

Funds for this expenditure are available in the Department of Code
Enforcement code: H0910.2009.0910.0449.599.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: HEAVY EQUIPMENT RENTAL, VARIOUS COMPANIES

Agenda Item #5

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

North American Industrial Services
8555 Packard Road
Niagara Falls, NY 14304

Item #'s: 11, 36 & 37 per the attached tally sheet (on file in the City
Clerk's Office).

National Vacuum Corporation
408 47th Street
Niagara Falls, NY 14304

Item #: 10 per the attached tally sheet (on file in the City Clerk's
Office).

George & Swede Sales & Service, inc.
7155 Big Tree Road
Pavilion, NY 14525

Item #'s: 6, 25, 27 & 32-35 per the attached tally sheet (on file in
the City Clerk's Office).

Villani's Landscaping Equipment, Inc.
6405 Packard Road
Niagara Falls, NY 14304

Item #'s: 1-5, 8, 12-22 & 26 per the attached tally sheet (on file in
the City Clerk's Office).

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 Eight (8) vendors. Four (4) bids were
received.

Funds for this expenditure are available in the various department
equipment rental codes: .0442.003 and .0442.599.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: PLAYGROUND EQUIPMENT, R. E. WOODSON, INC.

Agenda Item #6

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

TO: R.E. Woodson, Inc.
3520 Dewey Avenue
Rochester, NY 14616

FOR: Playground equipment for Griffon Park \$33,077.00

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 thirteen (13) vendors. Three (3) bids were received (on file in the City Clerk's Office). The above referenced company submitted the lowest bid to meet our specifications.

Funding for this expenditure will be provided by a \$20,000.00 grant from Kaboom, which will pay R.E. Woodson directly. The remainder of the funding will be provided by New York State Power Authority Greenway funding as approved by the City Council at its May 14, 2012 meeting.

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

Yeas 5
Nays 0
APPROVED

LEGENDS PARK, SUMMER BASKETBALL CLASSIC, SPONSORSHIP

Agenda Item #7

The City has once again been requested to participate in the sponsorship of the Summer Basketball Classic at Legends Park. This will involve the use of Legends main basketball court and will begin on June 30, 2012 and run through August 19, 2012. Game times will be 1:00 p.m. to 8:00 p.m. on Saturdays and Sundays. There is \$1,000.00 available from Tourism Fund Balance to offset the expenses of this Basketball Classic. This is an activity that benefits the youth in the community and is a program that otherwise could be undertaken by the City if staffing and resources were stronger.

Will the Council and authorize the Mayor to execute a Funding Agreement in form satisfactory to the Corporation Counsel?

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

Yeas 5
Nays 0
APPROVED

CHAMBER OF COMMERCE, NIAGARA FALLS, NEW YORK, FINANCIAL ASSISTANCE

Agenda Item #8

The recently organized Niagara Falls, New York Chamber of Commerce is an entity that provides support for small businesses in the City and help those businesses focus on issues that are unique to the City. The City has been asked to assist with the Chamber's organizational expenses.

This assistance will be consistent with the City's recently passed Resolution supporting small business owners in the City.

\$1,000.00 is available from Tourism Fund Balance.

Will the Council so approve?

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

Yeas 5
Nays 0
APPROVED

AFRICAN AMERICAN FAMILY FESTIVAL CELEBRATION, CONTRIBUTION

Agenda Item #9

The Annual African American Family Festival Celebration will be held on August 10, 11 and 12, 2012. The City has been asked to contribute the sum \$2,500.00 to the expenses of this festival. The sum of \$2,500.00 is available from Tourism Fund Balance.

Will the Council so approve?

Council Member Choolokian moved to Table the communication.

Yeas 5
Nays 0

MOTION TO TABLE APPROVED

CITY PROPERTY: 1363/1367 MICHIGAN AVE., PURCHASE/SALE AGREEMENT, RONALD CUNNINGHAM

Agenda Item #10

Ronald Cunningham proposed to purchase the two (2) above referenced lots from the City for the total sum of \$500.00. His request to purchase these lots was circulated to City Departments and no objections were voiced. Similarly, no department indicated that the City should retain ownership of these lots for some future initiative. The sale of these lots to Ronald Cunningham will eliminate the necessity of the Department of Public Works to maintain them. The Planning Board has approved this request. A copy is attached hereto (on file in the City Clerk's Office).

Will the City Council find that the best interest of the City will be subserved by selling these lots to Ronald Cunningham and that the City Council so approve the sale and authorize the Mayor to execute a real estate purchase and sale agreement and also to execute related agreements in form and content satisfactory to the Corporation Counsel?

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

Yeas 4
Nays 0
Abstain 1
Fruscione

APPROVED

NIAGARA COUNTY INTEROPERABLE COMMUNICATIONS SYSTEM, PARTICIPATION

Agenda Item #11

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

NIAGARA POWER BASEBALL TEAM, LIGHTING, CONTRIBUTION

Agenda Item #12

The Niagara Power Baseball Team calls the City of Niagara Falls its home and its home games are played at Sal Maglie Stadium. Some of these home games are played in the evening. The evening games require the use of the lights at the stadium. In consideration for the Niagara Power Baseball Team engaging in numerous activities in the community which benefits the youth in the City of Niagara Falls as well as their families, the City has been asked to contribute to the expense of the lights. The City has \$1,000.00 available in Tourism Fund Balance for this purpose.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

NIAGARA RISES, INC., HOMECOMING EVENT, CONTRIBUTION

Agenda Item #13

The City has been asked by Niagara Rises, Inc. to contribute to the expenses incurred on the implementation and promotion of the Annual Niagara Homecoming Event. This is a 4-day event that was created to encourage former Niagara Falls residents to return to the City to live and work. This event will be held on Thursday, June 21 through Sunday, June 24, 2012.

\$1,000.00 is available from Tourism Fund Balance for this purpose.

Will the Council so approve and authorize the Mayor to execute a Funding Agreement in form and content acceptable to the Corporation Counsel?

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

Yeas 5
Nays 0

APPROVED

Agenda Item #14

Please be advised that Mayor Paul A. Dyster, on June 12, 2012, duly approved the following:

- 1. Resolution 2012-48, relative to Amending Chapter 501 of the Codified Ordinances entitled "Part Five-Traffic Ordinances Chapter 501 Traffic Generally".

THIS ITEM HAS BEEN RECEIVED AND FILED

RESOLUTION: RECREATION AND YOUTH SERVICES, AUTHORIZATION FOR PROJECT APPLICATION FOR STATE AID, 2012-51

BY: ALL COUNCIL MEMBERS

Agenda Item #15

BE IT RESOLVED by the City Council of the City of Niagara Falls, New York that it hereby authorizes the application for funds as set forth on the attached (on file in the City Clerk's Office) Project Application/Resolution Certification Form.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: HOST COMMUNITIES STANDING, COMMITTEE BANK ACCOUNTS, 2012-52

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #16

BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that the City Controller, Maria C. Brown is hereby designated as the authorized signatory for the City funds in bank accounts established for Host Communities Standing Committee Funds; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to forward a certified copy of this resolution to the Host Communities Standing Committee.

Yeas 5
Nays 0

ADOPTED

CLAIM: VAILS, RODERICK

Agenda Item #17

RE: Request for Approval to Settle and Pay Roderick Vails
2108 Ontario Avenue, Niagara Falls, New York 14305

Council Members:

Date Claim Filed:	December 2, 2009
Date Action Commenced:	November 15, 2010
Date of Occurrence:	November 14, 2009
Location:	2243 Ontario Avenue, Niagara Falls, NY
Nature of Claim:	Injuries sustained from fall on City sidewalk.
Status of Action:	Post-Verdict/Post Appeal
Recommendation/Reason:	Best interests of City to pay.
Amount to be Paid:	\$509.69
Make Check Payable to:	Roderick Vails
Conditions:	Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. 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

RESOLUTION: HISTORIC PRESERVATION REGULATIONS, ORDINANCE AMENDMENT, 2012-53
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON & CHOOLOKIAN

Agenda Item #18

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1335 of the Codified Ordinances entitled "Historic Preservation Regulations" is hereby amended by amending Section 1335.05 entitled "Criteria and Procedures for Designation" to read as follows:

1335.05-1 Criteria for Designation of Historic Landmarks, Sites and Districts
• • •

1335.05-2 Procedures for Designation of Historic Landmarks, Sites and Districts
• • •

[1335.05-3 Revocation of Historic Landmark or Structure Designations.
A. Upon request of all of the owners of real property previously designated an historic landmark or structure, the City Council may revoke the historic designation. A majority vote shall be required by the City Council for the revocation of the designation. The Mayor shall approve or veto said revocation of the designation.
B. Upon revocation of an historic landmark or structure designation by the Council and Mayor, the City Clerk shall file notice of each the revocation for each property for which the historic designation has been revoked with the Niagara County Clerk, the New York State Historic Preservation Officer, the City Assessor's Office, and the Niagara Falls Planning Board.]

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

Yeas	5
Nays	0

RESOLUTION: HISTORIC PRESERVATION COMMISSION, APPEAL OF DECISION,
2012-54
BY: CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN, GRANDINETTI

Agenda Item #19

WHEREAS, at a Special Meeting of the Niagara Falls Historic Preservation Commission (HPC) held on June 14, 2012, the Commission voted to deny the application of NFMMC for a Certificate of Appropriateness-Demolition of the structure located at 533 Tenth Street, Niagara Falls, New York (the "Premises"); and

WHEREAS, on June 15, 2012, pursuant to Section 1335.12 of the Historic Preservation Regulations, NFMMC duly filed a request for the Niagara Falls City Council to review the decision of the HPC; and

WHEREAS, the City Council has scheduled and held a Public Hearing on the matter on June 25, 2012; and

WHEREAS, the City Council has reviewed the record and criteria utilized by the HPC to render its decision; and

WHEREAS, this City Council, based upon its review of the record consisting of submissions to the City of Niagara Falls Planning Department and the minutes of the HPC meeting held on June 14, 2012 decides as follows:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that based upon the record and criteria utilized by the HPC to render its decision, this City Council's decision is that NFMMC has satisfied the criteria required to prove the existence of a hardship for a demolition pursuant to the requirements of Section 1335.07-5 of the Historic Preservation Regulations and that the decision of the HPC is overturned, and that a Certificate of Appropriateness-Demolition be issued to NFMMC for the structure on the Premises.

Yeas	4
Nays	0
Abstain	1
Walker	

ADOPTED

Council Member Grandinetti said this is in the best interest of the community.

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 8:15 p.m.

Carol A. Antonucci
City Clerk



JULY 9, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the July 9, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

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

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

Council Member Choolokian moved to approve the Minutes from the City Council Meeting of June 25, 2012.

Yeas	4
Nays	0

ADOPTED

City Administrator Donna Owens said that Council Member Grandinetti was not at the Meeting due to the death of her sister, and asked those present to observe a Moment of Silence.

In the Administrative Update, City Administrator Donna Owens reported year to date travel expenses for the various City Departments, and said that this information was being used to formulate the 2013 Budget. She read a list of the expenses and explained them, and will provide the written report to the Council. Chairman Fruscione asked City Controller Maria Brown to provide a report to the Council of Travel and Training expenses for all Departments, year to date, for 2012 and 2011.

Chairman Fruscione questioned the use of a City credit card for travel expenses and then the City being reimbursed for the charges to the credit card, and said that this cannot be done.

Mayor Paul Dyster thanked the Council and the Controller for finding the funds for the Hard Rock Concerts.

Council Member Anderson noted that the Trolley uses 72nd and 77th Streets on its route, and STOP signs need to be placed on Edison and Perry Avenues. Chairman Fruscione asked Deputy Director of Parks and Public Works John Caso to look into this, and Mr. Caso replied that the request must first go to the Traffic Advisory Commission. Mayor Dyster added that he will look into this.

Council Member Anderson also noted to Administrative Police Captain John DeMarco the number of persons he has seen who are texting while driving, and the number of persons who use handicapped parking spaces when they are not entitled to do so. The Council Member asked that persons who commit these offenses be given large fines, and Captain DeMarco said that the Department will make a concentrated effort to do so.

Council Member Walker said that he had talked to the Mayor about the various Parks in the City that are in need of equipment.

City Engineer Jeffrey Skurka gave an update on the status of the crossing light in front of the Como Restaurant. He said that he had met with a representative from the Como, who expressed concerns about loss of parking spaces in front of the restaurant, and Mr. Skurka said that a revised plan was developed.

Mrs. Brown responded to Council Member Choolokian that a reorganization in her Department would result in a savings since, although both positions were the same grade, the person who was retiring had 30 years of service with the City, and person who would fill the position only has a few years with the City (Agenda Item #3).

Council Member Choolokian moved to remove from the table a communication relative to funding for the African American Family Festival Celebration, which was tabled at the June 25, 2012 Meeting.

Yeas 4
Nays 0

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

Council Member Choolokian to add the communication to the Agenda.

Yeas 4
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #13.

This Session ended at 4:25 PM

Chairman Fruscione reconvened the Meeting at 7:05 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:

Ken Hamilton Agenda Item #13
Ken Hamilton Council doing a good job

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF JUNE 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: NEW ROAD CORPORATION YARD UNDERGROUND FUEL TANK REMOVAL,
EMPIRE DISMANTLEMENT CORP.

Agenda Item #2
THIS ITEM WAS PULLED FROM THE AGENDA. THERE WAS NO ACTION TAKEN ON THIS
ITEM

CITY CONTROLLER, REORGANIZATION

Agenda Item #3

As a result of a retirement, the City Controller has an opportunity to amend the office organizational chart to reclassify an Administrative Assistant position (Grade 19) to an Auditor position (Grade 19). The Auditor position is more flexible to the financial and budget work that must be performed in the department. The Auditor may also work as a back up in payroll. Because of the seniority of the retiring Administrative Assistant, the savings on an annual basis to the City will be \$22,426.86. Attached is a reclassification spreadsheet (on file in the City Clerk's Office).

The Civil Service Commission has approved this change. This change will be effective July 28, 2012.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

FIRE DEPARTMENT, EQUIPMENT PURCHASE

Agenda Item #4

The Fire Chief advises that there is a necessity for the purchase of various pieces of equipment. The list of items as attached (on file in the City Clerk's Office) hereto and the total request is for \$108,080.00. Funding is available from General Fund Code A.1990.0000.0449.000.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

LASALLE MUSIC FESTIVAL, CONTRIBUTION

Agenda Item #5

The LaSalle Business and Professional Association, Inc. has requested a contribution from the City to put toward the expenses incurred in organizing and carrying out the annual LaSalle Music Festival. This Festival attracts local residents as well as visitors from out of town. \$2,500.00 is available from Tourism Fund Balance.

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

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

Yeas 4
Nays 0

APPROVED

PUBLIC LIBRARY, CONSTRUCTION GRANT

Agenda Item #6

The New York State Education Department/New York State awarded the Niagara Falls Public Library a construction grant in the amount of \$8,325.00. The Library Director advises that she would like to apply this grant to the cost of a project to replace the three (3) entrance way doors at the LaSalle Library. The total project cost is estimated to be \$32,000.00. The cost to the City is \$23,675.00. Funding is available from account #H0914.2009.0914.0900.H0904 and account# H0404.2004.0404.0900.H0904.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

POLICE DEPARTMENT, OPERATION IMPACT, GRANT

Agenda Item #7

The Niagara Falls Police Department has received an award from the State of New York for \$323,400 for Operation IMPACT during July 1, 2012 through June 30, 2013.

No matching funds are required for this grant.

Will the Council approve the acceptance of this grant and authorize the Mayor and Police Chief to execute any documentation necessary to receive the grant?

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

Yeas 4
Nays 0

APPROVED

COMMUNITY DEVELOPMENT DEPARTMENT, STABILIZATION PROJECT

Agenda Item #8

The City through the Community Development Department is applying under the New York Consolidated Funding Application for \$250,000 under the New York State Main Street Program and \$450,000 for an Empire State Development Grant for the above referenced project. The grants would fund blighted structure demolition, property acquisition, street improvements, and mixed use building incentives.

No local match is required.

Will the Council approve the filing of the applications and authorize the Mayor to execute any applications and funding agreements and related documentation in a form acceptable to the Corporation Counsel?

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

Yeas 4
Nays 0
APPROVED

CLAIM: BERTOZZI, JESSICA M.

Agenda Item #9

Date Claim Filed: February 17, 2010
Date Action Commenced: April 19, 2010
Date of Occurrence: January 2, 2010
Location: Intersection of Packard Road and Hyde Park Boulevard.
Nature of Claim: Personal injuries sustained in an accident with City vehicle.
City Driver: Michael Boccanera
Status of Action: Pre-trial stage.
Recommendation/Reason: Best interests of City to pay.
Amount to be Paid: \$15,000.00
Make Check Payable to: Jessica M. Bertozzi and Walsh, Roberts & Grace, as attorneys.
Conditions: Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. Will the Council so approve?

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

Yeas 4
Nays 0
APPROVED

Agenda Item #10

Please be advised that Mayor Paul A. Dyster, on June 25, 2012, duly approved the following:

- 1. Resolution 2012-43, relative to Amending Chapter 1335 of the Codified Ordinances entitled "Historic Preservation Regulations."

THIS ITEM WAS RECEIVED AND FILED

SECOND HAND DEALER APPLICATION, LOUIS E. MUZZILLO

Agenda Item #11

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 license and Pawnbroker Dealer license. These applications have all been approved by the Niagara Falls Police Department.

Louis E. Muzzillo 509 Third St. Niagara Coins & Collectables

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

RESOLUTION: GRIFFON PARK, PARK DEVELOPMENT/PLANNING PROGRAM
ENVIRONMENTAL PROTECTION FUND, 2012-55
BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, the City of Niagara Falls is applying for a Park Development and Planning Program- Environmental Protection Fund grant for the above referenced project with a total cost of \$1,000,000 with State assistance in the amount of \$500,000 and a local share of \$500,000; and

WHEREAS, matching funds will be available from Power Authority greenway funding.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Niagara Falls, New York that it hereby approves this grant application and authorizes the Mayor to act on behalf of the City in all matters related to the application and grant and is further authorized to execute any and all agreements and other documentation related to this grant.

Yeas 4
Nays 0

ADOPTED

AFRICAN AMERICAN FAMILY FESTIVAL CELEBRATION, CONTRIBUTION

Agenda Item #13

The Annual African American Family Festival Celebration will be held on August 10, 11 and 12, 2012. The City has been asked to contribute the sum \$2,500.00 to the expenses of this festival. The sum of \$2,500.00 is available from Tourism Fund Balance.

Will the Council so approve?

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

Yeas 4
Nays 0

APPROVED

Corporation Counsel Craig Johnson explained the process when City funds are used to sponsor events.

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 7:12 p.m.

Carol A. Antonucci
City Clerk



JULY 23, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the July 23, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of July 9, 2012.

Yeas	5
Nays	0

APPROVED

Tom Lowe, Program Coordinator for ReNu Niagara, gave a history of the Program and creative uses for vacant lots in the City.

In the Administrative Update:

1. City Engineer Jeffrey Skurka said that he expects the crosswalk light on Pine Avenue to be on the Agenda for the first Council Meeting in September; he also reported that the plans and specs to re-bid the Lewiston Road Project are being put together, and he expects that the contract will also be awarded in September. Council Member Choolokian asked that Lewiston Road be checked for nails that have been causing tire damage to cars.

Chairman Fruscione asked Mayor Paul Dyster for the status of negotiations for the Firefighters contract, and if the contract would be ready for the preparation of the 2013 Budget. The Mayor responded that it would be ready.

Council Member Walker asked how charges are computed for use of City facilities and workers for Special Events. After a lengthy discussion, City Administrator Donna Owens said that she would look into the matter and get back to the Council.

Corporation Counsel Craig Johnson distributed copies of six Items to be added to the Agenda:

1. A communication relative to approval of a Lease Agreement with Greenprint Niagara for Urban Gardens.

Council Member Walker 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 #28.

2. A communication relative to approval of NCCC Awning Encroachments onto Old Falls Street.

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 #29.

3. A communication relative to approval of an agreement with Krantz Nursery for removal of wood substances from the DPW Porter Road Facility.

Council Member Choolokian 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 #30.

4. A Resolution relative to support of a NYPA Board of Trustees vacancy to be filled by a Niagara Council resident.

Council Member Walker moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #31.

5. A Resolution relative to amending Chapter 1121 of the Codified Ordinances entitled "Signs and Billboards".

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #32.

6. A Resolution relative to costs incurred for the Nik Wallenda Event.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added the Agenda as #33.

Mayor Dyster responded to Chairman Fruscione that the funds approved in Agenda Item #7, relative to the demolition of the Pedestrian Walkway, were to pay for work that had already been done.

Council Member Walker noted that it is important to focus on bringing development to Main Street (Agenda Item #26).

This Session ended at 4:40 PM

At 4:45 PM, Council Member Choolokian moved for an Executive Session to discuss a personnel matter. His motion was unanimously approved. The Executive Session ended at 5:05, with the unanimous approval of the motion of Council Member Grandinetti.

Chairman Fruscione reconvened the Meeting at 7:03 p.m. in the Council Chambers with all Council Members present. The Chairman said the Opening Prayer and 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:

Ron Anderluh Agenda Item #26
Nicholas D'Agostino Agenda Items #5, #6, #7, #16, #22, #26, #28, #32
Lisa Vitello Agenda Item #33
Ken Hamilton Agenda Items #16, #25, #33
Ron Anderluh Budget for security in Parks
Doug Brown Loss of business during Hard Rock Concerts
Nicholas D'Agostino Upgrade sign at Maglie Stadium; keep public informed on issues; Security cameras

LASALLE WATERFRONT EXPANSION PROJECT, ELECTRICAL CONTRACT, M&M ELECTRIC CONSTRUCTION CO., INC., CHANGE ORDER

Agenda Item #4

A contract for the above referenced project was awarded to M&M Electric Construction Company, Inc. on June 27, 2011 in the amount of \$48,145.00.

During the course of work, it became necessary to move the existing electrical service pole to allow for widening of the asphalt bike pathway. Also, a GFCI receptacle was added to the waterside gazebo. The total increase to the contract for these changes is \$5,850.00, bringing the total revised contract sum to \$53,995.00.

Funding for this change order is available through the Greenway Host Community Standing Committee. These changes come at no cost to the City.

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

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

Yeas 5
Nays 0

APPROVED

CONTRACT: CITY HALL EXTERIOR RESTORATION, PHASE II, MORRIS MASONRY RESTORATION LLC, CHANGE ORDER

Agenda Item #5

A contract for the above referenced project was awarded to Morris Masonry Restoration LLC, 441 Bailey Ave., Buffalo, N.Y., on July 25, 2011 in an amount of \$478,000.00.

During the course of work the project required various revisions for unanticipated and necessary work that was required beyond the original scope. The total cost of the work is \$24,693.00 bring the contract total to \$502,693.00.

CHANGE REQUEST #1

Unanticipated Items

Foundations under stair tread at stairs #6 & #7	8,064.00
Grade beam at stair #6	3,113.00
Concrete riser foundation at stair #3	2,016.00
CMU backup at stairs #2,3,4,6,& 7 @ \$900 ea.	4,500.00
	<u>\$17,693.00</u>

CHANGE REQUEST #2

Chimney re-pointing	\$2,800.00
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CHANGE REQUEST #3

New door & frame @ boiler rm.	\$4,200.00
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Total Cost of Additional Work \$24,693.00

This work has been submitted to New York State Office of Parks, Recreation and Historic Preservation, for 75% reimbursement under the current grant (EPF#E09043). Including this change order, the contract does not exceed the original Grant Contract budget amount of \$536,506.00.

Therefore, it is the recommendation of the undersigned that Change Order #1 in the amount of \$24,693.00 be approved. Sufficient funds presently exist in Code H0611.2006.0611.0449.599.

Will the Council vote to so approve?

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

Yeas 5
Nays 0

APPROVED

CONTRACT: PEDESTRIAN TRAFFIC SIGNAL, CONSULTANT SERVICES, URBAN ENGINEERS OF NEW YORK, PC

Agenda Item #6

On February 6, 2012 the City Council passed a resolution directing the City Engineer "to take whatever steps necessary, including retaining the services of an Engineer who specializes in the installation of traffic control devices such as signals, expeditiously install a traffic signal in the vicinity of 2200 Pine Avenue, Niagara Falls New York." Given that directive the City Engineer interviewed several Traffic Engineering firms and based upon the objectives outlined by the City Council it was determined that Urban Engineers of New York, PC would best meet the criteria defined and Urban Engineers provided a professional services agreement in a form acceptable to the Corporation Council that was then signed by Mayor Dyster.

Currently, the City Controller is requesting concurrence from the City Council before expending those funds for design services as provided by Urban Engineers.

It is the recommendation of the undersigned that fees for scoping preliminary design and final construction documents and design phases of this project be paid to Urban Engineers of New York, PC at its Proposal Price of \$10,500.00 as they complete the design phases of the project outlined in their proposal. Funding is available through Funding Code H1115.2011.1115.0449.599. Will the Council vote to so approve and authorize the City Controller to expend funds as allocated to Urban Engineers of New York of New York?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: PEDESTRIAN WALKWAY/OLD FALLS STREET DEMOLITION, CONSULTING SERVICES, LIRO ENGINEERS, INC.

Agenda Item #7

At its December 12, 2011 meeting, the City Council appropriated \$25,500.00 from the Special Projects Fund Balance for the above referenced project. The City Administration, with the approval of the City Council, then entered into agreement with LiRo Engineers. They have since completed the work by providing plans and specifications for the demolition of the pedestrian walkway. Because of an oversight the funds allocated were charged against the Consultant Line of the 2011 Engineering Department Budget.

The total cost for the related consulting engineering services for the project was not to exceed the \$25,500.00 design budget which included updating the asbestos survey, design work, bidding specification and award and project monitoring for asbestos. Since a portion of the work was completed and the payment request made in 2012 for the Consultant Line fund from the 2011 Engineering Budget cannot be used, those funds went back to the General Fund Balance.

Since the project was never awarded and the balance due, LiRo is requesting \$19,750.00. Currently, funds that were set aside for the demolition of the walkway can be used for the consultant services provided by LiRo Engineers.

Therefore, it is the recommendation of the undersigned that fees for updating the asbestos survey, design work, bidding specification and award and project monitoring for asbestos be paid to LiRo Engineer, Inc. for \$19, 750.00 as they completed the design phases of the project outlined in their proposal.

Will the Council vote to so approve and authorize the City Controller to expend funds as allocated to Urban Engineers of New York of New York?

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

Yeas 5
Nays 0
APPROVED

CONTRACT: RAINBOW CENTER/MALL PARKING RAMP, RENOVATIONS.REHABILITATION,
PHASE II, CIR ELECTRICAL CONSTRUCTION CORP., CHANGE ORDER

Agenda Item #8

A contract for the above referenced project was awarded to CIR Electrical Construction Corp. on September 19, 2011 in the amount of \$275,000. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract.

Please note that the City will be fully reimbursed for all costs associated with the below items through a funding agreement with USA Niagara Development Corporation.

Issue 1: Work Change Directive #00011-Reconnect H wall pack fixtures
\$10,740.00

Re-connect power to "H" wall pack fixtures on Level #3 and #4 (south end of ramp). Power to fixtures cut by NCCC demo contractor. Replace damaged/missing concealed raceway system, including conduit and wire on both sides of ramp at 3rd Level along column line "U" to the light fixtures. Provide branch circuit wiring to lighting fixtures as required. Connect Type "H" fixtures and existing lighting fixtures to time switch/photocell controlled lighting circuit having adequate spare capacity. Provide raceway and branch circuit wiring as required in order to make light fixtures functional.

Issue 2: Work Change Directive #00012 - Conduit repair @Old Falls St.
\$3,417.00

Due to conduit being crimped during Phase 1 work for the Rainbow Mall, CIR replaced the (2) crimped rigid conduit and convert to PVC located under the sidewalk at Old Falls St.

Issue 3: Work Change Directive #00013 - Power to stair tower #7
\$3,792.00

This work was added in order to provide a new branch circuit wiring at Stair #7 to connect branch circuit wiring to existing circuit serving Stair #6. This power was cut during Phase 1 work.

Issue 4: Work Change Directive #00014 - Stair 3 & 7 Egress add'tl F/A
work \$3,419.00

This work added in order to install the fire alarm system including fire alarm station and fire alarms at Stairs 3 and 7 in order to provide NCCC's stairwells to be code compliant. And also to complete demolition work where existing fire alarms were not needed.

Issue 5: Work Change Directive #00015 - Stair# 2 path of egress
\$3,347.00

This work was Added in order to provide (2) exit signs - (1) from the vacant mall space above the new door opening; (1) in the exit passageway to indicate path of egress to existing exterior door. Tie into existing exit light circuit. Adding a new wall fixture and fire alarm in Stair#2.

Issue 6: Work Change Directive #00016 - Exist. Elev. tracing phone lines
\$1,295.00

This work was completed in order to verify the (4) communication lines from 5th floor down to the 1st floor electrical room and also verify that the phone lines ring out at the Rainbow Elevators.

Issue 7: Work Change Directive #00017- Exist. Elevator smoke alarms
\$16,418.00

Proceed with all work associated with furnishing and installing the smoke alarms in the existing elevator lobby's.

Issue 8: Work Change Directive #00018 - Fire alarm panels ramp to NCC
\$19,954.00

This work was added in order to connect the fire alarm panels from the ramp to NCC's panel. This work is to include connecting the 4100ES FACP on the ramp to be networked to the NCCC Space and related 4100ES Panel there.

07/23/2012

Issue 9: Work Change Directive #00019 - Expander Panel \$8,463.00
This work is associated with adding an Expander Panel in order to provide the necessary circuits required for the fire alarm devices at Stair #7. Due to the conditions of the existing Rainbow Elevators and in order to make them safe prior to their rehabilitation, circuits for Stairs #7 devices were utilized. Adding an expander panel to be installed in order to accommodate the additional fire alarm devices.

Issue 10: Work Change Directive #00020 - Exist Elev. Phone line to mech.room \$4,013.00
This work was added in order to provide (1) Cat-5e cable in 3/4" conduit from telcom enclosure on north wall of Security Office to elevator machine room. Provide 30' loop of cable in elevator machine room for connection to elevator equipment. Properly secure existing telcom enclosure to wall in Security Office.

Issue 11: Work Change Directive #00021- FACP (2) Future Dedicated phone line \$2,431.00
Proceed with (1) Cat-5e cable in 3/4" conduit for (2) dedicated phone lines from existing telcom enclosure on north wall of Security Office to new fire alarm control panel. Provide terminations and connections as required

Issue 12: Work Change Directive #00022- Dedicated phone for emergency call \$927.00
This work was added to install cable in 3/4" conduit from existing telcomm enclosure on north wall of Security Office to new emergency call system control panel. Provide terminations and connections as required.

Issue 13: Work Change Directive #00023-Removal of video wiring & PVC 1,789.02
This work was issued in order to remove video conduit as required on Levels 3 through 5 that were left behind from the existing mall.

Issue 14: Work Change Directive #00024-GFI outlet & lighting@ Elevator \$1,420.00
This work was added in order to provide a GFI outlet and adequate lighting be provided in the new elevator machine room.

Issue 15: Work Change Directive #00025-F/A in existing security office \$4,096.00
This work was added in order to furnish and install an F/A Horn & Strobe device in the existing security office on the southwall. Also, install a Smoke Device in the closet where the FACP is located.

In all, the additional costs via this change order for the issues noted above are \$85,521.02

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

Yeas	5
Nays	0

APPROVED

CONTRACT: RAINBOW CENTER MALL PARKING RAMP, RENOVATIONS AND REHABILITATION, PHASE II, J.R. SWANSON CONSTRUCTION INC., CHANGE ORDER

Agenda Item #9

A contract for the above referenced project was awarded to J.R. Swanson Co. on September 19, 2011 in the amount of \$249,940.00. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract

Issue 1: Work Change Directive #005 -Re-testing of 6 stacks \$2,048.35
JR Swanson was directed to replace rises at the following locations: Stack B, Stack C, Stack D, Stack H, Stack I, and Stack L. Re-testing of the stacks is required at these 6 locations that received repairs.

Issue 2: Work Change Directive #008 - Stack K Repairs \$1,099.77
On 11/14/11, Swanson performed an airt test on Stack K. The test failed and Swanson attempted to soap up the entire stack to locate any and all leaks. No leaks were able to be found during the soap test. Per review of the stack with Urban Engineers and the City of Niagara Falls Engineer, it appears that the fitting on level 4 (just below ceiling) might be compromised. Proceed with the work to remove this fitting, examine the existing conditions and replace with a new fitting.

Issue 3: Work Change Directive #009 - Leaking Floor Drain Above Store \$2,249.98
The 6" stack at column A was unable to hold the air pressure test. The line was plugged inside the store and filled with water from the 1st floor drain above the store (drain A4). Upon performing the water test at drain A4, it was found that the drain was leaking. The work was completed to repair the piping to drain A4 above the store.

Issue 4: Work Change Directive #012 - Drain Clean-Out at Ground Floor Entrance \$933.96
It was discovered that the existing floor drain at the ground level Helix area, located at the circle, was found to be plugged at the start of the project. Proceed with unplugging and cleaning out of the existing drain to allow for proper drainage of the area.

Issue 5: Work Change Directive #013 - Drain Repairs at Ground Floor of Helix \$16,467.94
This work was added in order to repair the drain at the ground floor of the helix which included excavation/backfill, fabric, piping, stone, and concrete.

Issue 6: Work Change Directive #014 -Additional drain clean out on 3 & 5 \$1,480.96
During the testing of stacks H and G, it was discovered that the drains were plugged with debris on both the third and fifth floor. The contractor was directed to proceed on the drain clean out on the 3rd and 5th floors at Stacks H and G.

Issue 7: Work Change Directive #015 - Add hanger at storm stack F \$437.42
Upon further investigation, the current conditions at the expansion joints on levels 4 and 4 required additional and modified scope of work.

Issue 8: Work Change Directive #016 - Credit for unused allowances (\$144,000.00)
This work change directive was issued in order to recoup back unused allowances.

In all, there is a credit via this change order for the issues noted above are (119,281.62).

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

Yeas 5
Nays 0

APPROVED

CONTRACT: RAINBOW CENTER MALL PARKING RAMP, RENOVATIONS AND REHABILITATION, PHASE II, HUBER CONSTRUCTION INC., CHANGE ORDER

Agenda Item #10

A contract for the above referenced project was awarded to Huber Construction Inc. on September 19, 2011 in the amount of \$6,309,000.00. Subsequent to the start of the project, the Contractor has encountered some substantial items which constitute a change in conditions that were not included in the initial scope of this contract.

Issue 1: Work Change Directive #003 -Use of 10-60 Expansion Joints (\$107,667.69)

This work was performed in order to install BASF 10-60 Structural Repair Mortar in lieu of the specified Wabocrete Elastomeric concrete at the following expansion joints: Level 3 - Gridlines 10.2, H & Q and Level 4 - Gridlines 10.2, H & Q east of 10.2. This is a credit work change directive.

Issue 2: Work Change Directive #004 - 2 Additional Skylights and Tube Steel \$14,093.04

This work was performed in order to install two (2) new additional skylights and include the steel framing south of Q-line. Change the elevation of the tube steel support, lowering it to the bottom of the panel elevation and add wood blocking at the top of the tube steel. Per Addendum #01.

Issue 3: Work Change Directive #005 - Detail for Roof Skylight \$13,857.50

This work was added in order to add steel, strapping and panel at the Eave/Soffit and Endwall in order to add proper support.

Issue 4: Work Change Directive #009 - Waterproof Membrane on Level 3 \$45,620.77

It was discovered during construction that there is an existing waterproof membrane between the concrete precast and topping on level 3, which did not show on the Contract Documents. The additional work was added in order to replace the membrane in kind at all concrete patch locations within level 3.

Issue 5: Work Change Directive #012 - SJB Cost for Additional Services (\$850.00)

This change is being issued to deduct the cost associated with SJB's additional inspection services for Saturday, 1/28/12. This is a credit change directive.

Issue 6: Work Change Directive #014 - Light Pole Base at Column S-4.1 \$2,876.16

The contract drawings called to have the existing light pole removed at column line S-4.1 (level 5) and a new light pole to be installed on the existing base. The existing base that was called to be re-used has been modified and used by the NCCC project for the installation of their steel and can no longer be used for the light pole. The scope of work is to create a new light post pedestal.

Issue 7: Work Change Directive #015 -Expansion Joints on 5 and part of 4 \$102,306.44

Upon further investigation, the current conditions at the expansion joints on levels 4 and 4 required additional and modified scope of work.

Issue 8: Work Change Directive #016 - Added Access Doors at Elevator \$934.90

This work was performed in order to add 5 steel access doors at the new elevator lobbies in order to access the fire hose valves.

Issue 9: Work Change Directive #017 - Sleeve for Fire Protection \$0.00

There wasn't a sleeve around the fire protection line at column line B-14 within the Helix. The existing fire protection line at this location is compromised and requires to be repaired. In order to protect the piping (once it's replaced) where it passes through the slab, a sleeve must be added before the concrete patches are installed. This is a zero cost change.

Issue 10: Work Change Directive #018 - Curbs on Level 3 \$1,916.48

The existing curbs on the 3rd level were found to not contain any reinforcing in them. Per the response to RFI #0079, proceed with the work to add #4 rebar in the new curbs around the columns.

Issue 11: Work Change Directive #020 Quad Tee Replacement Detail Change (\$4,800)
Per the contract drawings, the quad tee replacement referenced repair detail E6 on S-513. This detail called to have an 8' section completely removed and replaced. Per returned submittal 03-9300-008, Urban Engineers issued sketch A1 which was for an alternate method for the Quad Tee Replacement. The new detail now calls for only a partial replacement, with only a 2' section being removed and the addition of FRP wrapping for additional support. Due to this alternate method, additional pull testing will be required at (8) eight locations, to be determined by Urban Engineers. This is a credit work change directive.

Issue 12: Work Change Directive #020 -Additional Fire Extinguisher Cabinets. \$4,418.00
The contract documents showed a total of 10 new fire extinguishers and cabinets to be installed during the project and a total of 19 are needed. This was issued to order 9 new fire extinguishers and cabinets at the proper locations throughout the ramp.

Issue 13: Work Change Directive #021- Base Coat at Stairwells \$29,997.00
Due to the tinted anti-graffiti paint not covering the existing stains and paint in the stairwells, proceed with installing the Lexon paint as a primer under anti-graffiti coating on all stairwell walls. The contractor made sure all stains and existing paint on the walls is fully covered and not able to be seen once the finish product is installed.

Issue 14: Work Change Directive #022- Demo of Overhead Doors \$16,348.73
This was issued by the City in order to demo of the overhead doors at both Rainbow Blvd Entrance and First St. This work includes removing the overhead doors and keeping the tube steel in place and painting the tube steel.

Issue 15: Work Change Directive #023- Additional Services Back charge (\$12,000.00)
This is a Deduct Change Order for the Owner's costs associated with the delay in Substantial Completion. To provide costs associated with the Construction Manger being on site.

Issue 16: Work Change Directive #025- Stair #2 Path of Egress \$14, 896.39
This was issued in order to add a 2-hour rated wall at the bottom of Stair #2 that was demolished in Phase 1 by Apollo Steel and is needed in order to provide proper egress out of the ramp.

Issue 17: Work Change Directive #026- Removing steel brackets at railings \$1,864.17
This work was completed in order to remove all the steel brackets at the outside railings that held up all existing signage.

Issue 18: Work Change Directive #027- Elevator Security Partition \$2,965.22
This work was added in order to install an Elevator security partition in the elevator machine room due to code reasons.

Issue 19: Work Change Directive #028- Stair #3 and #7 egress and additional work \$9,554.00
This work was added in order to infill doors at Stairs 3 and 7, add door hardware and ensure egress at Stairs 3 and 7 which is shared by NCCC.

Issue 20: Work Change Directive #029- Flashing at 5th level west side skylight \$7,094.00
This work was completed in order to install flashing on the 5th floor at the west side of the skylight between columns O and R on 7.1 line.

Issue 21: Work Change Directive #030- Credit for Concrete Repair Work (\$104,609.33)
This is a credit change order in order to recoup the money for concrete repair work that was not performed.

Issue 22: Work Change Directive #031- Credit for Unused Allowances (\$227,000.00)

This is a credit change order in order to recoup the money for the unused allowances.

Issue 23: Work Change Directive #032- Rescope of Sealant Joints at Stairs \$0.00

In lieu of the joint replacement at the underside of the stair / landing sections, the contractor shall remove the existing sealant and backer rod at all vertical joints and all horizontal base of wall / deck joints located at the exterior precast wall panels for the stair halls on Level 5.

Issue24: Work Change Directive #034- Level 3 exterior openings at Mech. Spaces \$23,810.48

In lieu of the joint replacement at the underside of the stair / landing sections, the contractor shall remove the existing sealant and backer rod at all vertical joints and all horizontal base of wall / deck joints located at the exterior precast wall panels for the stair halls on Level 5.

Issue25: Work Change Directive #035- Girder Reinforcing and Column Strengthening \$27,863.88

This work was installed in order to add concrete patching at the missing girder reinforcing and adding additional FRP wrap at column on the 3rd floor shear wall.

Issue26: Work Change Directive #036- Steel Railing at Stair #4 \$9,857.21

A new steel railing was added due to the existing railing being too deteriorated to be salvaged.

Issue27: Work Change Directive #038- Paint at new lobby's \$1,718.21

The existing precast walls at the new elevator lobby didn't call for paint on the finish schedule. Paint was added to the precast walls to match the new masonry walls.

Issue28: Work Change Directive #039- Patching 5" Holes for Conduits \$4,436.00

This additional patching work was added in order to fill the holes of the video wiring that went through levels 3, 4 and 5.

Issue29: Work Change Directive #040- Adding Control Joints on the 4th level \$16,710.00

This additional patching work was added in order to fill the holes of the video wiring that went through levels 3, 4 and 5.

Issue30:Work Change Directive #041-Barricading Existing Doors on Level 3 \$1,306.49

This additional work was added in order to barricade the existing doors on level 3 that used to be mechanical rooms for safety reasons.

In all, there is a credit via this change order for the issues noted above are (102,781.37).

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

Yeas 5
Nays 0

APPROVED

CONTRACT: HYDE PARK ICE PAVILION, NIAGARA SPORTS TOURNAMENTS, INC.

Agenda Item #11

The City's agreement with the entity that presently operates the Hyde Park Ice Pavilion ends on July 31, 2012. In April of this year, the City issued a request for qualifications for an entity to make a proposal to the City to either operate the Hyde Park Ice Pavilion pursuant to a license agreement with the City or a management agreement. Four entities responded to this request. City personnel reviewed each response and interviewed representatives from each entity that submitted responses. After reviewing each entity's proposal and presentation and considering criteria such as experience, ability and financial benefit to the City, it is recommended that Niagara Sports Tournaments, Inc. ("NST") be designated as the entity to have the opportunity to participate in negotiations with the City for a license agreement for the operation of the Hyde Park Ice Pavilion. NST's designation as Licensee is contingent upon NST and the City agreeing on the terms and conditions to be contained in a License Agreement. Time is of the essence in moving this matter forward. In the event that discussions and a final proposed license agreement are not concluded with NST within a reasonable period of time, the City will cease negotiations and select one of the other entities that responded to the City's request for qualifications.

The terms and conditions of any license agreement developed will be contingent upon approval of the City Council and in a form acceptable to the Corporation Counsel.

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

FREEDOM TRAIL FESTIVAL, 2012, CONTRIBUTION

Agenda Item #12

The Committee for the Freedom Trail Festival has requested a contribution from the City to put toward the expenses incurred in organizing and carrying out the annual Freedom Trail Festival. This Festival is an "all age affair" that attracts local residents as well as visitors from out of town. The Festival is due to take place on September 22, 2012. \$2,500.00 is available from Tourism Fund Balance.

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

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

Yeas 5
Nays 0

APPROVED

CONTRACT: RAINBOW CENTER MALL PARKING RAMP, RENOVATIONS AND REHABILITATION, PHASE II, J.R. SWANSON CONSTRUCTION INC., CHANGE ORDER

Agenda Item #13

A contract for the above referenced project was awarded to J.R. Swanson Co. on September 19, 2011 in the amount of \$39,470.00. Subsequent to the start of the project, the Contractor has encountered some items which constitute a change in conditions that were not included in the initial scope of this contract. Please note that the City will be fully reimbursed for all costs through a funding agreement with USA Niagara Development Corporation.

Issue 1: Work Change Directive #001 - \$932.35

This work change directive is being issued in order to disconnect the wall thermostats and install line voltage thermostats in units. Located at 4 locations in the new elevator lobbies. This work is being completed in order to avoid damage and tampering with by the public.

In all, the additional costs via this change order for the issues noted above are \$932.35

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

Yeas 5
Nays 0

APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: STANEK, KIMBERLY

Agenda Item #14

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 checks:

<u>Provider</u>	<u>Date of Service</u>	<u>Amount</u>
Cardamone Chiropractic	5/23/12 - 7/11/12	\$390.72

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

Yeas 5
Nays 0

APPROVED

Claim: ZIOLO, KOLLEEN

Agenda Item #15

Date Claim Filed:	September 22, 2011
Date Action Commenced:	N/A
Date of Occurrence:	September 21, 2011
Location:	36 Deuro Drive, Niagara Falls, New York

Nature of Claim: Automobile damage sustained during road repair.

Status of Action: Claim stage.

Recommendation/Reason: Best interests of City to pay.

Amount to be Paid: \$678.45

Make Check Payable to: Kolleen Ziolo

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

Yeas 5
Nays 0

APPROVED

225 OLD FALLS STREET, CHANGE "NO STANDING ANYTIME" RESTRICTION

Agenda Item #19

At a Traffic Advisory Commission meeting held on July 11, 2012 the Commission recommended APPROVAL of the following item:

CHANGE "NO STANDING ANYTIME" RESTRICTION & ALLOW 15 MINUTE PARKING (8AM to 6PM) FOR SIX SPACES TOTAL ON THE THIRD STREET SIDE OF 225 OLD FALLS STREET (POWER CITY BUILDING) & 101 OLD FALLS STREET (NIAGARA FALLS CONFERENCE & EVENT CENTER)

Request was made to allow pick up/drop off on the Third Street side of the buildings, and would exclude the 30' surrounding the hydrant at the south end of this area (per NYS Vehicle & Traffic Law) and the 12' driveway area between the two buildings.

Submitted By: Anthony Girasole, Owner, Power City Building, 225 Old Falls Street and Ryan Coate, General Manager, Niagara Falls Conference & Event Center, 101 Old Falls Street

It is requested that City Council approve this recommendation. Council Member Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

Chairman Fruscione noted that the owners of these buildings made this request.

74TH STREET BETWEEN FRONTIER & LINDBERGH AVENUES, ALTERNATE OVERNIGHT PARKING

Agenda Item #20

At a Traffic Advisory Commission meeting held on July 11, 2012 the Commission recommended APPROVAL of the following item:

INSTALL ALTERNATE OVERNIGHT PARKING ON 74TH STREET BETWEEN FRONTIER AVENUE & LINDBERGH AVENUE

A Petition from the residents of this block was received with 80% signatures.

Submitted By: Mr. & Mrs. Bruce Schlager, 462 - 74th Street and Petition/Residents of Block

It is requested that City Council approve this recommendation. Council Member Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

1343 WILLOW AVENUE, HANDICAPPED ACCESS SPACE

Agenda Item #21

At the Traffic Advisory Commission meeting held on July 11, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 1343 WILLOW AVENUE

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: Brandon Jansma 1343 Willow Avenue

It is requested that City Council approve this recommendation. Council Member Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0

APPROVED

RESOLUTION: HOUSING AUTHORITY, CELEBRATING 70TH ANNIVERSARY, 2012-56
BY: ALL COUNCIL MEMBERS

Agenda Item #22

WHEREAS, the Niagara Falls Housing Authority is committed to removing as many obstacles as possible to empower individuals and families to reach these goals; and

WHEREAS, on September 27th, 2012, the Niagara Falls Housing Authority will celebrate 70 years of providing safe and affordable housing; and

WHEREAS, the Niagara Falls Housing Authority supports and manages dozens of program initiatives to benefit our residents and the entire Niagara Falls community; and

WHEREAS, programs are available for kids and youths, adults, seniors and for residents in the Community.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council do hereby support and congratulate the Niagara Falls Housing Authority on their 70th Anniversary.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: ZONING BOARD OF APPEALS, APPOINTMENT, 2012-57
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #23

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Zoning Board of Appeals, to fill the unexpired term of Mr. Antonio Restaino:

<u>APPOINTMENT</u>	
John A. Cooper	12/31/2012
540 - 12 th Street	
Niagara Falls, New York 14301	
(716) 371-8710	

Yeas	5
Nays	0

ADOPTED

RESOLUTION: SENIOR COUNCIL, REAPPOINTMENT 2012-58
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #24

BE IT RESOLVED, that the following individuals are hereby reappointed to the City of Niagara Falls Senior Council:

<u>REAPPOINTMENT</u>	<u>TERM EXPIRES</u>
Elsie Golanka 2442 Linwood Avenue Niagara Falls, NY 14305 297-8688	12/31/2014
Georg Kralick 512 82 nd St Niagara Falls, NY 14304	12/31/2014
Llwellyn Sasyn 822 92 nd St Niagara Falls NY 14304	12/31/2014
Lucy Hermera 3019 Welch Ave Niagara Falls NY 14303	12/31/2014
Robert Ramos 2481 South Avenue Niagara Falls, NY 14305 284-1694	12/31/2014
Harold Fox 2243 Cleveland Avenue Niagara Falls, NY 14305 282-1954	12/31/2014

Yeas 5
Nays 0
ADOPTED

RESOLUTION: VACANT LOT AUCTION-"NEIGHBOR NEXT DOOR LOT AUCTION",
ESTABLISHING, 2012-59
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN
AND WALKER

Agenda Item #25

WHEREAS, The City of Niagara Falls holds public auctions to offer for sale properties in its existing inventory deemed saleable; however, these auctions are held yearly and most times, are focused on the sale usable properties; and

WHEREAS, Some vacant lots in the city are landlocked and unable to support the building of new homes because they have less than 50 feet of frontage; and

WHEREAS, Residents would like to purchase these "unbuildable" lots to be used primarily as yard space for their adjacent property; and

WHEREAS, Creating a next door lot auction will assist in the elimination of abandoned or blighted properties, spur neighborhood reinvestment, save the City in maintenance costs, put vacant unusable properties back on the tax rolls and build wealth within neighborhoods.

NOW THEREFORE BE IT RESOLVED, that the Niagara Falls City Council requests that the City of Niagara Falls conduct a landlocked vacant lot auction for vacant lots with less than 50 feet of frontage to be used as yard space or adjacent property enhancement for the adjacent property, and that adjacent property owners be given a right of first refusal to purchase the adjacent lot offered at auction; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the City of Niagara Falls Assessor's Office; the Finance Office, the Law Office and the Billing and Collection office.

Yeas 5
Nays 0
ADOPTED

RESOLUTION: MAIN STREET ENTERTAINMENT AND BUSINESS DISTRICT,
ESTABLISHING, 2012-60
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON AND CHOOLOKIAN

Agenda Item #26

WHEREAS, the City Council of Niagara Falls, New York recognizes the efforts made by the Main Street Business and Professional Association to revitalize the Main Street area of the City of Niagara Falls; and

WHEREAS, the City Council further recognizes the initiatives of the Main Street Business and Professional Association, such as the promotion and carrying out of its second Main Street Music and Arts Festival; and

WHEREAS, the City Council wishes to promote the development of Main Street and wishes to designate the Main Street area shown on the attached map as the Main Street Entertainment and Business District; and

WHEREAS, the City Council recognizes that this designated area contains a high concentration of business and entertainment venues; and

WHEREAS, the intent of the designation is to stimulate neighborhood revitalization, improve the attractiveness and safety of the area, stimulate business activity and attract residents and visitors to build the tax base.

NOW, THEREFORE, BE IT RESOLVED, that this City Council does hereby designate the Main Street area shown on the attached map (on file in the City Clerk's Office) as the City of Niagara Falls' Main Street Entertainment and Business District.

Yeas	5
Nays	0

ADOPTED

Council Member Choolokian said that this is the 1st step to making Main Street special.

RESOLUTION: "SPECIAL PERMIT REQUIREMENTS", ORDINANCE AMENDMENT, 2012-61
BY: ALL COUNCIL MEMBERS

Agenda Item #27

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1328 of the Codified Ordinances entitled "Special Permit Requirements" is hereby amended by deleting in its entirety Section 1328.4 entitled "Group Living" and by adopting Section 1328.4 entitled "Group Living" as attached hereto (on file in the City Clerk's Office).

Yeas	5
Nays	0

ADOPTED

CONTRACT: URBAN GARDENS, GREENPRINT NIAGARA, INC.

Agenda Item #28

Greenprint Niagara, Inc. ("Greenprint") working under the auspices of Niagara University, has proposed that it be permitted to utilize certain City owned vacant lots for community garden purposes. The Planning Department believes that the unproductive use of vacant lots will likely cause them to become unsightly and unsafe dumping grounds. A regularly tended community garden will be a much better use of this open space. Greenprint desires to lease certain vacant lots from the City on an annual basis for \$1.00 for community garden purposes. The form of lease will be subject to the approval of the Corporation Counsel and will contain a Schedule "A" that will be updated annually by the City and Greenprint which will contain a list of the lots which may be utilized as community gardens. The Planning Department, on an annual basis, in discussions with Greenprint, will determine which lots will be removed from Schedule "A" and which lots will be added to Schedule "A".

The City Council's approval of this initiative is contingent upon approval of the Planning Board.

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

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

Yeas	5
Nays	0
	APPROVED

CITY PROPERTY: OLD FALLS ST., CULINARY INSTITUTE, AWNING ENCROACHMENTS

Agenda Item #29

The NCCC Culinary Institute Project is nearing completion. NCCC wishes to locate certain awnings on the façade of its building facing Old Falls Street. These awnings will encroach onto Old Falls Street at elevations above the sidewalk. The Planning Board will be considering these encroachments during its meeting on July 25, 2012.

Attached hereto (on file in the City Clerk's Office) is a summary of the awnings that are intended to be installed with detail pertaining to the width of each awning, the amount of the encroachment and the elevation of each together with an artist's rendering of the appearance.

The approval of the awning encroachments will require NCCC to indemnify the City, will allow the City to direct the removal of these encroaching awnings on 60 days notice and will require that the City be insured by NCCC.

Contingent upon a favorable recommendation from the City's Planning Board, will the Council so approve?

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

Yeas	5
Nays	0
	APPROVED

CONTRACT: DPW PORTER ROAD FACILITY, REMOVAL OF WOOD SUBSTANCES, J.F. KRANTZ NURSERY, INC.

Agenda Item #30

The Director of DPW has been contacted by J.F. Krantz Nursery, Inc. ("Krantz"). Krantz proposes to remove a certain quantity of wood chips and wood from the DPW dump site on Porter Road and, in exchange, proposes to give to the City at no cost a quantity of topsoil and/or mulch. This topsoil and mulch is needed by the City.

This will be an additional pick up separate from the agreement that the City has with Niagara Generation.

Will the Council so approve and authorize the Mayor to execute an agreement containing terms and conditions agreeable to the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

RESOLUTION: NEW YORK POWER AUTHORITY BOARD OF TRUSTEES, SUPPORT OF A VACANCY TO BE FILLED BY A NIAGARA COUNTY RESIDENT, 2012-62
BY: ALL COUNCIL MEMBERS

Agenda Item #31

WHEREAS, the New York Power Authority (NYPA) is a public benefit corporation established in 1931; and

WHEREAS, the Authority was created by the Public Authorities Law, the Power Authority Act, Article 5 -Public Utility Authorities Title 1 - Power Authority of the State of New York, Section 1002, as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the New York Power Authority By-Laws states that Public Authorities Law, Section 1004 authorizes the number, terms, appointment and process of filling vacancies of trustees; and

WHEREAS, currently the NYPA Board of Trustees consist of seven members, none of which are from Niagara County; and

WHEREAS, the Niagara Power Project is currently the largest generator of power of any NYPA facility, Niagara County deserves to have at least one permanent seat on the NYPA Board of Trustees to represent the needs, interests and the concerns of the County of Niagara; and

WHEREAS, Assemblyman John Ceretto and Senator George Maziarz submitted 1,000 signed petitions to Governor Cuomo to appoint a Niagara County Resident to the Board of Trustees of the New York Power Authority in 2011; and

WHEREAS, there is a pending vacancy on the Power Authority Board of Trustees with John Dyson's scheduled August 5th resignation; and

WHEREAS, Assemblyman Ceretto wrote Governor Cuomo to officially request he appoint a Niagara County representative to replace John Dyson.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Niagara Falls does support Assemblyman Ceretto's request to Governor Andrew Cuomo and the goal of having a Niagara County representative on the Board of Trustees of the New York Power Authority; and

BE IT FURTHER RESOLVED, that the City Council of the City of Niagara Falls shall forward copies of this Resolution to Governor Andrew Cuomo, Senate Majority Leader Dean Skelos, Senator Mark Grisanti, Senator George Maziarz, Senator Tim Kennedy, Assembly Speaker Sheldon Silver, Assemblyman John Ceretto, Assemblyman Robin Schimminger, Assemblyman Ray Walter, Assemblywoman Jane Corwin, Gil Quiniones, President & CEO, New York Power Authority, and John Koelmel Chairman, New York Power Authority Board of Trustees; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to Senator Charles E. Schumer, Senator Kirsten Gillibrand, Congresswoman Louise M. Slaughter, Congressman Brian Higgins, and Congresswoman Kathy Hochul, and that a response be requested from each elected official.

Yeas	5
Nays	0

ADOPTED

NYPA's donation toward the Veterans Memorial was noted

RESOLUTION: "SIGNS AND BILLBOARDS", ORDINANCE AMENDMENT, 2012-63
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON AND CHOOLOKIAN

Agenda Item #32

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 1121 of the Codified Ordinances entitled "SIGNS AND BILLBOARDS" is hereby amended by amending Section 1121.07 entitled "PROHIBITED SIGNS" to read as follows:

1121.07 PROHIBITED SIGNS

The following types of signs are expressly prohibited in all districts, except as otherwise provided by this code:

A. Miscellaneous Signs and Posters.

...

B. Abandoned Signs.

...

C. Signs on Moving Vehicles.

...

D. Public Areas

...

E. Banners

F. "A" Frames.

1. "A" frame or sandwich board, sidewalk or curb signs are prohibited, except as described in paragraph 2 of this section (Amended 4/18/06)

2. Signs described in Paragraph 1 above will be permitted in a commercial or industrial district. No more than one such sign may be displayed at a premises, unless said premises fronts more than one street, in which case one such sign may be placed in front of the premises on each side of the premises which fronts a street. The sign will display the name and/or address of the premises as contained on the permit application. Such signs shall be of sturdy and workmanlike ~~steel~~ construction and shall be no higher than forty ~~one~~ **eight** inches (4~~1~~8") and no wider than ~~twenty one~~ **thirty-six** inches (36") and shall weigh no less than ~~twenty (20) pounds.~~ The permit fee for ~~such each~~ sign shall be Seventy-five Dollars (\$75.00) per calendar year. The City of Niagara Falls will be indemnified to the fullest extent allowable under New York law and named as an additional insured on the property or business owner's liability insurance in a minimum amount of \$1Million and in a form acceptable to the Corporation Counsel. Signs pursuant to this subdivision must be placed so as not to interfere with ingress and egress to vehicles parked along the street or to the premises and with the passage of pedestrians on the City sidewalk. The City Engineer, or his designee, may order sign to be moved or removed if, in his determination, it interferes with ingress and egress and/or the safe flow of pedestrians on the sidewalk or otherwise unsafe to the public. (Added 04/18/06; amended 11/30/11)

...

Bold and Underlining indicate Additions.

Strikethrough indicates ~~Deletions~~

Yeas
Nays

5
0

ADOPTED

RESOLUTION: NIK WALLEDA EVENT, COST INCURRED, 2012-64
BY: COUNCIL CHAIRMAN FRUSCIONE, COUNCIL MEMBERS ANDERSON, CHOOLOKIAN
AND WALKER

Agenda Item #33

WHEREAS, the Nik Wallenda wire walk across the Horseshoe Falls on June 15, 2012 was a spectacular event which drew national and international attention to the City of Niagara Falls and the entire region; and

WHEREAS, thousands of people visited the City of Niagara Falls to view the wire walk personally and millions watched it on television; and

WHEREAS, the City of Niagara Falls enjoyed numerous direct and indirect economic benefits as a result of the Nik Wallenda wire walk on June 15, 2012; and

WHEREAS, this City Council has been advised that the total amount of overtime for Police and Fire personnel to support the Wallenda event on June 15, 2012 totaled \$42,653.31 and that a donation toward this cost was made by First Niagara Bank in the amount of \$17,500.00 leaving a balance due of \$25,153.31; and

WHEREAS, Nik Wallenda has been considering locating some type of Wallenda family circus type attraction in the City of Niagara Falls, New York and may decide against doing so if he is in conflict with the City's administration; and WHEREAS, all things considered, this City Council feels strongly that the City administration should not pursue attempts to collect this balance due of \$25,153.31 from Nik Wallenda or anyone else.

NOW, THEREFORE, BE IT RESOLVED, that this City Council finds that the Nik Wallenda event on June 15, 2012 produced direct and indirect economic benefits to the City of Niagara Falls that far exceeded the sum of \$25,153.31; and

BE IT FURTHER RESOLVED, that the City Council believes that Nik Wallenda may be more inclined to locate a Wallenda family circus type attraction in the City of Niagara Falls, New York if he is not in conflict with the City's administration; and

BE IT FURTHER RESOLVED, this City Council directs the City's administration not to collect this balance due from Nik Wallenda or anyone else.

Yeas

5

Nays

0

ADOPTED

Council Chairman Fruscione & Council Member Choolokian said that it's an embarrassment to the City to request these funds.

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 8:00 p.m.

Carol A. Antonucci
City Clerk



SEPTEMBER 4, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the September 4, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:03 p.m. in the Council Chambers.

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

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 Anderson moved to approve the Minutes from the City Council Meeting of July 23, 2012.

Yeas 4
Nays 0

ADOPTED

In the Administrative Update:

1. City Engineer Jeffrey Skurka reported that bids for the Lewiston Road Project would be opened on Thursday, and construction would be started as soon as possible.
2. Seth Piccirillo, Director of Community Development, gave a presentation on demolitions. He noted that each demolition costs approximately \$22,000, and a total of 43 demolitions are budgeted for 2013. He also spoke on Isaiah 61, a Faith based non-profit group to rehab homes in a targeted area using students of the BOCES Program.

Mayor Paul Dyster spoke on a Press Conference he had attended concerning \$25M in improvements for 3 Sisters Island and Luna Island, and approval of the Niagara Falls National Heritage Area Commission Plan. He also informed the Council Members that he had been invited to attend the Democratic National Convention in Charlotte, NC.

Corporation Counsel Craig Johnson distributed copies of a communication to be added to the Agenda relative funding for training for the new Landlord Licensing Clerk.

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

Yeas 4
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #29.

Council Member Grandinetti asked if advertising signage at the Golf Course would be on a temporary basis (Agenda Item #5), and Purchasing Agent Dean Spring replied that it would be for three years, and this was done as a means to generate revenue.

Council Member Anderson noted to Mayor Dyster that the additional STOP signs he had requested on 72nd and 77th Streets on the Trolley route still had not been installed. The Mayor responded that there was a process to accomplish this, and he thought it had been done.

Council Member Anderson inquired about the number of properties on the demolition list in the City, and Acting Building Commissioner Dennis Virtuoso responded "too many".

This Session ended at 4:30 PM

Chairman Fruscione reconvened the Meeting at 7:02 p.m. in the Council Chambers with all Council Members present except Council Member Walker, who was absent. The Prayer was said by Council Member Anderson 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:

Ron Anderluh	Thanks to DPW & CD for Picnic Shelter at Gill Creek Park; asked for additional funding in 2013 Budget for Playground Equipment at Gill Creek Park; cameras and Police patrol at Parks; 19 th St. Club opening
Tim McSweeney	Return land to City from 2003 Land Transfer to build single family homes & Project was not completed; no funding for contracts without financial accountability; 2013 Budget should include a 3 year financial plan
Ken Hamilton	City should plow New Jersey Ave. for Home Owners; Names are being inscribed on Veterans Monument, thanks for Council support; Employers should honor their Employees who are Veterans by paying to have their names inscribed on Monument
Carmine Bianco	Looking for information about being Chairman of the Pine Ave. Italian Festival

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF JULY 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CITY CLERK'S REPORT FOR THE MONTH OF JULY 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

PURCHASE: FIRE RESCUE EQUIPMENT, EMPIRE EMERGENCY APPARATUS, INC.

Agenda Item #3
TO: Empire Emergency Apparatus, Inc.
3995 Lockport Road
Niagara Falls, NY 14305
FOR: Fire Rescue Equipment per the attached tally sheet (on file in the
City Clerk's Office). \$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 (on file in City Clerk's Office). 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

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

Yeas	4
Nays	0

APPROVED

CITY PROPERTY: FIRST STREET/BUFFALO AVE., TEMPORARY USE FOR CONSTRUCTION FOR HOTEL NIAGARA

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?

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

Yeas	4
Nays	0
	APPROVED

CONTRACT: HYDE PARK GOLF COURSE, ADVERTISING SIGNAGE, CHARLES R. COLAVECCHIA

Agenda Item #5

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 (on file in the City Clerk's office): \$3,600.00

Requests for proposals were sent to six (6) companies and advertised in the Niagara Gazette. One proposal was received (on file in the City Clerk's Office).

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.

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

Yeas	2
Council Members Anderson, Choolokian	
Nays	1
Council Member Grandinetti	
Abstained	1
Council Chairman Fruscione	
	DEFEATED

CONTRACT: CORPORATION YARD UNDERGROUND FUEL TANK REMOVAL, NATIONAL VACUUM CORP.

Agenda Item #6

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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: CORPORATION YARD EQUIPMENT STORAGE FACILITY, GENERAL CONTRACTOR, RB MAC CONSTRUCTION CO. INC.

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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: 97TH ST RECONSTRUCTION/WATER MAIN REPLACEMENT PROJECT, CATCO CONSTRUCTION, CHANGE ORDER #1

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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: CORPORATION YARD EQUIPMENT STORAGE FACILITY, ELECTRICAL CONTRACTOR, CIR ELECTRICAL INC.

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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: 2200 BLOCK OF PINE AVE., PEDESTRIAN ACTIVATED TRAFFIC SIGNAL,
SOUTH BUFFALO ELECTRIC INC.

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 CATCO	\$80,731.00 \$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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: CORPORATION YARD EQUIPMENT STORAGE FACILITY, PLUMBING
CONTRACTOR, ACKERMAN PLUMBING, INC.

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?

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

Yeas	4
Nays	0

APPROVED

CONTRACT: CUSTOMHOUSE RESTORATION PROJECT, ELECTRICAL CONTRACTOR,
INDUSTRIAL POWER & LIGHTING, CHANGE ORDER #2

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?

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

Yeas 4
Nays 0

APPROVED

CONTRACT: NIAGARA UNIVERSITY, USE BY POLICE DEPARTMENT FOR FITNESS TESTS

Agenda Item #13

Attached (on file in the City Clerk's Office) 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?

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

Yeas 4
Nays 0

APPROVED

CONTRACT: CSX BRIDGE/RECONSTRUCTION OF MAIN ST., MARK CERRONE, CHANGE ORDER #5

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 Stage2 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?

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

Yeas 4
Nays 0

APPROVED

CLAIM: SPANBAUER, MARY

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?

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

Yeas 4
Nays 0

APPROVED

CLAIM: STANEK, KIMBERLY

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?

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

Yeas	4
Nays	0

APPROVED

PLANNING BOARD: STREET SIDE PATIO, 8676 BUFFALO AVE., DENIED, CANADA PARTNERS HOLDING, INC.

Agenda Item #17

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.

THIS ITEM HAS BEEN RECEIVED AND FILED

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."

THIS ITEM WAS RECEIVED AND FILED

COMMISSIONER OF DEEDS, APPOINTMENTS

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.

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

Yeas	4
Nays	0

APPROVED

RESOLUTION: BOARD OF ASSESSMENT REVIEW, APPOINTMENT, 2012-65
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

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:

<u>APPOINTMENT</u>	<u>TERM EXPIRES:</u>
Mr. Bert Donahue	9/30/2017
8189 West Rivershore Drive	
Niagara Falls, NY 14304	
283-8189	

Yeas	4
Nays	0

ADOPTED

RESOLUTION: POLLING PLACE, SPECIAL SCHOOL VOTE, PUBLIC REFERENDUM, 2012-66
BY: ALL COUNCIL MEMBERS

Agenda Item #21

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

WHEREAS, attached (on file in the City Clerk's Office) 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.

Yeas	4
Nays	0

ADOPTED

RESOLUTION: YWCA "TRIBUTE TO WOMEN 2012" NIAGARA AWARDS NOMINATION
DINNER, 2012-67
BY: ALL COUNCIL MEMBERS

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.

Yeas
Nays

4
0
ADOPTED

RESOLUTION: 47TH STREET, REALIGNMENT OF EXISTING INDUSTRIAL RAILROAD
TRACK CROSSING, 2012-68
BY: ALL COUNCIL MEMBERS

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.

Yeas

4

Nays

0

ADOPTED

RESOLUTION: BATH AVENUE, RENAMING DEPOT AVENUE WEST, 2012-69
BY: ALL COUNCIL MEMBERS

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 commence 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.

Yeas	4
Nays	0

ADOPTED

RESOLUTION: MYLCHREEST, JR., RICHARD E., 20 YEAR RETIREMENT PLAN, 2012-70

BY: COUNCIL CHAIRMAN SAMUEL FRUSTIONE

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.

Yeas	4
Nays	0

ADOPTED

RESOLUTION: KENNELS AND CATTERIES, CREATING A 90-DAY MORATORIUM ON THE
CONSIDERATION OF APPLICATIONS FOR PERMITS, 2012-71
BY: COUNCIL MEMBER CHARLES WALKER

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.

Yeas 4
Nays 0

ADOPTED

RESOLUTION: BROWNFIELD OPPORTUNITY AREAS GRANT, APPLICATION, 2012-72
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

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.

Yeas 4
Nays 0

ADOPTED

RESOLUTION: ZONING ORDINANCE, AMENDING, 2012-73
BY: ALL COUNCIL MEMBERS

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 (on file in the City Clerk's Office) 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 (on file in the City Clerk's Office) changing 3920 Pine Avenue (SBL #145.17-1-2) from OS Open Space to R1-D Residential-Detached Single.

Yeas	4
Nays	0

ADOPTED

LANDLORD LICENSING PROGRAM, TRAINING FOR NEW HIRE, FUNDING

Agenda Item #29

In accord with a Civil Service Commission determination, the incumbent Landlord Licensing Clerk will be leaving his position on September 28, 2012. The individual selected as the replacement for the incumbent begins on or about September 10, 2012. It is desirable that the incumbent remain in place after the replacement begins in order to facilitate and accomplish training in the responsibilities of the position. This training will occur through September 28, 2012. The salary and benefits for both positions is identical. Is it anticipated that the cost to keep the incumbent in place for training purposes will not exceed \$2,189.00. Funding is available from the undesignated services line in the Department of Code Enforcement.

Will the Council so approve?

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

Yeas	4
Nays	0

APPROVED

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 7:30 p.m.

Carol A. Antonucci
City Clerk



SEPTEMBER 17, 2012
REGULAR COUNCIL MEETING **NIAGARA FALLS, NEW YORK**

The first session of the September 17, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:06 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the Special Meeting of August 30, 2012 and the City Council Meeting of September 4, 2012.

Yeas	5
Nays	0

APPROVED

Mayor Paul Dyster spoke on the Regional Economic Development Council, and the Downtown Stabilization Grant from Empire State Development, and said that the Grant should be awarded late in the fall.

City Administrator Donna Owens informed the Council Members that she had been chosen to represent the City for the 2013 FBI Citizens Academy. She also introduced the City's Urban Fellow, John Louis Bryant, and thanked his sponsors.

Chairman Fruscione asked Director of Public Works David Kinney to discuss his suggestions for raising revenue for the City. Mr. Kinney spoke on sponsor signs at the Golf Course, and Council Member Choolokian suggested that sponsor signs could also be used at the Ice Pavilion. Mr. Kinney also spoke on working with the New York Power Authority and others to secure funding for electric golf carts, powered by solar power, and a building to store the carts.

Chairman Fruscione asked City Controller Maria Brown if T Funds could be used to pay for cleanup of the downtown area, including overtime, and she responded that the T Fund is made up of bed tax dollars, and use of such would not impact the General Fund.

Council Member Walker asked for an update at the next Council Meeting on the Attorney General's mandates for the City.

This Session ended at 4:30 PM

Chairman Fruscione reconvened the Meeting at 7:07 p.m. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Choolokian and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The Chairman announced a Special Order of Business, a Public Hearing relative to renaming of Bath Avenue to Depot Avenue West, and asked if there were any speakers relative thereto. There were no Speakers.

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

Ron Anderluh	Agenda Item #5
Ron Anderluh	Picnic tables not needed in Gill Creek Park; Post rules and regulations in Parks; Zoning change for building heights; Culinary Institute opening; Encourage economic development in City
Tim McSweeney	Lewiston Road Project; contract out demolitions; Fewer City vehicles; Law Dept. review before awarding contracts; Economic Development positions; Budget issues; sell City land for revenue; Casino cash dispute
Jason Chilcote	Lewiston Road Project; Hard Rock concerts; out of town landlords; Baltimore revitalization
Richard Cochrane	Fire Hydrant repairs/painting in the 1800 block of Weston Avenue

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF AUGUST 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CLERK'S REPORT FOR THE MONTH OF AUGUST 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE MAYOR

OKTOBERFEST EVENT, DOWNTOWN BUSINESS ASSOCIATION, CONTRIBUTION

Agenda Item #3

The City has been requested by the Downtown Niagara Falls Business Association to contribute to the costs of the Third Annual Oktoberfest to take place on Saturday, October 13, 2012 from 12:00 p.m. to 9:00 p.m. on Old Falls Street. The Downtown Niagara Falls Business Association sponsors this event along with Old Falls Street. The request is for a contribution of \$2,500.00. Attached (on file in the City Clerk's Office) is a copy of a letter describing the event.

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

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

Yeas	2
Grandinetti, Walker	
Nays	3
Anderson, Choolokian, Fruscione	

DEFEATED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL
SMITH, WARREN, HOUSING COURT MATTER, SETTLEMENT

Agenda Item #4

The City has been engaged in litigation in Housing Court against Warren Smith for alleged property code violations at his property located at 1311 Michigan Avenue in the City of Niagara Falls. During the pendency of the action, the City of Niagara Falls took title to the property pursuant to the most recent in rem proceeding, divesting Mr. Smith of his rights in the property. Mr. Smith is now offering the sum of \$7,500.00 in full satisfaction of his Housing Court violations. My office believes this is an equitable outcome and that it is in the best interests of the City to accept this settlement offer.

Will the Council so approve and authorize the Corporation Counsel to accept the settlement offer and to complete any required paperwork as part of the same?

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

Yeas 5
Nays 0

APPROVED

CLAIM: RINKER, DAVID

Agenda Item #5

Date Claim Filed:	August 7, 2012
Date Action Commenced:	N/A
Date of Occurrence:	May 7, 2012
Location:	N/A
Nature of Claim:	Damages suffered as a result of double booking at Gill Creek Park.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$140.00
Make Check Payable to:	David Rinker
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim/action/judgment be paid under the terms set forth above. 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

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #6

Please be advised that Mayor Paul A. Dyster, on September 8, 2012, duly approved the following:

Resolution 2012-73, relative to Amending Schedule 8 of the Zoning Ordinance

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: BATH AVENUE NAME CHANGE TO DEPOT AVENUE WEST, 2012-74
BY: ALL COUNCIL MEMBERS

Agenda Item #7

WHEREAS, by resolution adopted September 4, 2012 this Council directed the City Clerk to publish a Notice of Intention to consider a change of name of Bath Avenue to Depot Avenue West at the regularly scheduled meeting of this Council on September 17, 2012 and to hold a public hearing thereon; which notice was published in the Niagara Gazette and which hearing was held as scheduled; and

WHEREAS, this Council has considered the aforesaid change of name and is of the opinion that said renaming is desirable; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that the name of Bath Avenue be and is hereby changed to be henceforth known as Depot Avenue West; and

BE IT FURTHER RESOLVED, that the Clerk of this Council is hereby directed to forward a copy of this resolution to the Mayor and City Administrator so that they can implement this change through the appropriate City departments and further that a certified copy of this resolution be forwarded to the Niagara County Clerk.

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:45 p.m.

Carol A. Antonucci
City Clerk



OCTOBER 1, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the October 1, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:07 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of September 17, 2012.

Yeas	5
Nays	0

APPROVED

Mayor Paul A. Dyster gave the following statement regarding the Presentation of his Proposed 2013 Budget:

As you know, the City Charter calls for the Mayor to present his proposed 2013 budget to the City Council no later than October 1st of this year.

As you also know, the State of New York and the Seneca Nation of Indians are embroiled in a dispute over an alleged violation of the exclusivity provisions in the casino compact. The Seneca Nation has withheld payments from the state, and the City has not received casino revenues for three years.

I have been working diligently with the City Controller, City Administrator and all department heads to develop a balanced budget in these very difficult financial times.

While many options have been explored and implemented in this process, I am not satisfied that all options have been exhausted.

Make no mistake, this is a disaster budget, and I am trying my level best to reduce the pain to the unavoidable minimum.

The City of Niagara Falls last presented a late budget in 2001. The City of Lockport was in the same predicament in the Fall of 2010 when developing its 2011 Budget. And until the Cuomo Administration, it was unfortunately a common practice for New York State to present its budget late.

The fact is that I need more time to complete the process, and hope to have something for you at or before your next scheduled Council meeting.

I wish to thank the members of the City Council, Department heads, union leaders, city employees, members of the public, and any others that are impacted by the 2013 City of Niagara Falls budget for their patience and understanding in this matter.

The Mayor spoke on the ribbon cutting ceremony for the Culinary Institute, and thanked the Council for their support of the Project. He also gave the dates for the opening of the other stores/restaurants that are part of the Culinary Institute, and spoke on the report of the Urban Land Institute for suggested uses for the remaining space in the Rainbow Mall.

The Mayor thanked the Engineering and Law Departments for their work on getting the Lewiston Road Project moving again, and also thanked Council Member Walker for considering the proposal for advertising signs on the Golf Course.

Ruby Pulliam, Equal Employment Opportunity Officer, reported that the mandates of the Attorney General's Office have all been completed, except for the employee evaluations.

Chairman Fruscione noted that Agenda Item #7, a Resolution relative to the Budget Meeting Schedule, would be pulled from the Agenda.

Council Member Choolokian and Chairman Fruscione expressed their concern that the Council Members were left out of the Budget preparation process, and Council Member Walker inquired if the Council would be given additional time for their Budget process. A discussion followed.

Corporation Counsel Craig Johnson distributed copies of three Items to be added to the Agenda, and the Mayor asked that the Items be approved at this time, rather than waiting for the Evening Session.

1. A communication relative to approval to grant a license for advertising signage at the Hyde Park Golf Course.

Council Member Choolokian 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 #9.

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

Yeas	3
Anderson, Choolokian, Walker	
Nays	1
Grandinetti	
Abstain	1
Fruscione	

APPROVED

2. A communication relative to approval of the re-bid for the reconstruction of Lewiston Road.

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 #10.

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

Yeas	5
Nays	0

APPROVED

3. A communication relative to approval of Change Order #6 in the reconstruction of Lewiston Road.

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 #11.

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

Yeas	5
Nays	0

APPROVED

Council Member Anderson inquired about funding that was approved for the 72ND Street Fire Hall roof repairs, but the work had not been done. Mayor Dyster responded that the bids for the repairs had come in much higher than the amount that had been set aside for the repairs.

Chairman Fruscione inquired about NITTEC (Agenda Item #4) and the Mayor replied that this organization maintains highway cameras and warning signs, and approval of this Item required no financial contribution from the City.

This Session ended at 4:45 PM

Chairman Fruscione reconvened the Meeting at 7:02 p.m. in the Council Chambers with all Council Members present except Council Member Walker who was absent. The Prayer was said by Council Member Grandinetti and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

David Fabrizio gave an update on the Veterans' Memorial. He reported that the New York Power Authority have given the go-ahead to purchase the electrical system; the concrete would be poured after the electrical conduit was installed, and then the fencing surrounding the Memorial could be taken down. Until those steps were completed, the Memorial was still considered a construction site and the fencing would have to remain. The dedication for the Memorial has tentatively been set for the Saturday before Veterans Day.

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

Paul Gromosiak	compliments for the Culinary Institute and the Blues Festival
Ron Anderluh	joint effort for Culinary Institute Project now rest of Mall needs to be marketed; Niagara St. Business & Association Dinner
Tim McSweeney	concerns about money spent & projects are unfinished; allow speakers at 4:00 PM Session; additional time for Budget deliberations; new source of revenue from surcharge from Casino; don't take loan from State

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: RECONSTRUCTION OF HISTORIC WOOD DOORS AT LASALLE LIBRARY, CHAUTAUQUA WOODS CORP.

Agenda Item #1

The following was the result of bids received on September 13, 2012 for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Chautauqua Woods Corp. 134 Franklin Ave. Dunkirk NY 14048	\$31,000.00

It is the recommendation of the undersigned that this project be awarded to the sole bidder Chautauqua Woods Corp. at their total bid of \$31,000.00. Funding is available in Code H0904.2004.0904.0443.000.

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

Yeas	0
Nays	4
	DEFEATED

FIRE DEPARTMENT: RULES & REGULATIONS, UPDATE

Agenda Item #2

The Fire Chief has made updates to the NFFD rules & regulations. The updates consist primarily of changes in grammar, gender references and elimination of certain things that no longer exist. A copy of these updated rules & regulations are available for your inspection in the Office of the Corporation Counsel.

Will the Council adopt these updated rules & regulations for the guidance and government of all members of the NFFD and execute the same?

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

Yeas 4
Nays 0
APPROVED

LIBRARY BOARD, APPOINTMENT

Agenda Item #3

I hereby appoint the following to the Niagara Falls Library Board (resume on file in the City Clerk's Office):

Appointment: _____ Term Expires:
James Lemke 12/31/2015
820 College Avenue
Niagara Falls, NY 14305

Will the Council so approve?

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

Yeas 1
Grandinetti
Nays 3
Anderson, Choolokian, Fruscione

DEFEATED

COUNCIL WANTS TO SEE MORE DIVERSITY ON THE BOARD

CONTRACT: NIAGARA INTERNATIONAL TRANSPORTATION TECHNOLOGY COLLISION ("NITTEC"), MEMORANDUM OF UNDERSTANDING, PARTICIPATION

Agenda Item #4

The City of Niagara Falls has been a general member of NITTEC for many years. The mission of NITTEC is to "maintain a regional, cooperative approach to transportation management and thereby improve regional and international transportation mobility, promote economic competitiveness and minimize adverse environmental effects related to the regional transportation system." The term of the Memorandum of Understanding under consideration is April 1, 2012 through March 31, 2014. There is no obligation to commit funds to NITTEC.

Will the Council so approve and authorize the Mayor to execute a standard signature page?

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

Yeas 4
Nays 0
APPROVED

CONTRACT: COURT CLEANING/MINOR REPAIRS, AGREEMENT WITH UCS

Agenda Item #5

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

Under Section 1 of the Contract, we are entering into a Renewal Contract for a 1-year period commencing on April 1, 2012 and terminating on March 31, 2013.

The maximum compensation for this Renewal Contract period shall be \$339,986.

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

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

Yeas	4
Nays	0
	APPROVED

CLAIM: LAVIGUEUR, ERNEST

Agenda Item #6

RE: Request for Approval to Settle and Pay Ernest Lavigueur
3451 East Avenue, Youngstown, New York 14174

Date Claim Filed:	June 8, 2007
Date Action Commenced:	April 21, 2008
Date of Occurrence:	March 16, 2007
Location:	520 Hyde Park Boulevard, Niagara Falls, NY
Nature of Claim:	Personal injuries sustained in parking lot.
Status of Action:	Pre-trial stage
Recommendation/Reason:	Best interests of City to pay.
Amount to be Paid:	\$75,000.00
Make Check Payable to:	Ernest Lavigueur and Viola, Cummings & Lindsay, LLP, as attorneys
Conditions:	Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above be paid under the terms set forth above. Will the Council so approve?

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

Yeas	4
Nays	0
	APPROVED

RESOLUTION: BUDGET MEETING SCHEDULE,
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #7

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

RESOLUTION: YOUTH BOARD, APPOINTMENTS, 2012-75
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #8

BE IT RESOLVED, that the following individuals are hereby appointed to the Niagara Falls Youth Bureau (resumes on file in the City Clerk's Office), effective immediately, for the expiration date of which appears opposite their names:

<u>APPOINTMENT</u>	<u>TERM EXPIRES:</u>
Abigail L. Edwards 1303 Roselle Avenue Niagara Falls, NY 14305 425-1108	12/31/2014

Christina R. Trombley 3028 Macklem Avenue Niagara Falls, NY 14305 285-4993	12/31/2014
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John J. Murphy 1721 Willow Avenue Niagara Falls, NY 14305 534-6757	12/31/2014
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Yeas	4
Nays	0

ADOPTED

CONTRACT: HYDE PARK GOLF COURSE, ADVERTISING SIGNAGE, CHARLES R. COLAVECCHIA

Agenda Item #9

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:
\$4,000.00

Requests for proposals were sent to six (6) companies and advertised in the Niagara Gazette. One proposal was received (on file in the City Clerk's Office).

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.

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

Yeas	4
Nays	0

APPROVED

CONTRACT: LEWISTON ROAD, RECONSTRUCTION, ACCADIA SITE CONTRACTING, INC.

Agenda Item #10

The following was the result of bids received on September 6, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Accadia Site Contracting, Inc. 5636 Transit Road Depew NY 14043	\$ 4,359,854.00
CATCO	\$ 4,390,795.90
Mark Cerrone, Inc	\$ 4,572,777.00
Yarussi Construction	\$ 4,659,734.20
Oakgrove Construction, Inc.	\$ 5,682,849.00
Sealand Contracting Corp.	\$ 5,863,083.75

It is the recommendation of the undersigned that this project be awarded to Accadia Site Contracting, Inc. at its Base Bid of \$ 4,359,854.00. Funding is available under Code H0421.2001.0421.0449.599.

This award is also subject to approval by the New York State Department of Transportation.

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 Grandinetti moved that the communication be received and filed and the recommendation approved.

Yeas	4
Nays	0

APPROVED

LEWISTON ROAD, RECONSTRUCTION, CHANGE ORDER #6

Agenda Item #11

Wendel's original Engineering Services Agreement for the completion of the Lewiston Road project was for them to hold the NYSDOH Radiological Materials Handling License.

Since Man O' Trees failed to complete the work and the projected needed to be rebid the NYSDOH Radiological Materials Handling License will once again need to be held by Wendel through their sub consultant, MJW Corporation. MJW Corporation will be responsible for the performance of radiological screening, monitoring and oversight required to complete the project. Additional Construction Phase Services related to this NYSDOH Radiological Services License is \$159,615.00 and is required to complete the project.

Wendel solicited request for proposals from Greater Radiological Dimensions. Inc., MJW Corporation, and T.G Adams and Associates Incorporated and of the proposals received it was determined that the MJW Corporation, already being familiar with the project, would best meet the project objectives at the most economical cost.

This Change Order does not include services association with litigation. At this time there is sufficient funding in the project budget. Funding is available under Capital Code H0421.2001.0421.0453.000. Please note that this funding is from bonded funds that were originally appropriated for the 72nd Street Reconstruction Project and can be used for this purpose.

Original Contract Amount:	\$724,382.04	
Change Order No. 1:	\$538,000.00	Approved by Council 07-06-04
Change Order No. 2:	\$112,000.00	Approved by Council 07-31-06
Change Order No. 3:	\$ 20,617.96	Approved by Council 06-15-09
Change Order No. 4:	\$1,828,030.45	Approved by Council 06-29-09
Change Order No. 5:	\$614,070.00	Approved by Council 05-14-12
<u>Change Order No. 6:</u>	<u>\$159,615.00</u>	
Revised Contract Amount:	\$3,996,571.45	

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

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

Yeas

4

Nays

0

APPROVED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:26 p.m.

Carol A. Antonucci
City Clerk



OCTOBER 15, 2012
REGULAR COUNCIL MEETING **NIAGARA FALLS, NEW YORK**

The first session of the October 15, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:06 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of October 1, 2012 and that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

Mayor Paul Dyster noted the opening of the Café and Bakery at the Culinary Institute, and added that the Wine Boutique and Savor Restaurant would open by the end of the month. Also, the NCCC Foundation Gala would be held on October 20 at the Institute.

The Mayor also noted that the FBI Community Relations Executive Training Session for citizens would be held on November 8 at the Doris Jones Resource Center.

Chairman Fruscione asked the Mayor about the suggestions for appointments to the Library Board that had been forwarded by the Council, and the Mayor responded that he would give consideration to the suggested appointments to the Board.

Chairman Fruscione also asked Corporation Counsel Craig Johnson if some of the properties in the LaSalle area that were on the In Rem List could be discussed, and Mr. Johnson said he would do so. Council Member Walker suggested that the entire In Rem process be looked at so that all involved are working together creatively as a whole, and the City can recoup the fees involved for demolitions.

Council Member Choolokian inquired about the Proposed 2013 Budget, and the Mayor responded that he was analyzing all options before presenting a Budget to the Council that would be as accurate as possible and minimize the impact to residents and employees.

Mr. Johnson asked that Agenda Item #5, relative to the Rehabilitation/Upgrade of City Parking Ramp II, be amended to change the amount to \$33,800.

Council Member Anderson moved that the amount be amended.

Yeas	5
Nays	0

MOTION TO AMEND APPROVED

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

1. A Resolution relative to amending Schedule 8 of the Zoning Ordinance.

Council Member Walker moved to add the Resolution to the Agenda.

Yeas 5
Nays 0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #16

2. A communication relative to settlement between UBS and 25 States Attorneys General.

Council Member Choolokian 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

Since there was a time constraint related to this Item, Council Member Choolokian moved that the communication be received and filed and the recommendation approved at this time.

Yeas 5
Nays 0

APPROVED

This Session ended at 4:20 PM

Chairman Fruscione reconvened the Meeting at 7:02 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:

Ron Anderluh Agenda Item #3
Ken Hamilton Agenda Item #15
Ron Anderluh guidelines for where sex offenders can live

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF SEPTEMBER 2012
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2
CLERK'S REPORT FOR THE MONTH OF SEPTEMBER 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

COMMUNITY DEVELOPMENT: 2013 ANNUAL PLAN & BUDGET

Agenda Item #3
A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached (on file in the City Clerk's Office) with a detailed breakdown of program administrative costs. All Council Members received the DRAFT Action Plan via memo on October 6, 2012 and September 7, 2012, to allow ample time for review. The proposed budget is the key component of the City's 2013 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 2013 Annual Plan is the end result of a lengthy, detailed, and well advertised, citizen participation process that included four neighborhood based meetings in June 2012 designed to encourage comments, suggestions, and ideas from various community groups, residents, business persons, and other interested parties. The DRAFT Action Plan was made available for public review on August 31, 2012, a public hearing was held on September 6, 2012, and a month long public comment period concluded on October 6, 2012. The public hearing reviewed the plan specifics, and a copy of the public hearing minutes is included with this agenda item. The Annual Plan is being submitted for vote at the earliest possible date, as the public comment period ended on October 6, 2012.

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	\$2,189,900
HOME Investment Participation Program	\$ 315,000
HOME Program Income	\$ 62,000
Emergency Shelter Grant	\$ 156,000
Section 8 Leased Housing Program	\$3,100,000
PROJECTED FEDERAL REVENUE	\$5,822,900

CD is cutting \$135,000 in 2013 salaries and can transfer and additional \$85,000 in 2013 salary costs to outside grant funding sources. CD will continue to solicit outside grant funding to further offset administrative costs. This will help pay a greater portion of employee salaries, reduce the need for general fund assistance, and protect the City from future HUD entitlement reductions. If the post April 2012 trend continues, CD will not require and general fund contribution in out years.

Moving forward, Community Development's (CD) goal is a sustainable budget every year. The 2012 revenue to expenditure gap was **\$383,000**. Recent CD administrative actions and the proposed 2013 budget are meant to ultimately eliminate reliance on casino revenues, whether collected or uncollected. The proposed changes also direct HUD funding to more appropriate activities.

The 2013 budget proposal requests that the City of Niagara Falls fund all Carnegie Building utility/maintenance costs (\$18,300), and \$75,000 of CD's annual retirement costs, for a total of **\$93,300**. The requested retirement contribution represents 39% of the department's total retirement costs (\$195,000). The proposed gap would be \$289,070, or 75% less, than the 2012 CD administrative budget gap.

The Consolidated Plan, including the proposed budgets, must be adopted by the City Council and submitted to HUD by November 15, 2012. 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 Emergency Shelter budgets for FY 2013. 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 2013 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 Walker moved that the communication be Tabled
 Yeas 5
 Nays 0
 TABLED

CONTRACT: NF INTERNATIONAL RAILWAY STATION AMENDMENT
ENGINEERING/CONSTRUCTION SERVICES, WENDEL DUCHSCHERER, ARCHITECTS

Agenda Item #4

A contract for consultant services for the above referenced project was awarded to Wendel-Duchscherer, Architects and Engineers, Inc. (WD), 95 John Muir Drive, Suite 100, Amherst, New York by City Council on July 25, 2005 and dated January 3, 2006, which was subsequently extended on February 11, 2010 to include right-of-way services, final design, and other services associated with the above project.

Since that time, substantial "pre-obligation" requirements of the TIGER II Grant's federal funding agency -Federal Railroad Administration and additional "pre-construction" activities have resulted in additional costs associated with the final design phase of the station project.

Additional ongoing work activities total \$268,750.00. A more detailed explanation of work activities are contained the letter and services summary from Susan Sherwood, Wendel Project Manager, dated July 20, 2012, (see attached)(on file in the City Clerk's Office).

The additional funding obligation is available under the existing NYS-DOT Supplemental Agreement No. 2 (Comptroller's Contract No. D017307 for the NF Intermodal Transportation Center Project -PIN 5756.28). This previously approved (October 5, 2009) New York State assistance contract is for \$5,176,240.00. The current contract amount with Wendel is for \$3,500,000.00.

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

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

Yeas 2

Council Members Grandinetti, Walker

Nays 3

Council Members Anderson, Choolokian & Chairman Fruscione

DEFEATED

Council Member Choolokian said that there have been too many overruns

Council Member Walker said the Project needs to stay on track

CONTRACT: PARKING RAMP II, REHABILITATION/UPGRADE, AMENDMENT #2, CANNON
CONSTRUCTION SERVICES

Agenda Item #5

A contract for consultant services for the above-referenced project is was enter into by the city with Cannon Construction Services ("Cannon CS"), 2170 Whitehaven Road, Grand Island, NY 14072.

This work has involved construction management and inspection services for Phase II of the project, which involved a large rehabilitation of City Parking Ramp II. Part of the construction of the rehabilitation work required special inspections to include concrete testing and testing and inspection of a carbon fiber reinforcement rap. To streamline the required inspection, it was determined that the best way to manage and schedule the special inspection was for Canon Construction Services to enter into an agreement SJB Services Incorporated. The cost incurred by Canon Construction Services for providing those special inspections was \$16,606.70 (changed to \$33,800).

The City will be fully reimbursed for the balance all costs incurred through a funding agreement with USA Niagara Development Corporation; the state funds to cover this amendment would come from the already-established contingency account to cover unforeseen costs for the Project.

Therefore, it is the recommendation of the undersigned that Contract Amendment #2 for the contract between the City of Niagara Falls and Cannon Construction Services for an amount \$16,606.70 (changed to \$33,800) be approved.

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

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

Yeas 5
Nays 0
APPROVED

CONTRACT: TROY & BANKS, INC., AUDITS

Agenda Item #6

Troy & Banks, Inc. is a professional cost management and consulting firm that conducts audits to reduce utility and telecommunications expenses. Troy & Banks, Inc. has proposed to audit the City's bills and payments for electricity, gas, telecommunications and cable services from year 2006 through 2012. Troy & Banks, Inc. will only be paid if they recover overpayments made by the City to these various utilities. The fees charged for these services by Troy & Banks, Inc. are contained in the attached agreements (on file in the City Clerk's Office) and vary by percentage depending upon how much money is recovered. There is no payment due Troy & Banks, Inc. if they do not recover overpayments made by the City. The agreement to audit cable T.V. franchise fees calls for the City to pay Troy & Banks, Inc. 40% of any underpayments identified and recovered. If no underpayments are identified, no fees are due Troy & Banks, Inc. The City has successfully utilized Troy and Banks, Inc. for this purpose in the past. If the Council votes to retain Troy & Banks, Inc., the audit will commence upon the execution of the agreements engaging Troy & Banks, Inc. to proceed.

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

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

Yeas 5
Nays 0
APPROVED

CONTRACT: LASALLE FACILITY, USE BY OFFICE OF THE AGING

Agenda Item #7

Annually the City enters into an agreement with the Niagara County Office for the Aging to allow the County to lease space in the LaSalle Facility for the operation of its nutrition site in exchange for an annual lease payment totaling \$2,431.00

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

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

Yeas 5
Nays 0
APPROVED

POLICE DEPARTMENT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

Agenda Item #8

The Police Department has received a grant in the amount of \$50,000.00 under the above program during the period from October 1, 2012 through September 30, 2013.

No City matching funds are required.

Will the council approve acceptance of the grant and authorize the Mayor to execute any agreements or other documentation necessary to effectuate same?

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

Yeas 5
Nays 0
APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: BROUGHTON, CHERYL

Agenda Item #9

Date Claim Filed:	June 25, 2012
Date Action Commenced:	N/A
Date of Occurrence:	June 22, 2012
Location:	1324 104 th Street, Niagara Falls, New York
Nature of Claim:	Damage caused during stump removal by City Forestry crew.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$2,310.16
Make Check Payable to:	Cheryl Broughton
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 Anderson moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: STANEK, KIMBERLY, MEDICAL EXPENSES

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	9/5/2012 & 9/26/2012	\$71.04

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CHAIRMAN OF THE PLANNING BOARD

PLANNING BOARD: 70TH ST., RENOVATION OF STEVE BALDO FORD, DENIED

Agenda Item #11

RECOMMENDATION TO CITY COUNCIL
Abandonment: Portion of 70th Street

Pursuant to action taken by the Niagara Falls Planning Board on the 26th day of September 2011, your request is hereby DENIED (letter on file in the City Clerk's Office).

NAME OF OWNER: City of Niagara Falls
ADDRESS OF ACTION: Portion of 70th Street from Niagara Falls Blvd. north to side entrance of Tops parking lot
PURPOSE: To acquire property for renovation of Steve Baldo Ford

This application is hereby DENIED.
THIS ITEM IS RECEIVED AND FILED

RESOLUTION: SENIOR CITIZEN COUNCIL, APPOINTMENT, 2012-76
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #12

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

<u>APPOINTMENT</u>	<u>TERM EXPIRE</u>
Norman Bock 3807 Pine Avenue Niagara Falls, NY 14301	12/31/2015
Yeas	5
Nays	0
	ADOPTED

RESOLUTION: TRAFFIC ADVISORY COMMISSION, RE-APPOINTMENT, 2012-77
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #13

BE IT RESOLVED, that the following individual is hereby reappointed to the Traffic Advisory Board for the expiration date of which appears opposite his name:

<u>RE-APPOINTMENT</u>	<u>TERM EXPIRES:</u>
Mr. Stephen Urbaniak 689 - 78 th Street Niagara Falls, NY 14304	12/31/2015
Yeas	5
Nays	0
	ADOPTED

RESOLUTION: DEFINITIONS, ORDINANCE AMENDMENT, 2012-78
BY: COUNCIL MEMBERS ANDERSON, CHOOLOKIAN & COUNCIL CHAIRMAN SAMUEL
FRUSCIONE

Agenda Item #14

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1303 of the Codified Ordinances entitled "Definitions" is hereby amended by amending Section 1303.2.2 "B" Bed & Breakfast as attached hereto, and by deleting in its entirety Section 1303.2.7 entitled "G" and by adopting Section 1303.2.7 entitled "G" as attached hereto (on file in the City Clerk's Office).

Yeas 5
Nays 0

ADOPTED

RESOLUTION: HEALTH INSURANCE OPT OUT
BY: COUNCIL MEMBER KRISTEN GRANDINETTI

Agenda Item #15

WHEREAS, the City finds itself in dire circumstances with regards to the 2013 budget; and

WHEREAS, certain members of the Niagara County Legislature attempted to set an example, step forward and drafted a resolution (which was not adopted) eliminating a cash payment (the "opt out") to legislators who decline the County's health insurance benefit because they have health insurance from other sources; and

WHEREAS, City Council members currently are entitled to an opt-out payment, in lieu of accepting the City's health insurance benefit, if they have health insurance available from other sources; and

WHEREAS, the City Council, in the spirit of teamwork, commencing January 1, 2013, hereby eliminates the opt out payment to members of the City Council, which will generate a sizable savings for the City; and

WHEREAS, the City Council is taking this action in order to save as much money as possible in an effort to avoid lay-offs of city employees; and

WHEREAS, the members of the City Council all have access to health insurance from other resources.

NOW, THEREFORE BE IT RESOLVED, that effective January 1, 2013, the City Council of the City of Niagara Falls, New York, hereby eliminates the health insurance opt out payment available for City Council members.

Yeas 1
Council Member Grandinetti

Nays 4

Council Members Anderson, Choolokian, Walker, Chairman Fruscione
DEFEATED

RESOLUTION: ZONING ORDINANCE, AMENDING SCHEDULE 8, 2012-79
BY: COUNCIL MEMBER CHARLES WALKER

Agenda Item #16

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 (on file in the City Clerk's Office) zoning map amendment changing 15.4 acres of 4200 Pine Avenue as shown on the attached drawing, from R3-A - Residential Multi-Family to OS - Open Space.

Yeas 5
Nays 0

ADOPTED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CORPORATION COUNSEL

CONTRACT: UBS & 25 STATES ATTORNEY GENERAL, SETTLEMENT

Agenda Item #17

The City was notified on Friday, October 12, 2012 of its opportunity to participate in an out of court settlement between UBS AG ("UBS") and 25 State Attorneys General to resolve an investigation concerning alleged violations of State and Federal anti-trust laws and other laws by UBS and other providers pertaining to the sale and placement of municipal bond directives. The New York State Attorney General's office advised during a telephone conversation that the reason the City received such a late notice is because the original notice was erroneously sent to the Town of Niagara. The urgency to take action on the participation in this settlement agreement is that all documents indicate the participation of the City must be postmarked by October 15, 2012. Should the City elect to participate in this settlement agreement, the City will be paid the sum of \$1,000.00 by the claim administrator, while incurring no cost.

Will the City Council so approve and authorize the Mayor to execute any documents required to participate in this settlement?

Council Member Choolokian 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 Fruscione adjourned the Meeting at 7:20 p.m.

Carol A. Antonucci
City Clerk



OCTOBER 29, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the October 29, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:03 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Meeting of October 15, 2012.

Yeas

5

Nays

0

APPROVED

Seth Piccirillo, Director of Community Development, spoke about the revised version of the Community Development Budget. The next step after Council action would be to have the Budget submitted to HUD by 11-15-12. The Budget is not set until it is approved by HUD.

Council Member Choolokian asked for an explanation of the \$195,000 request for loans, grants etc. Mr. Piccirillo stated that homeowners can rehabilitate homes, and that will not affect the School Loan Program.

Mr. Piccirillo thanked the Community Development Department employees at for their dedication.

Chairman Fruscione asked all Council Members to contact Council Member Walker with their questions about the CD Budget. Council Member Choolokian asked Corporation Counsel Craig Johnson if the Community Development Department Budget can be set as a Procedure, and Mr. Johnson said that he will review this.

In the Administrative Update:

Acting Building Commissioner Dennis Virtuoso gave a year to date analysis of fees collected by the Code Enforcement Department and distributed a handout on the fees. Mr. Virtuoso stated that last year's total fees were \$656,000, and, as of October 2012, fees totaled \$600,000.

Mr. Virtuoso thanked the Council for sponsoring the Sexual Predators Resolution restricting the distance of their homes from areas where there are children .

Mayor Paul Dyster gave an update on the 2013 Proposed Budget and he asked the Council to come back into Session on Thursday, November 1 at 4:00 PM for the Presentation of the Budget.

The Mayor expressed concern about the Contract from the October 15, 2012 Meeting for Wendel Engineering for the Train Station to advance the Project. The budgeted expense, per Mayor Dyster, is refundable, and Chairman Fruscione said it needs to be in writing.

Council Member Choolokian asked Senior Planner Tom DeSantis about the Train Station & where the money is coming from. Mr. DeSantis said that at the next Council Meeting an updated presentation will be discussed. Council Member Choolokian said the Council needs to have any consultants come to them first before any work is done. Mayor Dyster planned to use Casino revenues to pay the 3.2 million dollars and the City needs to find a way to cover the obligations. A discussion followed by the Mayor and the Council. Mr. DeSantis said the \$268,000 is fully reimbursable and is covered by NYS Federal Contract.

Per Chairman Fruscione, the Resolution didn't state it was reimbursable. Council Member Anderson said it was unfortunate about the Casino & Albany about the money. We need to be cautious about the money for the Train Station.

The Mayor wants the Council to look at the Resolution and make sure that it says it's reimbursable and wants it done as early as possible. Chairman Fruscione said homeowners and tax payers would have to pay this bill.

Mayor Dyster talked about the storm situation.

Mayor Dyster pulled Agenda Item #2, Community Development Budget, Revised Version, and asked that it be removed from the table to amend and approve.

Council Member Choolokian moved that the Item be removed from the table.

Yeas	5
Nays	0

MOTION TO REMOVE FROM TABLE APPROVED

Council Member Choolokian moved that the Item be amended

Yeas	4
Nays	0
Abstain	1

Walker

MOTION TO AMEND APPROVED

Council Member Anderson moved that the Item be approved as amended

Yeas	4
Nays	0
Abstain	1

Walker

MOTION TO APPROVE AS AMENDED APPROVED

THIS ITEM WAS PULLED FROM THE AGENDA AT THE 4:00 PM MEETING AND RENUMBERED AS AGENDA ITEM #10

Mr. Johnson distributed copies of a Resolution relative to reopening Section 384-D of the Retirement & Social Security Law for Richard Mylchreest, Jr.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #11

This session ended at 4:50 PM.

Chairman Fruscione reconvened the Meeting at 7:02 p.m. in the Council Chambers with all Council Members present. The Chairman said the Prayer and 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:

Ron Anderluh	Agenda Items #10, #7; thank you to Council & CD Agency
Tim McSweeney	Agenda Items #8, #9; per Chairman Fruscione, NYS says we can't tax the Senecas
Jill Shuey	representing ReNu Niagara; Agenda Item #10
Michael Henderson	Agenda Item #10
Paul Gromosiak	Hotel Niagara development; markers/planters for Main St.
Diane Tattersall	pleased with progress on Lewiston Rd., parking on 3 rd St.; need ZOOM Team; cuts to Police, Fire & DPW; Casino cash
Tim McSweeney	Budget; accessibility of Mayors, past & present

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

PURCHASE: STREET SWEEPER PARTS, VARIOUS COMPANIES

Agenda Item #1

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

TO: Lacial Equipment, Inc.
901 West Pike Street
Jackson Center, OH 45334

FOR: Items 5, 6, 7 and 11 as per the attached tally sheet.

TO: ODB
5118 Glen Alden Drive
Richmond, VA 23231

FOR: Item 1, 2, 3, 4, 9, 10, 12, and 13 as per the attached tally sheet.

TO: Joe Johnson Equipment
62 LaGrange Avenue
Rochester, NY 14613

FOR: Item 8 as 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 six (6) vendors. Six (6) bids were received (on file in the City Clerk's Office). The above referenced companies submitted the lowest bids for each respective item.

Funds for this expenditure are available in the Department of Parks & Public Works, Street Cleaning code: A8170.0000.0419.005

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

Yeas 5
Nays 0
APPROVED

COMMUNITY DEVELOPMENT: 2013 ANNUAL PLAN & BUDGET, REVISED VERSION

Agenda Item #2

THIS ITEM WAS PULLED & RENUMERED AS AGENDA ITEM #10

CONTRACT: 39TH ST. SCHOOL REMEDIATION, LIRO ENGINEERS, INC.

Agenda Item #3

In December of 2011, the Niagara County Brownfield Development Corporation (NCBD) awarded funding of \$200,000, with no City funds required, to the City of Niagara Falls for asbestos abatement and remediation at the former 39th Street school (555 39th St). The City Council approved acceptance of the grant on January 9, 2012. This funding is from the United States Environmental Protection Agency (USEPA) Brownfields Program and is subject to the Cooperative Agreement between NCBD and USEPA.

Through a Request for Qualifications, the City of Niagara Falls has received nine Qualification Statements. The Planning and Environmental Office requested the top four to submit proposals for Engineering Services related to estimating, abatement, remediation, and possible demolition of the former 39th Street school site.

Below are qualified Engineering Services bids:

<u>Consultant</u>	<u>Engineering Services Bid</u>
LiRo Engineers, Inc.	\$28,940
LaBella Associates, PC	\$48,500
Core Environmental Consultants, Inc	\$50,400
Bergmann Associates	\$76,900

Based on the above list of qualified proposals for services, it is the recommendation of the undersigned that amount of \$28,940 (lowest cost, qualified bid) be approved by Council for LiRo Engineers, Inc. Funds are available directly from the NCBD, with no funds required from the City.

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

Yeas	5
Nays	0

APPROVED

GRIFFON PARK, RE-FORESTATION GRANT

Agenda Item #4

Buffalo Niagara Riverkeeper has received a grant from the United States Forestry Service in the amount of \$397,396 to be used for the re-forestation of two (2) area waterfront parks; one (1) is located in Buffalo and the other is Griffon Park. The Griffon Park Project is proposed to be done in partnership with the City. Attached (on file in the City Clerk's Office) hereto is a letter from Riverkeeper regarding this. Planning and design is anticipated to take place in late 2012 and early 2013 and the installation of soil, trees and shrubs will occur during the 2013 planting season. The City will be responsible for long term maintenance of these plantings. Approximately \$225,826 is earmarked for Griffon Park.

The principal activity here will be to build up soil berms so that the landfill cap is not breached and plant large caliper trees at the site.

As concerns the soil, trees and shrubs, there will be no cost to the City. This proposal has been circulated to all town departments and none have identified any issues. It is anticipated that appropriate departments will be involved in the planning stages so that long term maintenance issues can be identified early and planned for.

The arrangement between the City and Riverkeeper will be memorialized in writing and will be subject to an Agreement in form and content acceptable to the Corporation Counsel.

Will the Council so approve and authorize the Mayor to execute a Memorandum of Understanding?

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #5

Please be advised that Mayor Paul A. Dyster, on October 16, 2012, duly approved the following:

1. Resolution 2012-78, relative to Amending Chapter 1303 of the Codified Ordinances entitled "Definitions"
2. Resolution 2012-79, relative to Amending Schedule 8 of the Codified Ordinances entitled "Zoning Ordinance"

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: ZONING BOARD OF APPEALS, RE-APPOINTMENTS, 2012-80
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #6

BE IT RESOLVED, that the following individuals are hereby
reappointed to the City of Niagara Falls Zoning Board of Appeals:

APPOINTMENT

John A. Cooper 12/31/2015
540 - 12th Street
Niagara Falls, NY14301

Vincent Spadorcia 12/31/2015
1319 Willow Avenue
Niagara Falls, NY 14305

Christopher M. Stoianoff 12/31/2015
2126 North Avenue
Niagara Falls, NY 14305

Richard Kindzia 12/31/2015
9115 Buffalo Avenue
Niagara Falls, NY 14304

Yeas 5
Nays 0
ADOPTED

RESOLUTION: CHILD PREDATORS, STRENGTHEN LAWS PROTECTING CHILDREN,
2012-81
BY: ALL COUNCIL MEMBERS

Agenda Item #7

WHEREAS, in 2006 the City of Niagara Falls passed a local law which amended the City Charter by establishing residency and proximity restrictions in the City of Niagara Falls for sex offenders who have committed criminal offenses against minors; and

WHEREAS, the local law provided a safety zone that restricted convicted sexual predators from being within 1,500 feet of areas that have typically been safe places for children to play and congregate; and

WHEREAS, the local law protected children congregating and playing at public or non-public schools, child care facilities, parks or playgrounds; and

WHEREAS, in 2012, amid statewide legal challenges to this type local law, which have established that the state law preempts local laws, the City of Niagara Falls may have no choice but to repeal the local law it adopted in 2006 for the purpose of protecting its children; and

WHEREAS, the City of Niagara Falls City Council believes that the safety of its children is one of the primary responsibilities it has to the community it serves; and

WHEREAS, the City of Niagara Falls City Council desires New York State to strengthen its laws to protect children from sexual predators; and

NOW, THEREFORE, BE IT RESOLVED, that the Niagara Falls City Council calls upon the New York State Senate, Assembly and Governor to strengthen its law to protect children from sexual predators; and

BE IT FURTHER RESOLVED, that the City of Niagara Falls City Council calls upon the New York State Senate, Assembly and Governor to broaden the child safety zones in its legislation to a minimum of 1,500 feet; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Governor Andrew M. Cuomo, Senator George D. Maziarz, Senator Mark Grisanti, Assemblyman John Ceretto and all others deemed necessary and proper.

Yeas 5
Nays 0
ADOPTED

RESOLUTION: CASINO FUNDS, SUPPORTING DIRECT PAYMENT FROM SENECA NATION, 2012-82

BY: COUNCIL MEMBER CHOOLOKIAN, COUNCIL CHAIRMAN FRUSCIONE

Agenda Item #8

WHEREAS, the Seneca Gaming Compact is an agreement between New York State and the Seneca Nation of Indians; and

WHEREAS, the City of Niagara Falls is considered a 'third party beneficiary' to said compact; and

WHEREAS, there is currently a dispute between New York State and the Seneca Nation of Indians where significant monies, at least \$58 million, earmarked for the City of Niagara Falls has not been paid; and

WHEREAS, the absence of these monies are causing fiscal difficulty for the City of Niagara Falls; and

WHEREAS, our state legislators representing Niagara Falls have proposed legislation to allow direct payment of casino funds from the Seneca Nation of Indians to the local host municipalities; and

WHEREAS, the passing of this legislation would untangle the City of Niagara Falls from the dispute and subsequent arbitration between the State of New York and Seneca Nation of Indians; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Niagara Falls does support A.9284/S.866-C which would allow direct payment from the Seneca Nation of Indians to municipalities hosting tribal casinos. Furthermore, the City of Niagara Falls urges Assembly Speaker Sheldon Silver and Senate Majority Leader Dean Skelos to bring this legislation to the floor of their chambers for a vote; and

BE IT FURTHER RESOLVED, that the City of Niagara Falls shall forward copies of this Resolution to Governor Andrew Cuomo, Senate Majority Leader Dean Skelos, Senator Mark Grisanti, Senator George Maziarz, Senator Tim Kennedy, Assembly Speaker Sheldon Silver, Assemblyman John Ceretto, Assemblyman Robin Schimminger, Assemblyman Ray Walter, Assemblywoman Jane Corwin; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to Senator Charles E. Schumer, Senator Kirsten Gillibrand, Congresswoman Louise M. Slaughter, Congressman Brian Higgins, and Congresswoman Kathy Hochul, and that a response be requested from each elected official.

Yeas	3
Choolokian, Walker, Fruscione	
Nays	1
Grandinetti	
Abstain	1
Anderson	

ADOPTED

RESOLUTION: "PUBLIC WORKS FEES/FIRE PROTECTION SPECIAL ASSESSMENTS", ADOPTING CHAPTER 252, 2012-83

BY: COUNCIL MEMBER CHOOLOKIAN, COUNCIL CHAIRMAN FRUSCIONE

Agenda Item #9

BE IT RESOLVED, by the City Council of Niagara Falls, New York that Chapter 252 of the Codified Ordinances entitled "Public Works Fees and Fire Protection Special Assessments" is hereby adopted as attached hereto (on file in the City Clerk's Office).

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

ADOPTED

Council Member Choolokian said everyone is aggravated and upset; 95% of the people are for this Resolution

Council Chairman Fruscione said that taxpayers are paying this bill

Council Member Walker said this is a start to working something out.

COMMUNITY DEVELOPMENT: 2013 ANNUAL PLAN & BUDGET (REVISED VERSION)

Agenda Item #10

A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached with a detailed breakdown of program administrative costs. The CD Action Plan was tabled by the Niagara Falls City Council at the October 15, 2012 City Council Meeting. This draft reflects revisions submitted to Seth Piccirillo, Director of Community Development, by the City Council, through Department Liaison, Councilman Charles Walker. Only the Community Development Block Grant Section of the Action Plan was revised. The first document details the original draft plan amount, the new draft amount, and the monetary change per project. The revisions were presented to CD on October 23, 2012.

All Council Members received the ORIGINAL DRAFT Action Plan via memo on October 6, 2012 and September 7, 2012, to allow ample time for review. The proposed budget is the key component of the City's 2013 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 2013 Annual Plan is the end result of a lengthy, detailed, and well advertised, citizen participation process that included four neighborhood based meetings in June 2012 designed to encourage comments, suggestions, and ideas from various community groups, residents, business persons, and other interested parties. The DRAFT Action Plan was made available for public review on August 31, 2012, a public hearing was held on September 6, 2012, and a month long public comment period concluded on October 6, 2012. The public hearing reviewed the plan specifics, and a copy of the public hearing minutes is included with this agenda item. The Annual Plan was originally submitted for vote at the earliest possible date, as the public comment period ended on October 6, 2012.

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	\$2,189,900
HOME Investment Participation Program	
\$315,000	
HOME Program Income	\$62,000
Emergency Shelter Grant	\$156,000
Section 8 Leased Housing Program	
\$3,100,000	
PROJECTED FEDERAL REVENUE	\$5,822,900

CD is cutting \$135,000 in 2013 salaries and can transfer and additional \$85,000 in 2013 salary costs to outside grant funding sources. CD will continue to solicit outside grant funding to further offset administrative costs. This will help pay a greater portion of employee salaries, reduce the need for general fund assistance, and protect the City from future HUD entitlement reductions. If the post April 2012 trend continues, CD will not require and general fund contribution in out years.

Moving forward, Community Development's (CD) goal is a sustainable budget every year. The 2012 revenue to expenditure gap was **\$383,000**. Recent CD administrative actions and the proposed 2013 budget are meant to ultimately eliminate reliance on casino revenues, whether collected or uncollected. The proposed changes also direct HUD funding to more appropriate activities.

The 2013 budget proposal requests that the City of Niagara Falls fund all Carnegie Building utility/maintenance costs (\$18,300), and \$75,000 of CD's annual retirement costs, for a total of **\$93,300**. The requested retirement contribution represents 39% of the department's total retirement costs (\$195,000). The proposed gap would be \$289,070, or 75% less, than the 2012 CD administrative budget gap.

The Consolidated Plan, including the proposed budgets, must be adopted by the City Council and submitted to HUD by November 15, 2012. 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 Emergency Shelter budgets for FY 2013. 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 2013 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 Choolokian moved to Table

Yeas 5
Nays 0

TABLED

Council Chairman Fruscione said, this will be voted on Thursday, November 1, 2012

RESOLUTION: MYLCHREEST, JR., RICHARD, REOPENING SECTION 384-D OF THE RETIREMENT & SOCIAL SECURITY LAW, 2012-84
BY: COUNCIL CHAIRMAN FRUSCIONE

Agenda Item #11

BE IT RESOLVED, that the governing board of the City of Niagara Falls, does hereby assume the additional cost required to provide the reopening of Section 384-D of the Retirement and Social Security Law, pursuant to Chapter 169 of the Laws of 2012.

Yeas 5
Nays 0

ADOPTED

There being no further business to come before the Council, Chairman Fruscione recessed the Meeting at 7:35 PM until November 1, 2012 at 4:00 PM.

Carol A. Antonucci
City Clerk



NOVEMBER 13, 2012
REGULAR COUNCIL MEETING **NIAGARA FALLS, NEW YORK**

The first session of the November 13, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:03 p.m. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell.

Fire Chief Tom Colangelo spoke on the response of Captains Zona and Lucantonio of his Department and Janet Ligammari, a private citizen, during an emergency situation at an Awards Dinner at the Cristoforo Colombo Society. Council Member Kristen Grandinetti presented each of the three with a copy of the Council Resolution recognizing them for their quick and professional response, and Mayor Paul Dyster also thanked them on behalf of the City.

Jim Haid, Project Coordinator for the Isaiah 61 Project, gave an update. He noted that the Project provides job training in the construction trades to rehab vacant/abandoned houses for sale to low to middle income families, and requested the Council's support for Agenda Item #4.

Senior Planner Thomas DeSantis and Susan Sherwood, Project Manager for Wendel Duchscherer, spoke on the progress of the International Railway Station and Intermodal Transportation Center Project. They noted that Phase I has been completed, Phase II should be completed in the spring of 2013, and Phase III is underway. A lengthy discussion followed on the Project.

In the Administrative Update, Mayor Dyster said that:

1. Barry Snyder has been inaugurated as President of the Seneca Nation of Indians, and the Mayor will meet with him as soon as possible to discuss matters relating to the Casino funds.
2. A positive story on the Lewiston Road Project was shown on Channel 4 News last night.
3. Copies of the Memorandum on the Meeting of the Trustees of the New York Power Authority regarding the adjustment of the payment schedule for the Niagara Project have been given to the Council. Corporation Counsel Craig Johnson spoke on the difference in the amount received in payments for the remaining 44 years of the agreement, as opposed to a lump sum payment that was offered. A lengthy discussion followed. Mayor Dyster will begin meeting with the Council tomorrow to discuss the proposal and the 2013 Budget.

Mr. Johnson distributed copies of a Resolution to be added to the Agenda relative to calling for a Public Hearing on the abandonment of a portion of the alley running east-west from Third Street to Fourth Street between Rainbow Boulevard and Buffalo Avenue.

Council Member Choolokian moved to add the Resolution to the Agenda.

Yeas	5
Nays	0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #15.

This Session ended at 5:05 PM

Chairman Fruscione reconvened the Meeting at 7:05 p.m. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Anderson and the Chairman led the gathering in the Pledge of Allegiance to the Flag.

The Chairman called a Special Order of Business, a Public Hearing relative to the Mayor's Proposed 2013 Executive Budget, and asked if there were any speakers relative thereto. The following spoke;

Frank Croisdale
Faith Kyle, Rhyleigh Marshanke, Olivia Adams, Elizabeth Lowell
Ron Anderluh
Ed Battaglia
Candace Corsaro
Don King
Paul Gromosiak
Rob Nichols
Donald Supon
Joseph Swartz
Kathleen Lloyd
Ken Hamilton

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

Candace Corsaro Agenda Item #2
Kathleen Lloyd misuse of Casino funds; against NYPA agreement
John Prozeralik City must change way of doing business

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CLAIM REPORT FOR THE MONTH OF OCTOBER 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: NY INTERNATIONAL RAILWAY STATION/INTERMODAL TRANS. CENTER PROJECT, AMENDMENT, WENDEL DUCHSCHERER, ARCHITECTS

Agenda Item #2

A contract for consultant services for the above referenced project was awarded to Wendel-Duchscherer, Architects and Engineers, Inc. (WD), 140 John James Audubon Pkwy, Suite 201, Buffalo, NY 14228 by City Council on July 25, 2005 and dated January 3, 2006, which was subsequently extended on February 11, 2010 to include right-of-way services, final design, and other services associated with the above project.

Since that time, substantial "pre-obligation" requirements of the TIGER II Grant's federal funding agency -Federal Railroad Administration and additional "pre-construction" activities have resulted in additional costs associated with the final design phase of the station project.

These ongoing and additional work activities will progress the Project through the bidding preparation before award and construction. This ongoing and additional work tasks total \$268,750.00. A more detailed explanation of work activities completed and proposed are contained in the letter and services summary provided by Susan Sherwood, Wendel Project Manager, dated July 20, 2012, and made an attachment hereto (on file in the City Clerk's Office).

The 15.6% local (non-federal) matching share of this contract amendment amount has previously been approved by Council. Those dollars are dedicated for this project. The non-local share above 15.6% is fully reimbursable under the terms of the existing NYS-DOT Supplemental Agreement No. 2 (Comptroller's Contract No. D017307 for the NF Intermodal Transportation Center Project -PIN 5756.28), which specifically stipulates for reimbursement of expenditures, to the City, up to \$4,366,856.83.

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

Council Member Walker moved to remove the communication from the table

Yeas	3
Anderson, Grandinetti, Walker	
Nays	2
Choolokian, Fruscione	

COMMUNICATION REMOVED FROM THE TABLE

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

Yeas	3
Anderson, Grandinetti, Walker	
Nays	2
Choolokian, Fruscione	

APPROVED

HARD ROCK CAFÉ: RESCHEDULING OF KC AND THE SUNSHINE BAND CONCERT

Agenda Item #3

Please recall that the August 11, 2012 HRC Event featuring KC and the Sunshine Band ("KC") was cancelled mid-way through the show prior to KC taking the stage because of severe and inclement weather. The Co-Promotion Agreement dated March 13, 2012 by and between the City and HRC addresses the cancellation of an Event for reasons such as inclement weather and allows HRC the ability to "reschedule the Event with the same Artist to occur at a future date and time that is mutually agreeable to the CNF, HRC and the Artist." Discussions have taken place among the parties and two (2) future dates have emerged as dates that are mutually agreeable to all. The first mutually agreeable date is Saturday, August 10, 2013 and the second mutually agreeable date is Saturday, August 31, 2013. The preferable date is Saturday, August 10, 2013.

Since the City has already paid HRC for the cost of KC and the production fees for this Event, there will be no further cost to the City in this regard. The only cost to the City will be for City services to support this event.

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

CITY PROPERTY: 2215 WHITNEY AVE. SALE TO ISAIAH 61 PROJECT

Agenda Item #4

The City has been approached by Jim Haid, Coordinator of the Isaiah 61 Project, to acquire the City owned parcel located at 2215 Whitney Avenue, Niagara Falls, New York (the "Premises"). The City acquired the Premises in the 2011 In-Rem tax foreclosure proceeding. Attached hereto (on file in the City Clerk's Office) is a copy of a printout from the Assessor's office and accompanying photograph. The Isaiah 61 Project proposes to acquire the Premises from the City for the sum of \$500.00 and rehab the structure in collaboration with Orleans/Niagara BOCES in a vocational training program to benefit underemployed and low income residents of the City of Niagara Falls. Attached hereto is a copy of a communication from the Isaiah 61 Project which describes its plans for the Premises (and others) and also contains a narrative about the Isaiah 61 Project.

Once the Premises is successfully rehabilitated, the home will be offered for sale to a qualified low to moderate income family pursuant to HUD guidelines. The long term benefit to the City is identified as being the rehabilitation of a structure which will become a home for a qualified family rather than allowing the structure to continually deteriorate and ultimately be placed on the City's demolition list. The immediate benefit to the City is that the City will be relieved from the burden of maintaining the Premises, inclusive of cutting the grass and paying county and school district taxes.

The Planning Board has reviewed this matter and has recommended that the Premises be sold to Isaiah 61 Project as described. Attached is a copy of the Planning Board's recommendation.

Will the council so approve and find that the proposed sale of the premises to Isaiah 61 Project is in the best interest of the City, that the best interest of the City will be subserved by dispensing with a sale at public auction and that the sale of the premises take place pursuant to terms and conditions contained in a contract satisfactory to the Corporation Counsel and authorize the Mayor to execute such a contract as well as any and all documents necessary to accomplish the sale?

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: HUTCHESON, DAVID

Agenda Item #5

RE: Request for Approval to Settle and Pay Claim of David Hutcheson 1227 Saunders Settlement Road, Niagara Falls, New York 14305

Council Members:

Date Claim Filed:	September 7, 2012
Date Action Commenced:	N/A
Date of Occurrence:	July 18, 2012
Location:	Porter Road, 200 feet east of Hyde Park.
Nature of Claim:	Automobile damage sustained in an accident with City vehicle
City Driver:	James Dolson
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$549.48
Make Check Payable to:	David Hutcheson
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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: CACCIATORE, FRANK

Agenda Item #6

RE: Request for Approval to Settle and Pay Claim of Frank Cacciatore

Council Members:

Date Claim Filed:	September 12, 2012
Date Action Commenced:	N/A
Date of Occurrence:	July 17, 2012
Location:	740 Tenth Street, Niagara Falls, New York
Nature of Claim:	Theft of property while on duty with NFFD.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim, contractual obligation.
Amount to be Paid:	\$250.00
Make Check Payable to:	Frank Cacciatore
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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: MUZZILLO, LOUIS

Agenda Item #7

RE: Request for Approval to Settle and Pay Claim of Louis Muzzillo a/s/o John Guisiana 509 Third Street, Niagara Falls, New York 14301

Council Members:

Date Claim Filed:	June 6, 2011
Date Action Commenced:	N/A
Date of Occurrence:	May 11, 2011
Location:	511 Third Street
Nature of Claim:	Property damage sustained in an accident with City vehicle
City Driver:	Jermaine Harris
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$885.60
Make Check Payable to:	Louis Muzzillo
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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

SECOND HAND DEALER: NATIONAL UNLIMITED PROPERTIES DEVELOPERS/LAWRENCE HAWKING

Agenda Item #8

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 license and Pawnbroker Dealer license. This application has been approved by the Niagara Falls Police Department.

National Unlimited Properties Developers LLC (2 Locations)
2522 Pine Ave
&
5647 Niagara Falls Blvd.

Lawrence Hawkins
Will the Council so approve?

Council Member Choolokian moved to table the communication

Yeas 5
Nays 0
TABLED

RESOLUTION: FIRE DEPT., RECOGNITION REGARDING THE RESUSCITATION OF A NIAGARA FALLS CITIZEN, 2012-87
BY: ALL COUNCIL MEMBERS

Agenda Item #9

WHEREAS, on October 13th, 2012, a member of the Cristoforo Colombo Society collapsed and went unresponsive during their Annual Columbian Awards Dinner; and

WHEREAS, Honorary Colombian Award winner Janet Ligammari, a registered nurse; Niagara Falls Fire Department Captain Jason Zona and fellow Fire Captain Bernard Lucantonio attended to the victim who was determined to be in cardiac arrest; and

WHEREAS, Ms. Ligammari, Captains Zona and Lucantonio provided CPR, doing rescue breathing and chest compressions to the patient while 911 was notified and the Niagara Falls Fire Department responded; and

WHEREAS, the patient, through that care, regained a pulse and consciousness upon arrival of the Fire Department. The citizen was transported to Niagara Falls Memorial Medical Center and was admitted to the ICU where he was released from within a few days, doing well.

NOW THEREFORE BE IT RESOLVED, that Niagara Falls Fire Department Captains Zona and Lucantonio and Ms. Ligammari be recognized for their heroic efforts and quick response in attending to the victim of this unfortunate incident. Thankfully, due to their professional attendance to the victim, they were able to save a life and prevent a tragic ending. We ask the citizens of the City of Niagara Falls to join the Niagara Falls City Council in saying "THANK YOU" to them regarding their quick, professional response.

Yeas 5
Nays 0
ADOPTED

RESOLUTION: MT. ZION MISSIONARY BAPTIST CHURCH CELEBRATING THEIR 50TH ANNIVERSARY, 2012-88
BY: ALL COUNCIL MEMBERS

Agenda Item #10

WHEREAS, on November 9th, 2012, the Mt. Zion Missionary Baptist Church celebrated their 50th Anniversary; and

WHEREAS, in 1962 Mt. Zion was born when a faithful group of committed Christians organized a series of prayer meetings and services on a 13th street lawn, and in a Highland Avenue garage; and

WHEREAS, the Church purchased a small church at 1332 Calumet Avenue and on July 14th, 1963 called its first Pastor, the Rev. W.R. Vaughn. On March of 1970, they called its second Pastor, the Rev. Matthew J. Bushelon; and

WHEREAS, after the Church grew, they held their first service on August 4th, 1974 in the present 1334 Calumet Avenue building which is a beacon to the Highland Community; and

WHEREAS, Mt. Zion has been a positive force in the Community and the City, with its Vacation Bible School, Food Pantry and many other community services, and

WHEREAS, in 2010, they called their 3rd Pastor, the Reverend Timothy J. Brown, and

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council are honored to pay tribute to the Mt. Zion Missionary Baptist Church on the celebration of their 50th Anniversary.

Council Member Walker moved to amend the Resolution by adding the name of Pastor Reverend Timothy J. Brown.

Yeas 5
Nays 0

AMENDMENT APPROVED

Yeas 5
Nays 0

RESOLUTION ADOPTED AS AMENDED

RESOLUTION: SENIOR CITIZEN COUNCIL: RE-APPOINTMENT, 2012-89
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #11

BE IT RESOLVED, that the following individual is hereby re-appointed to the City of Niagara Falls Senior Citizen Council effective immediately for the expiration date, which appears opposite his/her name:

RE-APPOINTMENT **TERM EXPIRES:**

Ed Weber 12/31/2014
1306 Maple Avenue
Niagara Falls, NY 14305

Yeas 5
Nays 0

ADOPTED

RESOLUTION: BRIDGE REPAIRS, FUNDING, 2012-90
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #12

WHEREAS, the City of Niagara Falls Bridge Repair - Minor Maintenance Project: Three (3) Bridge Deck Overlays, BINs 2043870, 2060200 & 2260900 and One (1) Bridge Joint Replacement. Wash & Seal and Bearing Lubrication, BIN 2260880, City of Niagara Falls, Niagara County, PIN 5760.19 (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) and Construction & Construction Inspection phases of the project PIN 5760.19; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Niagara Falls, duly convened does hereby; and

BE IT FURTHER RESOLVED, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and

BE IT 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) and Construction & Construction Inspection phases of the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$ 185,000 is hereby appropriated (in addition to \$ 25,000 previously appropriated for the project's Preliminary Engineering (Design I-VI) phase via City Resolution No. 2011-47 adopted on June 13th, 2011) and made available to cover the cost of participation in the above phases of the Project; and

BE IT 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) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 210,000, 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

BE IT 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

BE IT 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

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: PORTER AVE. BRIDGE OVER CSX RAILROAD, PAINTING, FUNDING, 2012-91

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #13

WHEREAS, the Project to Paint the Porter Avenue 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) and Construction & Construction Inspection phases of the project PIN 5760.18; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Niagara Falls, duly convened does hereby; and

BE IT FURTHER RESOLVED, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and

BE IT 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) and Construction & Construction Inspection phases of the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$ 67,000 is hereby appropriated (in addition to \$ 15,000 previously appropriated for the project's Preliminary Engineering (Design I-VI) phase via City Resolution No. 2011-34 adopted on May 2nd, 2011) and made available to cover the cost of participation in the above phases of the Project; and

BE IT 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 (Design I-VI) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 82,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases exceeds \$ 350,000, the project's current Total Cost, 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

BE IT 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

BE IT 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

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: "PUBLIC LIBRARY", CITY CHARTER AMENDMENT, PUBLIC HEARING, 2012-92

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #14

RESOLVED, that Local Law No. ___ for the year 2012 be introduced, and that a public hearing be held on such Local Law on the 26th day of November, 2012 at 7:00 p.m. Standard Time, in the Council Chambers of the City of Niagara Falls, New York and that three (3) days notice of such hearing be published in the Niagara Gazette preceding said hearing relative to amending Article XI by amending Section 294-a relative to increasing the number of Board of Library Trustees from five (5) members to nine (9) members.

Yeas	5
Nays	0

ADOPTED

RESOLUTION: ABANDONMENT OF ALLEY, PUBLIC HEARING, 2012-93
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #15

WHEREAS, the adjoining property owner has requested the abandonment of a portion of the alley running east-west from Third to Fourth Streets between Rainbow Boulevard and Buffalo Avenue; and

WHEREAS, the Planning Board of the City of Niagara Falls is reviewing the abandonment; and

WHEREAS, this Council declares its intention to abandon said alley part, subject to a favorable recommendation from the Planning Board.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, that a public hearing be held relative to the abandonment of the aforementioned alley portion, said public hearing to be held at a meeting of the Council to be held at the Council Chambers in City Hall on November 26, 2012 at 7:00 p.m. standard time and the City Clerk is hereby directed to publish notice of intention to discontinue and abandon the said alley portion in the official newspaper once a week for two (2) successive weeks preceding November 26, 2012.

Yeas	5
Nays	0

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 8:50 p.m.

Carol A. Antonucci
City Clerk



NOVEMBER 26, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the November 26, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:07 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Walker moved to approve the Minutes from the City Council Meetings of October 29, Recessed Meeting November 1 and November 13, 2012.

Yeas	5
Nays	0

APPROVED

Seth Piccirillo, Director of Community Development, gave an update on the Live NF/College Tuition Reimbursement Program. He noted that, to date, the Program has shown a \$2 for \$1 yield on the money invested in the Program; the Program received national media advertising at no cost; the Department is working with M & T Bank on mortgaging for home ownership; and, a review of applications received will begin in December, 2012. In response to the question of Chairman Sam Fruscione, Mr. Piccirillo added that the \$200,000 funding for the Program did not come from the General Fund, but from URA funds.

In the Administrative Update, Mayor Paul Dyster reported that:

1. Senator Charles Schumer announced that Niagara Falls has been selected to participate in the Department of Justice Program to address Public Safety issues.
2. Lt. Governor Duffy said that the Buffalo Billion Plan is still being worked on, and money set aside for the Plan will not be diverted downstate for Hurricane Sandy repairs.

Mayor Dyster explained that Agenda Item #7, relative to an appointment to the Library Board, was to fill a vacancy, and pending the Council's action on Agenda Item #18, a Local Law to change the number of members of the Library Board, he has other qualified candidates for appointment to the Board.

Chairman Fruscione said that the Council wants to overturn the denial of the Traffic Advisory Commission to install All Way STOP signs at various locations (Agenda Item #12), and asked Corporation Counsel Craig Johnson for his guidance in doing so.

This Session ended at 4:22 PM

CONTRACT: LASALLE WATERFRONT PARK EXPANSION, PHASE 2, GARDENVILLE LANDSCAPE & NURSERY, LLC

Agenda Item #3

The following was the result of bids received on October 3, 2012, for the above referenced project:

<u>CONTRACTOR</u>	<u>BASE BID</u>
Gardenville Landscape & Nursery, LLC 3069 Clinton St. West Seneca, NY 14224	\$ 215,399.73
Scott Lawn Yard , Inc.	\$ 239,951.00
Mark Cerrone, Inc.	\$ 247,330.00
Yarussi Construction, Inc.	\$ 256,590.00
Sicoli Construction Services, Inc.	\$ 268,689.00
Hydrolawn of Buffalo, Inc.	\$ 269,708.68

Per the contract documents, award is determined by the lowest base bid making Gardenville Landscape & Nursery, LLC this project's successful contractor. In addition, the City has opted to include select alternate bid items totaling \$8,042.50 to the base bid amount, making the total contract award amount \$223,442.23.

Funding is available under a combination of Greenway Funding code H0813.2008.0813.0449.599. and a grant from the New York State Environmental Protection Act.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: BUFFALO AVE. RECONSTRUCTION PROJECT, CHANGE ORDER #1, CATCO

Agenda Item #4

A contract for the above referenced project was awarded to CATCO on May 29, 2012 in the amount of \$9,979,999.00.

Subsequent to the start of the project, the contractor has exceeded the contract quantity estimated for groundwater containment, testing and disposal. The cost associated with the additional groundwater handling to date is \$240,000.00. However, sufficient funds presently exist for contractual items not currently installed which will allow for a net \$0.00 change to the contract at this time.

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

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

Yeas	5
Nays	0

APPROVED

CONTRACT: SNOW REMOVAL EQUIPMENT, RENTAL, ARMAND CERRONE, INC. & GEORGE & SWEDE SALES & SERVICE, INC.

Agenda Item #5

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

TO: Armand Cerrone, Inc.
4625 Witmer Road
Niagara Falls, NY 14305

FOR: Item #'s: 1 - 56 as per the attached tally sheet (on file in the City Clerk's Office).

TO: George & Swede Sales & Service, Inc.
7155 Big Tree Road
Pavilion, NY 14525

FOR: Item #'s: 33 - 35 as per the attached tally sheet (on file in the City Clerk's Office).

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 Four (4) vendors. Two (2) bids were received. Unlike most bids in which the low bidder for each item is awarded the bid, we are asking you to award each item to all those vendors who bid on that item. By doing so, when snow removal equipment is needed the City will have several sources from which to obtain equipment. The order in which vendors will be contacted will be based on their bid price.

Funds for this expenditure will be made available in the Department of Parks and Public Works, Snow Removal Equipment code: A5142.0000.0442.003.

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

Yeas 5
Nays 0
APPROVED

AMTRAK, TEMPORARY EASEMENT

Agenda Item #6

During the construction of the train station project the tracks carrying trains to Canada will be temporarily relocated so the construction may proceed. To allow this, the City has been asked to grant a temporary easement as shown on the attached map (on file in the City Clerk's Office).

As the construction is completed, the tracks will be removed from City property.

The Planning Board has reviewed this request and recommends its approval.

Will the Council approve the granting of the Temporary Easement to Amtrak with terms and conditions acceptable to the Corporation Counsel and authorize the Mayor to execute the same?

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

Yeas 5
Nays 0
APPROVED

LIBRARY BOARD, APPOINTMENT

Agenda Item #7

I hereby appoint the following individual to the Niagara Falls Library Board:

<u>Appointment:</u>	<u>Term Expires:</u>
Noreen K. Hill	12/31/2015
536 17 th Street	
Niagara Falls, NY 14301	

Kindly review the attached resume (on file in the City Clerk's Office) of Ms. Hill.

Will the Council so approve?

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

Yeas	5
Nays	0

APPROVED

CONTRACT: DOT, UTILITY WORK AGREEMENT, RELOCATION OF STREET LIGHT POLES

Agenda Item #8

As the Council is aware, the New York State Department of Transportation is in the process of reconstructing the two bridges that carry Interstate 190 over Buffalo Avenue. As part of this process, the DOT is seeking a Utility Work Agreement with the City to allow for the relocation of City-owned street light poles in the construction area.

A copy of the agreement is attached (on file in the City Clerk's Office).

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

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE TRAFFIC ADVISORY COMMISSION

460 23RD STREET, INSTALL HANDICAPPED ACCESS SPACE

Agenda Item #9

At the Traffic Advisory Commission meeting held on November 7, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE
IN FRONT OF 460 - 23RD STREET

Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: David Snyder, 460 - 23rd Street

It is requested that City Council approve this recommendation.

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

Yeas	5
Nays	0

APPROVED

357 SPRUCE AVENUE, INSTALL HANDICAPPED ACCESS SPACE

Agenda Item #10

At the Traffic Advisory Commission meeting held on November 7, 2012 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE IN FRONT OF 357 SPRUCE AVENUE

[Physician verification of wheelchair dependency and/or severe restriction of movement, has been received]

Submitted By: Sabrina Arbatosky, on behalf of her father Charles, 357 Spruce Avenue

It is requested that City Council approve this recommendation.

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

Yeas 5
Nays 0

APPROVED

88TH STREET BETWEEN LINDBERGH AVE. & THE DEAD END, OVERNIGHT PARKING

Agenda Item #11

At a Traffic Advisory Commission meeting held on November 7, 2012 the Commission recommended APPROVAL of the following item:

INSTALL OVERNIGHT PARKING ON THE EAST SIDE OF 88TH STREET BETWEEN LINDBERGH AVENUE AND THE DEAD END

A Petition from the residents of this block of 88th Street and 87th Street (who have the rear of their properties on the west side of the street) was received with 100% signatures.

Submitted By: Rene Hudak, on behalf of her father Dominic Niccola, 8800 Lindbergh Avenue & Petition/Residents of Block

It is requested that City Council approve this recommendation.

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

Yeas 5
Nays 0

APPROVED

ALL WAY STOP SIGNS, VARIOUS INTERSECTIONS, DENIAL

Agenda Item #12

At the Traffic Advisory Commission meeting held on November 7, 2012, the Commission:

DENIED:

1) Request submitted by Robert Anderson to INSTALL ALL WAY STOP SIGNS at intersections of Edison Avenue and 72nd Street, Perry Avenue and 72nd Street and Perry Avenue and 77th Street.

The "Federal Manual of Uniform Traffic Control Devices" (MUTCD) guidelines warrant either five right angle or turning collision accidents in any twelve consecutive months or volumes of 300 + vehicles per hour on the major road and 200 + vehicles per hour on the minor road for any eight hours of the day. A study of these intersections revealed:

Accidents (right angle/turning collision):

77th/Perry: 2008 - 1, 2009 - 0, 2010 - 0, 2011 - 0, 2012 (thru 11/1) - 1
72nd/Perry: 2008 - 0, 2009 - 0, 2010 - 0, 2011 - 0, 2012 (thru 11/1) - 1
72nd/Edison: 2008 - 1, 2009 - 1, 2010 - 1, 2011 - 0, 2012 (thru 11/1) - 2

Volumes:

77th/Perry: 77th - peak hour - 139; 8th highest hour - 100
Perry - peak hour - 42; 8th highest hour - 24
72nd/Perry: 72nd - peak hour - 180; 8th highest hour - 104
Perry - peak hour - 21; 8th highest hour - 11
72nd/Edison: 72nd - peak hour - 180; 8th highest hour - 104
Edison - peak hour 50; 8th highest hour - 26

In addition Police Traffic Captain Sal Pino said speeding was not an issue in these areas. These intersections fall far short of the MUTCD Minimum Warrants for the placement of "ALL WAY" stop signs. The homeowner at Perry Avenue and 77th Street (south east corner) will be contacted to trim high hedges which could obstruct sight. Therefore the Commission denied this request.
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

COMMISSIONER OF DEEDS, APPOINTMENTS

Agenda Item #13

The following have requested City Council approval for Commissioner of Deeds for a term from January 1, 2013 to December 31, 2014.

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

Thomas Ewing	NFPD	
Shawn Larrabee	NFPD	
Margaret M. Van Deusen	141 80 th St., NF, NY	14304
Helen K. Frye-Gallaher	543 16 th St., NF, NY	14301
Kathy E.Kephart	5737 Locust St Ext., Lkp., NY	14094
Lisa Ann Smith	2260 78 th St., NF, NY	14304
Jennifer L. Weigel	355 37 th St., NF, NY	14303
Ida Searight	2736 21 st . NF, NY	14305
Vincent Mameli	462 77 th St., NF NY	14304
Gary Bevilacqua	4290 Riverwalk Dr S., Youngstown, NY	14174
Christina Pecoraro	2368 Maryland Ave., NF NY	14305
Denise Garlitz	2249 Grand Ave., NF, NY	14301
Paige Treat	6870 Sy Rd., NF, NY	14304

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

Yeas	5
Nays	0

APPROVED

RESOLUTION: PLANNING BOARD, REAPPOINTMENT, 2012-94

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #14

BE IT RESOLVED, that the following individual is hereby reappointed to the City of Niagara Falls Planning Board effective immediately:

REAPPOINTMENT	TERM:
Richard Smith	12/31/2015
1021 - 96 th Street	
Niagara Falls, New York 14304	

Yeas	5
Nays	0

ADOPTED

RESOLUTION: PAROLE OFFICE RELOCATION, 2012-95

BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #15

WHEREAS, the New York State Division of Parole has indicated a desire to move its office from its present location on Third Street to another area; and

WHEREAS, since Third Street is a destination for tourists and others who seek entertainment, this City Council supports a move to a different location; and

WHEREAS, this City Council understands that several suitable sites are being considered.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Niagara Falls, supports the removal of State parole operations from Third Street to another suitable location in the City as determined by the Division of Parole; and

11/26/2012

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to New York State Senator George Maziarz, New York State Assemblyman John Ceretto and Barbara Gray, Real Estate Project Manager, New York State Office of General Services.

Council Member Walker moved to amend the resolution by removing the references to the Building at 6th Street & Walnut Avenue.

Yeas	5
Nays	0
	MOTION TO AMEND APPROVED
Yeas	5
Nays	0
	ADOPTED AS AMENDED

RESOLUTION: ALLEY ABANDONMENT BETWEEN THIRD & FOURTH STS., 2012-96
BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, the City Council of the City of Niagara Falls desires to abandon a portion of the alley running east-west between Third Streets and Fourth Streets, South of Rainbow Boulevard and North of Buffalo Avenue in order to facilitate the development of the real estate; and

WHEREAS, the Planning Board of the City of Niagara Falls, at its meeting on November 14, 2012, approved the abandonment of a portion of the aforementioned alley (a copy of the Planning Board resolution is attached hereto); and

WHEREAS, the City Council did, by resolution, give notice of its intention to abandon a portion of the aforementioned alley and did direct the City Clerk to publish notice of such intention and that a public hearing would be held by the City Council at its meeting to be held in the Council Chambers on November 26, 2012 at 7:00 p.m. standard daylight time and advise that all persons interested would be heard there on that said time and place; and

WHEREAS, the hearing was duly held on November 26, 2012 at 7:00 p.m. standard daylight time in regards to said abandonment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York, that a portion of the alley running east-west between Third Street and Fourth Street, South of Rainbow Boulevard and North of Buffalo Avenue is hereby abandoned, the said abandoned alley portion subject, however, to reservation of right of and for the City of Niagara Falls, the Niagara Falls Water Board and any utility companies, their successors and assigns to use, maintain, repair, replace and continue to maintain their services and operations in said abandoned alley. The said alley portion is bounded and described as follows:

Commencing at the point of intersection of the south line of the alley running east-west between Third and Fourth Streets, south of Rainbow Boulevard and north of Buffalo Avenue with the west line of Fourth Street; thence westerly along the south line of said alley a distance of 217.8 feet to a point, which is also the point of intersection, of said south line with the west line of SBL 159.53-1-12.2; thence north at a 90 degree angle a distance of 27 feet to a point on the north line of said alley, thence easterly to the point of intersection of said north alley line with the west line of Fourth Street, thence south along the west line of Fourth Street a distance of 27 feet to the point and place of beginning; and

BE IT FURTHER RESOLVED, that the abandonment of the alley is contingent upon the successful closing of a certain real estate contract dated October 9, 2012 by the between Frank Deni and JFD Holdings LP and Plati Niagara Inc.; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed in the Office of the Clerk of the County of Niagara and that the Mayor may sign deeds or other documents desirable to effectuate this abandonment.

Yeas	5
Nays	0
	ADOPTED

RESOLUTION: "PUBLIC WORKS FEES/FIRE PROTECTION SPECIAL ASSESSMENTS".
ADOPTING CHAPTER 252, 2012-83
BY: COUNCIL MEMBER CHOOLOKIAN, COUNCIL CHAIRMAN FRUSCIONE.

Agenda Item #17

In Vetoing the Ordinance, on November 13, 2012, Mayor Paul A. Dyster had the following comments:

"The enforceability of this ordinance is highly questionable. It is more likely to lead to expensive litigation than to collection of any revenue. Even if the revenues were collectible the amounts received would be insignificant compared to the millions of dollars of casino revenue owed to the City of Niagara Falls. Therefore, I have no choice but to veto this legislation."

Council Member Walker moved to Table a vote to override the Mayor's veto.

Yeas	5
Nays	0
	TABLED

LOCAL LAW: AMENDING THE CITY CHARTER, BOARD OF LIBRARY TRUSTEES, LOCAL LAW 2012-1

Agenda Item #18

A Local Law to amend the Niagara Falls City Charter as amended, by amending Section 294-a of Article XI by amending the Board of Library Trustees from five (5) members to not less than Five (5) members nor more than Nine (9) members.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NIAGARA FALLS, NEW YORK, as follows:

Section 1. The Niagara Falls City Charter, as amended, is hereby amended by amending Section 294-a to read as follows:

ARTICLE XI

LIBRARY BOARD

SECTION 294-a. **[Five] Not less than Five (5) members nor more than Nine (9)** members of the Board of Library Trustees, appointed as hereinbefore provided, shall hereafter constitute the Board of Library Trustees. Subject to the provisions of this act, said Board shall have power and it shall be their duty to maintain a free public library, to provide rooms for their use, to employ librarians and other employees and to have the care and supervision of the library building and rooms and the books and other publications belonging thereto and to superintend the letting out and return thereof and to exercise the same discretion as to disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts, and to elect from its members a president, clerk and such other officers as it may by resolution determine. The records of the proceedings of said Board or a transcript thereof, certified by its president and clerk, shall be received in all courts and places as prima facie evidence of the facts therein stated. (As added by L. 1917, Ch. 442; Amended L.L. 1959, No. 2.)

Section 2. This Local Law shall take effect as provided in the Municipal Home Rule Law.

Underlining and **Bold** indicates additions.
Bold and **[Brackets]** indicates deletions.

Yeas	5
Nays	0
	ADOPTED

There being no further business to come before the Council,
Chairman Fruscione recessed the Meeting at 7:26 p.m. until 4:00 PM on
Wednesday, November 28, 2012.

Carol A. Antonucci
City Clerk



DECEMBER 10, 2012
REGULAR COUNCIL MEETING **NIAGARA FALLS, NEW YORK**

The first session of the December 10, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:15 P.M. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 November 26, 2012 and the Recessed Meeting of November 28, 2012.

Yeas	5
Nays	0

APPROVED

Public Works Director David Kinney spoke on the plan for snow removal operations, and said that he will have 5 shifts working 24/7, and, in the event of a snow storm, will have 25 pieces of equipment on the roads.

Representatives of the Community Health Center of Buffalo reported that their Project will create 100 construction jobs, and no additional funds will be required from the City (Agenda Item #6)

In the Administrative Update:

1. City Engineer Jeffrey Skurka reported that the foundation is in for the traffic light in front of the Como Restaurant, but, since, the asphalt plant is now closed, the Project will be completed in the Spring.

2. Mayor Paul Dyster spoke on Governor Cuomo's visit to the City, and noted that: tourism is a priority industry for the area; the State will help finance a winter storage facility for the Maid of the Mist boats; the Regional Economic Development Plan is progressing. State Comptroller Thomas DiNapoli was in the City today to speak on the 2012 Fiscal Profile for the City of Niagara Falls.

3. Senior Planner Thomas DeSantis spoke on the plan for the Robert Moses Parkway South, and said the Project is scheduled to begin in 2014, and will take three to five years to complete.

4. Mayor Dyster spoke on the retirement of Council Secretary Geri Mondri, Police Superintendent John Chella and Purchasing Agent Dean Spring. He thanked them for their service to the City, and wished them well on their retirement.

Council Member Grandinetti asked about additional development and activities for the area of the Gorge where the Maid of the Mist boats would be stored. She also asked for a report at the next Council Meeting on charging special fees for City services at the State Park and Casino.

Chairman Fruscione asked when Lewiston Road would be open to Main Street, and Mr. Skurka said that the work was weather dependent, and would be done as soon as possible.

City Controller Maria Brown reported to the Council on the final figures for the 2013 Budget after the Council's actions on the Mayor's vetoes.

Council Member Choolokian questioned the City's funding for the Hard Rock Event on New Year's Eve (Agenda Item #2), and Corporation Counsel Craig Johnson responded that the City would only be providing in-kind services (Police and Fire Protection, and DPW workers) for the Event. He also questioned the source of funding for the purchase of hot/cold patch, and Mrs. Brown responded that the source was Casino funds that had been previously received and not yet spent.

This Session ended at 4:50 PM

Chairman Fruscione reconvened the Meeting at 7:07 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Grandinetti 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:

Tim McSweeney	Agenda Item #5
Paul Gromosiak	commended Council on Budget; Governors visit; concerns on development at Gorge area
Ron Anderluh	commended Council on Budget; thanks to 3 retiring City employees; increase parking revenues
Tim McSweeney	commended Council on Budget; inhouse control Over Capital Projects
Harvey Albond	job loss in the City

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1
CITY CLERK'S CLAIM REPORT FOR THE MONTH OF NOVEMBER 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

HARD ROCK CAFÉ, CO-SPONSORSHIP, NEW YEARS EVENT

Agenda Item #2

For the past few years, the City has co-sponsored with HRC an outdoor New Year's Eve event which, among other things, included live music and a guitar drop. In the past, the City has not only provided support services such as police presence, emt/fire presence and portable restrooms but also a financial contribution to the event. This year, HRC has offered to promote and undertake most of the costs of the event including but not limited to payment of the performing artist fees, stage and scaffolding of the guitar drop with the City's sponsorship participation being limited to any cost required for police presence, emt/fire presence and portable restrooms as well associated clean up. Funding is available from Tourism Fund Balance.

Will the Council so approve and authorize the Mayor to execute any documents that must be in form and content acceptable to the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

PURCHASE: COLD PATCH/HOT PATCH, DPW

Agenda Item #3

It is requested that DPW purchase cold patch and hot patch for the purpose of patching roads where necessary and for patching water and sewer cuts. The cost for cold patch is \$3,916.01 and the cost for hot patch is \$1,142.35 for a total of \$5,058.36.

Funding is available from reallocated Casino Funds in Account# H.0912.2009.0912.0449.599.

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

CONTRACT: LASALLE WATERFRONT PARK, BOAT DOCKS/GANGWAYS,
ANCHOR MARINE

Agenda Item #4

It is necessary to remove the boat docks and gangways from the water for the winter and store them somewhere. Anchor Marine has submitted a proposal in the total amount of \$2,145.50 which is attached (on file in the City Clerk's Office). This contemplates storage of the docks and gangways at Anchor Marine which is less expensive than storing them on site. The reason for this is that special equipment would have to be brought to the site to remove them from the water. Under the proposal, the docks and gangways will be towed to Anchor Marine. Funding for this service is available from reallocated Casino Funds in Account# H.0912.2009.0912.0449.599.

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

CONTRACT: TRANSFER OF VARIOUS CONTRACTS FROM WENDEL DUCHSCHERER
ARCHITECTS & ENGINEERS TO AUDUBON ARCHITECTURE

Agenda Item #5

As the Council is aware, Wendel Duchscherer Architects & Engineers, P.C. has contracts with the City to provide services related to the Intermodal Transportation Center, the reconstruction of NY Route 104, the replacement of the CSX Bridge over NYS Route 104, LaSalle Waterfront Park Planning Services and the Griffon Park Car Top Launch.

Wendel Duchscherer Architects & Engineers, P.C. and its related companies are undertaking corporate restructuring and have asked the City to consent to the assignment of the contracts for these projects to Audubon Architecture, Engineering, Land Surveying & Landscape Architecture P.C. This will result in no change of the services the City receives under its various agreements and at the completion of the restructuring the entity will be known as Wendel Duchscherer Architects, Engineers, Land Surveying and Landscape Architect, P.C.

Will the Council so approve and authorize the Mayor to execute the City's consent to the attached assignment (on file in the City Clerk's Office)?

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

Yeas

5

Nays

0

APPROVED

CITY PROPERTY: 2715 HIGHLAND AVENUE, PURCHASED BY CHC OF BUFFALO

Agenda Item #6

Community Health Center of Buffalo (CHC) has received a federal grant in the amount of \$5,000,000.00 for the construction of a new health center in the City of Niagara Falls. After considering several different locations, CHC determined that the City owned lot located at 2715 Highland Avenue (the "Premises") will be the most appropriate location for its new health center. The Premises was acquired by the City as a result of the In-Rem tax foreclosure process in 1991. CHC is proposing to pay the City the assessed value of this vacant parcel which is \$14,000.00.

The construction of this new health center will not only be a welcome development in the City but will also relieve the City DPW of the obligation to maintain it. Attached (on file in the City Clerk's Office) is a copy of the Planning Board's approval.

The terms and conditions of sale will be contained in an Agreement to be prepared by the Corporation Counsel.

Will the Council so approve and find that the proposed sale of the premises to CHC is in the best interest of the City, that the best interest of the City will be subserved by dispensing with a sale at public auction and that the sale of the premises take place pursuant to terms and conditions contained in a contract satisfactory to the Corporation Counsel and authorize the Mayor to execute such a contract as well as any and all documents necessary to accomplish the sale?

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

Yeas 5
Nays 0
APPROVED

CLAIM: STANEK, KIMBERLY

Agenda Item #7

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	10/24/2012 - 11/29/2012	\$71.04

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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas 5
Nays 0
APPROVED

IN REM AUCTION, APPROVAL OF BIDS

Agenda Item #8

Attached (on file in the City Clerk's office) is a list of bids from the October 25, 2012 auction. With respect to Schedule A, Ward/Pro 13/3414 and Schedule C, 09/2360 and 09/3005, we recommend approval of the bids subject to payment of any delinquent taxes on other properties within 30 days. If the taxes are not paid by that time, or suitable arrangements made, the bids are rejected and deposits and auctioneer's fees forfeited pursuant to the Terms of Sale.

With regard to Schedule A, we recommend that the bids for Ward/Pro 05/0978, 08/0064, 09/2384 and 09/3070 and Schedule C, 05/2768, 14/3393 and 14/3394 be rejected.

With the exception of the above, we recommend that the bids on Schedules A and C be approved.

The bids on Schedules B and D do not require Council approval and are submitted for your information. With regard to Schedule D, Ward 13, Pro 0220 the bid has been rejected.

Will the Council so approve and authorize the Mayor to execute deeds to the successful bidders in accordance with the Terms of Sale?

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

Yeas 5
Nays 0

APPROVED

HOMESTEAD & NON-HOMESTEAD PROPORTIONS, 2013

Agenda Item #9

In accordance with Resolution 1998-140 relative to the two-tier property tax system that was adopted November 24, 1998 and Section 1903-4c of the Real Property Tax Law, I have calculated the locally adjusted proportions for the City of Niagara Falls 2013 tax levy:

City of Niagara Falls	
Homestead	54.61976
Non-Homestead	45.38024

Will the Council so approve?

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: PLANNING BOARD, REAPPOINTMENT, 2012-99

BY: Council Chairman Samuel Fruscione

Agenda Item #10

BE IT RESOLVED, that the following individual is hereby reappointed to the City of Niagara Falls Planning Board effective immediately:

<u>REAPPOINTMENT</u>	<u>TERM:</u>
Lisa Vitello	12/31/2015
4859 Terrace Drive	
Niagara Falls, New York 14305	

Yeas 5
Nays 0

ADOPTED

RESOLUTION: COUNCIL MEETING SCHEDULE, 2013, 2012-100
BY: ALL COUNCIL MEMBERS

Agenda Item #11

BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York, that it hereby adopts the following 2013 City Council Meeting dates as the official 2013 CITY COUNCIL AGENDA AND MEETING SCHEDULE.

4PM ----- Work Session --7pm --- Council Meeting

**January 7 (Reorganization Meeting)
January 22 - Tuesday**

**February 4
February 19 - Tuesday**

**March 4
March 18**

**April 1
April 15
April 29**

**May 13
May 28 - Tuesday**

**June 10
June 24**

**July 8
July 22**

AUGUST RECESS

**September 3 - Tuesday
September 16
September 30**

**October 15 - Tuesday
October 28**

**November 12 - Tuesday
November 25**

**December 9
December 23**

Yeas 5
Nays 0
ADOPTED

RESOLUTION: SECRETARY TO THE CITY COUNCIL, APPOINTMENT, 2012-101
BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, the current Confidential City Council Secretary will be retiring effective Monday, December 31, 2012.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York, that pursuant to the authority of Section 3.2.e of the City Charter, Kevin Ormsby is hereby appointed as Confidential Secretary to the City Council effective Tuesday, January 1, 2013.

Yeas 4
Council Members Anderson, Choolokian, Walker, Chairman Fruscione
Nays 1
Council Member Grandinetti

ADOPTED

RESOLUTION: USA NIAGARA, FUNDING AGREEMENT, 2012-102
BY: COUNCIL MEMBERS ANDERSON, CHOOLOKIAN, WALKER, CHAIRMAN FRUSCIONE

Agenda Item #13

WHEREAS, in prior years, the City Council has authorized the City to enter into a Funding Agreement with USAN which, among other things, required the City pay to USAN annually a sum not to exceed \$1,000,000 for projected Conference Center and Old Falls Street operating deficits during each year and further required the City to pay to USAN an additional sum equal to up to \$2,100,000, depending upon dollars received by the City from the State of New York in its annual budget, to be applied by USAN to support economic development projects related to the Conference Center and projects in the USAN development district; and

WHEREAS, the amount to be paid to USAN by the City for projected Conference Center and Old Falls Street operating deficits is subject to receipt by the City of State funds appropriated to the City in the States budget or from the local share of revenues received by the City from the operations of the Seneca Niagara Casino for the prior year; and

WHEREAS, while the City has received payments from the State in the State's annual budget, the City has received no payments since 2009 from the operations of the Seneca Niagara Casino; and

WHEREAS, the lack of payments from the operations of the Seneca Niagara Casino, approximating \$60,000,000, has created a financial disaster for the City of Niagara Falls in attempting to finalize the City's 2013 budget; and

WHEREAS, the City is simply not in a position to fund USAN in 2013 in the amount of \$3,100,000 to pay for projected Conference Center and Old Falls Street operating deficits for calendar year 2013 and also to support USAN's economic development projects in 2013.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Niagara Falls, that the Funding Agreement - Convention and Conference Center Agreement and Management of Old Falls Street Agreement expiring on December 31, 2012 entered into by and between USAN and the City dated October 21, 2009 and expiring on December 31, 2012 will not be renewed.

Yeas	4
Council Members Anderson, Choolokian, Walker, Chairman Fruscione	
Nays	1
Council Member Grandinetti	

ADOPTED

There being no further business to come before the Council,
Chairman Fruscione adjourned the Meeting at 7:35 P.M.

Carol A. Antonucci
City Clerk



DECEMBER 26, 2012

REGULAR COUNCIL MEETING

NIAGARA FALLS, NEW YORK

The first session of the December 26, 2012 Niagara Falls City Council Meeting was called to order by Council Chairman Samuel Fruscione at 4:07 P.M. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson, Glenn Choolokian, 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 Choolokian moved to approve the Minutes from the City Council Special Meeting of December 10, 2012 and the Regular Council Meeting of December 10, 2012.

Yeas

5

Nays

0

APPROVED

Fire Chief Thomas Colangelo asked those present to observe a Moment of Silence in memory of the Firefighters who were killed in the Town of Webster, New York.

Chairman Sam Fruscione asked the Council Members to join him in presenting Resolutions honoring three City Employees who were retiring:

1. Council Member Anderson presented the Resolution to retiring Superintendent of Police John Chella.
2. Council Member Walker presented the Resolution to retiring Purchasing Agent Dean Spring.
3. Chairman Fruscione presented the Resolution to retiring Council Secretary Geri Mondri, after the Resolution was read by City Clerk Carol Antonucci.

Mayor Paul Dyster informed the Council Members that the City was ready for the Snow Event that was expected to take place later in the day, and City Administrator Donna Owens said that she had met with Director of Public Works David Kinney and Deputy Director John Caso to plan and prepare for the Event. Chairman Fruscione asked if all the vacancies in the Streets Division of Public Works had been filled, and City Administrator Owens responded that they had not, due to the hiring freeze. Mr. Caso added that the process had begun in order to fill the positions for 2013.

Director of Community Development Seth Piccirillo spoke on the \$450,000 Grant that had been awarded to the City by Empire State Development for the Downtown Stabilization Project. In response to Council Member Walker, Mr. Piccirillo said that demolitions would be done first for the Project, and the Fourth Street area between the 400 and 700 blocks had been targeted.

Mayor Dyster thanked retiring Police Superintendent Chella, and also thanked Administrative Captain John DeMarco, who would be retiring in February. The Mayor then announced that he had chosen Detective Lieutenant Bryan DalPorto as the new Superintendent of Police, and Lt. DalPorto said that he was honored to be chosen to follow Superintendent Chella in leading the Department.

Mayor Dyster also thanked the Hard Rock Café for being a good Corporate Citizen for reimbursing the City for the cancelled KC and the Sunshine Band Concert.

Corporation Counsel Craig Johnson distributed copies of a communication to be added to the Agenda relative to amended fees for use of Parks, Playgrounds and Pools.

Council Member Choolokian 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 #22.

Chairman Fruscione asked Mr. Johnson to clarify Agenda Item #7, relative to an Agreement with USA Niagara Development Corp., and Mr. Johnson explained that the Agreement was only for the management of Old Falls Street.

This Session ended at 4:30 PM

Chairman Fruscione reconvened the Meeting at 7:02 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 there were no speakers.

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1
CITY CLERK'S REPORT FOR THE MONTH OF NOVEMBER 2012
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: TENTH STREET/CEDAR AVENUE RECONSTRUCTION, SUPPLEMENTAL AGREEMENT, CHANGE ORDER #4, FOIT-ALBERT ASSOCIATES

Agenda Item #2

A contract for the above referenced project was awarded to Foit-Albert Associates, P.C. on May 29, 2007 in the amount of \$555,000.00.

As a result of the additional professional services that were required by Foit-Albert for construction management and inspection services due to the issues related to Sue-Perior's reluctance in executing the construction of 10th Street in a timely manner in accordance with the contract plans and specifications, the consultant incurred additional costs and is requesting a supplemental agreement for the balance of service already provided in the sum of \$81,150.35.

On May 14, 2012, the City Council had approved Change Order #3, where funds were moved from the construction line to the construction inspection line to compensate the partial amount due Foit-Albert for the addition work that was required. Until construction begins again on this project, the NYSDOT will not be able to process the request for additional project funding. Currently no work has progressed on the project given pending litigation.

As was stated in the Change Order #3, it is the intent to recover these additional costs for contract administration and construction inspection services from the contractor and/or his bonding company given his non-compliance and substandard workmanship.

Also in Change Order #3, compensation for this current requested change order could also be funded by a future agreement from the New York State Department of Transportation. It will not be determined if funds would be available by the NYSDOT until construction begins again at some future date.

12/26/2012

Therefore it is the recommendation of the undersigned that Change Order #4 be approved in the amount of \$81,150.35. By approving this Change Order #4 the contract total for the project would be increased to \$1,685,197.35.

Funding for this change order is available in Code H0921.9901.0000.0900.H0632.

Will the Council vote to so approve and authorize the Mayor to execute a contract for a supplemental agreement to Foit-Albert Associates in a form acceptable to the Corporation Counsel?

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

Yeas	5
Nays	0

APPROVED

CONTRACT: ELEVATOR MAINTENANCE, DCB ELEVATOR COMPANY, INC.

Agenda Item #3

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

TO: DCB Elevator Company, Inc.
PO Box 426
Lewiston, NY 14092

FOR: Annual Maintenance of elevators in various City Buildings:
\$42,360.00
Emergency call back service: 305.00

This is a one (1) year agreement which will renew automatically, annually for four (4) additional years unless either party gives notice of cancellation.

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. Two (2) bids were received. The above referenced company submitted the lowest bid. A bid was also received from Thyssenkrupp Elevator Corp. for \$87,345.48 (emergency call back service \$263.00) This is a cooperative bid with the Niagara Falls Water Board. Of the above listed annual cost the Water Board will pay \$8,040.00.

Funds for this expenditure are available in various City Departments, Repair to Equipment code: .0444.000.

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

Yeas	5
Nays	0

APPROVED

CONTRACT: ABRAMOWITZ, MORTON, CONSULTING SERVICES

Agenda Item #4

It is desirable that the City Council have access at all times to high quality legal advice. Accordingly, it is desirable to continue the consulting services provided by Morton H. Abramowitz. The cost of such services is \$848.00 per month (\$10,176.00 per year). Funding is available from the City Council consultant budget line.

Will the Council so approve and authorize the Mayor to execute the enclosed Consulting Services Agreement?

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

Yeas	5
Nays	0

APPROVED

HARD ROCK CAFÉ, CANCELLED EVENT REIMBURSEMENT

Agenda Item #5

The August 11, 2012 HRC Event featuring KC and the Sunshine Band (the "Artist") was cancelled during the Event because of inclement weather. The Co-Promotion Agreement entered into by and between the City and HRC allows the parties to reschedule the Event with the same Artist at a mutually convenient time for all parties or, if rescheduling the event is not able to occur, HRC will refund the City's contribution to the cost of the Event. In this case, that contribution was \$42,000.00.

HRC has been working to reschedule the Event with the Artist and during the City Council meeting held on November 13, 2012, the City Council approved the rescheduling date of the Event featuring KC and the Sunshine Band for August 10, 2013 with an alternate date of August 31, 2013. HRC is making all efforts to promote and carry out this Event as planned.

However, notwithstanding the foregoing and in an effort to eliminate any question about HRC's performance of the terms and conditions contained in the Co-Promotion Agreement, HRC, in a gesture of corporate good will, has tendered a check made payable to the City of Niagara Falls in the amount of \$42,000.00 to reimburse the City for its contribution to the cost and expenses of the cancelled Event as per the Co-Promotion Agreement.

Will the Council so approve and authorize this \$42,000.00 reimbursement to be deposited into the Tourism Fund Balance?

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

Yeas 5
Nays 0

APPROVED

HARD ROCK CAFÉ, NEW YEAR'S EVE EVENT, CONTRIBUTION

Agenda Item #6

The City Council recently approved Co-sponsorship of the Hard Rock Café - New Year's Eve Event to take place on December 31, 2012. Part of that event features a Guitar Drop down the side of the United Office Building facing Old Falls Street. The Guitar will be dropped from the 16th floor down to the 8th floor.

The City has been asked to contribute the sum of \$3,500.00 towards the cost of materials and structural modifications to facilitate the guitar drop. Global Spectrum/Old Falls Street has agreed to contribute matching funds in an amount up to \$3,500.00.

Funding is available from Tourism Fund Balance. 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

Agenda Item #7

As a result of severe adverse financial problems in the City which are primarily attributable to the ongoing dispute between the State and the Seneca Nation of Indians which has resulted in the City not receiving casino revenues since 2009, the City finds itself unable to fund USAN's economic development activities, including the management of Old Falls Street. Despite this, it is proposed that USAN continue these activities without cost to the City in calendar year 2013.

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

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

Yeas	5
Nays	0

APPROVED

HOPE VI, PHASE I PROJECT, DEDICATION DEED

Agenda Item #8

Attached (on file in the City Clerk's Office) is a proposed Dedication Deed for the above streets and alleys in Phase I of the Hope VI Project.

On January 23, 2008 the Planning Board approved the revised subdivision plan setting forth these streets.

This Dedication Deed has been approved by the Corporation Counsel as to form and execution and by the City Engineering Department.

It is recommended that Council accept this Deed and direct the City Clerk to have Deed filed in her office and recorded in the Niagara County Clerk's office.

Will the Council so approve?

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

Yeas	5
Nays	0

APPROVED

HISTORIC PRESERVATION COMMITTEE, APPOINTMENT

Agenda Item #9

I hereby reappoint William Robideau (Jamie) of 632 Maple Avenue, Niagara Falls, New York to the Historic Preservation Committee with a term ending December 31, 2016.

Will the Council so approve?

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

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: PARSNICK, ELIZABETH

Agenda Item #10

RE: Request for Approval to Settle and Pay Claim of Elizabeth Parsnick 4217 McKoon Avenue, Niagara Falls, New York 14305
Council Members:

Date Claim Filed:	August 31, 2012
Date Action Commenced:	N/A
Date of Occurrence:	August 27, 2012
Location:	506 75 th Street
Nature of Claim:	Automobile damage sustained from falling tree limb.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$968.52
Make Check Payable to:	Elizabeth Parsnick
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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

CLAIM: REYNOLDS III, BRUCE

Agenda Item #11

RE: Request for Approval to Settle and Pay Claim of Bruce Reynolds, III, 908 87th Street, Niagara Falls, New York 14304
Council Members:

Date Claim Filed:	October 25, 2012
Date Action Commenced:	N/A
Date of Occurrence:	October 10, 2012
Location:	Firehouse 8 parking lot, 320 Hyde Park Blvd.
Nature of Claim:	Automobile damage sustained while on duty with Niagara Falls Fire Department.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim, contractual obligation.
Amount to be Paid:	\$394.72
Make Check Payable to:	Bruce Reynolds, III
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 Choolokian moved that the communication be received and filed and the recommendation approved.

Yeas	5
Nays	0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE HISTORIC PRESERVATION COMMISSION CHAIRMAN

OAKWOOD CEMETERY, DESIGNATION AS HISTORIC LANDMARK

Agenda Item #12

Attached (on file in the City Clerk's Office) is the approval from the Niagara Falls Historic Preservation Commission recommending designation of 763 Portage Road, Oakwood Cemetery, as an historic landmark under the City Historic Preservation Ordinance. This proposed designation was approved with the participation of the cemetery association.

The Historic Preservation ordinance provides:

133.05-02(I) At its next scheduled meeting after receipt of any recommendation from the Commission, the City Council shall consider the designation or acquisition of the landmark site or historic structure, or the designation of the historic district. A majority vote shall be required by the City Council for the designation or acquisition. The Mayor shall approve or veto said designation or acquisition as provided by law.

Will the Council vote to approve the designation of 763 Portage Road, Oakwood Cemetery, and forward the designation to the Mayor for approval, as provided by City Ordinance?

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

Yeas 5
Nays 0

APPROVED

RESOLUTION: CHELLA, JOHN R., NFPD, HONORING, 2012-103
BY: ALL COUNCIL MEMBERS

Agenda Item #13

WHEREAS, on December 31, 2012, Superintendent John R. Chella of the Niagara Falls Police Department will be retiring from the Niagara Falls Police Department after 42 years on the force; and

WHEREAS, an up through the ranks Falls police officer, Chella was appointed superintendent in 2004 and has led the Niagara Falls Police Department through some very challenging times; and

WHEREAS, Chella began as a patrol officer, serving in what was then called the Street Crimes Unit. He served a term as deputy superintendent under Superintendent Ernest Palmer and was also a detective and longtime lieutenant in the Narcotics Division before moving up to the department's chief; and

WHEREAS, Chella oversaw the move of the department from the old Public Safety Building on Hyde Park Boulevard to the new headquarters on Main Street. He has also been credited with working hard to improve relations between police and the community and with making significant investments into proactive, intelligence based policing.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council congratulates Superintendent John R. Chella upon his retirement and wishes him well in his future endeavors.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: SPRING, DEAN W., PURCHASING AGENT, RETIREMENT, 2012-104
BY: ALL COUNCIL MEMBERS

Agenda Item #14

WHEREAS, Dean W. Spring will be retiring from the City of Niagara Falls on December 31, 2012; and

WHEREAS, Dean started with the City on July 2, 1979 and has served as the City's Purchasing Agent ever since. Dean's active involvement in the City's Purchasing functions will leave the City with a positive impact that will carry the City through many more years of sound Purchasing practices.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council of the City of Niagara Falls, New York, recognize the 33 years of service of Dean W. Spring with the City of Niagara Falls and wish him well on his retirement.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: MONDI, GERI, CITY COUNCIL SECRETARY, RECOGNIZING, 2012-105
BY: ALL COUNCIL MEMBERS

Agenda Item #15

WHEREAS, Geraldine "Geri" Mondri will be retiring from the City of Niagara Falls on December 31, 2012. She was appointed as the Secretary to the Niagara Falls City Council on April 1, 2002; and

WHEREAS, a life-long resident of the City of Niagara Falls, Geri was previously employed with the New York State Senate as the District Office Director in Niagara Falls for former NYS Senators Anthony R. Nanula and Alfred Coppola from 1993 to 2002. She was a previous member of the Business and Professional Business Women of Niagara, a previous volunteer for the Niagara Falls Firefighters Christmas Toy Fund and the Annual Lord's Day Dinner and a previous member of the Niagara Falls City, County and State Democratic Committee. Geri received the "Good Neighbor Award" presented by WHLD Radio and Tops Friendly Markets in 1993, the Pine Avenue Business Association's "Employee of the Year" Award in 1996, the "Woman of the Year" Award in 1997 from the Business and Professional Women of Niagara and the "Outstanding Service Award" from the Niagara Falls Block Club Council in 1998. In 1999 both Geri and her husband, Tony, received the "Niagara Falls Firefighters Christmas Toy Fund Award" for over 20 years of voluntary service to the Toy Fund; and

WHEREAS, we thank her for all her years of dedicated service to thirteen (13) different council members, three (3) Mayors and various community groups, associations, boards and commissions. She has assisted both residents and businesses and multitudes of people throughout her years as Secretary to the City Council.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council of the City of Niagara Falls, New York, recognize the many years of service of Geri Mondri with the City of Niagara Falls as Council Secretary and wish her well on her retirement.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: RAY, ARTHUR B., REMEMBERING, 2012-106
BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, on Friday, December 7th, 2012, lifelong resident Arthur B. Ray, of Niagara Falls, passed away at St. Mary's Hospital; and

WHEREAS, Arthur attended local schools including Niagara Falls High School and Niagara County Community College. He opened the accounting firm A.B. Ray & Associates, where he continued to work along with his daughters until his illness; and

WHEREAS, Arthur was the first African American to serve on the Niagara Falls Board of Education during the 1960's and early 1970's. He served on many civic groups including the Rotary International and Black Pioneers. He served as Deacon at Emmanuel Baptist Church.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council, offer their condolences to his wife of 60 years, his five children, and the entire Ray Family.

Yeas
Nays

5
0

ADOPTED

RESOLUTION: TOURISM ADVISORY BOARD, CONTINUATION/APPOINTMENTS, 2012-107
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #17

WHEREAS, the Niagara Falls Council by this Resolution, re-establishes the Tourism Advisory Board and by Resolution - set its membership at sixteen (16); and

WHEREAS, the Council deems it desirable to continue the Tourism Advisory Board during 2013;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Niagara Falls, New York continues the Tourism Advisory Board consisting of sixteen (16) members appointed by the City Council; and

BE IT FURTHER RESOLVED that the Board in its function shall cease one (1) year from the date of the adoption of this Resolution.

BE IT FURTHER RESOLVED that the following individuals are hereby appointed to the City of Niagara Falls Tourism Advisory Board effective January 1, 2013 for the expiration date which appears opposite their names:

APPOINTMENTS

TERM EXPIRES:

Adrienne Bedgood-2256 South Ave./Niagara Falls, NY 14305	12/31/2013
David Bower - 1057-101 st Street/Niagara Falls, NY 14304	12/31/2013
Jerauld Genova-757 Seymour Ave./Niagara Falls, NY 14305	12/31/2013
Charles Knoll-5820 Buffalo Ave./Niagara Falls, NY 14304	12/31/2013
Mark Mistriner-NCCC Niagara Culinary Institute	12/31/2013
3111 Saunders Settlement Road - Sanborn, NY 14132	
Vince Mameli-462-77 th Street/Niagara Falls, NY 14304	12/31/2013
Gay Molnar-2114 River Road/Niagara Falls, NY 14304	12/31/2013
Randy Ubriaco-837-15 th Street/Niagara Falls, NY 14301	12/31/2013
Lisa Vitello - 4859 Terrace Dr./Niagara Falls, NY 14305	12/31/2013
Laurie Davis-1316-24 th Street/Niagara Falls, NY 14301	12/31/2013
Phillip Villella-795 Rainbow Blvd/Niagara Falls, NY 14303	12/31/2013
Robert Ventry- 884 Niagara Ave./Niagara Falls, NY 14305	12/31/2013

Yeas
Nays

5
0

ADOPTED

RESOLUTION: HISTORIC PRESERVATION COMMISSION, APPOINTMENT, 2012-108
BY: COUNCIL MEMBER GLENN CHOOLOKIAN

Agenda Item #18

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Historic Preservation Commission effective immediately:

<u>APPOINTMENT</u>	
Matthew A. Green	12/31/2014
441 - 21 st Street	
Niagara Falls, New York 14303	
(716) 280-9769	

Yeas	5
Nays	0
	ADOPTED

RESOLUTION: CABLE COMMISSION, REAPPOINTMENT, 2012-109
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #19

BE IT RESOLVED, that the following individual is hereby reappointed to the City of Niagara Falls Cable Commission effective December 31, 2012, for the expiration date, which appears opposite his/her name:

<u>APPOINTMENT</u>	<u>TERM EXPIRES</u>
Jerry Genova	12/31/2015
757 Seymour Avenue	
Niagara Falls, NY 14305	

Yeas	5
Nays	0
	ADOPTED

RESOLUTION: KENNELS AND CATTERIES, CREATING A 90-DAY MORATORIUM ON THE
CONSIDERATION OF APPLICATIONS FOR PERMITS, 2012-110
BY: COUNCIL MEMBER CHARLES WALKER

Agenda Item #20

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; and

WHEREAS, this Council established a 90 Day Moratorium of the consideration of applications for permits for kennels and catteries on September 4, 2012; and

WHEREAS, the Planning Board has called a public hearing to gather public input on this matter.

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

1. The previously imposed moratorium on the consideration of permits for kennels and catteries is hereby extended to March 5, 2013.

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.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: ASSAULT WEAPONS, STATE LAWS, 2012-111
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE, COUNCIL MEMBER ROBERT ANDERSON,
JR.

Agenda Item #21

WHEREAS, an unspeakable act of violence and a tragic loss of life took place on December 14, 2012 at the Sandy Hook Elementary School in Newtown Connecticut, and

WHEREAS, such senseless acts remain, in many ways, confounding as to the roots of their true nature, there are certain measures that a responsible society can take to guard public safety and protect lives, and

WHEREAS, the proliferation and availability of assault weapons does contribute to the senseless loss of life as witnessed time and again through such tragedies, and

WHEREAS, New York Governor Andrew Cuomo does thoughtfully support a toughening of New York State assault weapon laws, and

WHEREAS, such assault weapons, designed for military and police work, add nothing to the sport of hunting and the act of target shooting as practiced by the overwhelming number of law abiding hunting and target enthusiasts,

NOW THEREFORE BE IT RESOLVED, that the Niagara Falls City Council does support New York State Governor Andrew Cuomo in his desire to strengthen existing New York State laws addressing the sales, ownership and use of assault weapons.

Yeas 5
Nays 0

ADOPTED

PUBLIC WORKS, AMENDED FEES, PARKS, PLAYGROUNDS, POOLS

Agenda Item #22

The Director of the Department of Public Works is requesting adjustments to the fees charged by the City for the rental of its various parks, playgrounds and pool areas. Attached (on file in the City Clerk's Office) hereto is a proposal sheet which shows existing fees and the proposed new fees as well as fees for which there is no requested change.

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

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 7:08 P.M.

Carol A. Antonucci
City Clerk



November 1, 2012

RECESSED MEETING

NIAGARA FALLS, NEW YORK

The November 1, 2012, Recessed Meeting of the Niagara Falls City Council was called to order by Council Chairman Samuel Fruscione at 4:02 p.m. in the Council Chambers.

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

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

Mayor Paul A. Dyster gave the presentation of the proposed 2013 Executive Budget for the City of Niagara Falls.

Dear Honorable Members of the Niagara Falls City Council:

Today I present to you the recommended Municipal Budget for the City of Niagara Falls for the 2013 fiscal year. As you know, the date of presentation of this year's budget was delayed from the normal October 1st presentation date while we worked to try to minimize the negative effects of a very difficult and unprecedented situation. I thank the Council for their patience, and hope that as the presentation goes forward, Council will recognize both the extreme nature of the circumstances being addressed and the huge amount of effort expended by a lot of dedicated and creative people to try to minimize the damage. I assure Council that, as unpalatable as some of the measures presented here may seem, the overall package is a far better and less painful product than what we started with in late summer and early fall.

Our goals in this process have been three-fold. First, to safeguard our ability to deliver the most vital City services to our residents even if this requires sacrifices in other areas. Second, to protect, as much as possible, the jobs of our dedicated City employees, who have done nothing but work faithfully to serve the public. And third, to minimize taxes for the residents and businesses who foot the bill.

Over the last several years, the City has charted a course designed to provide the highest possible level of services while creating conditions required for future economic growth. We fully concur with Governor Andrew Cuomo's assessment that "New York has no future as the tax capital of the nation," and so we have worked tirelessly to keep expenses and thus taxes down. At the same time, we have made certain that we keep making the investments needed in infrastructure and economic development to ensure future job creation and business formation. We have scored some notable successes in spite of the effects of the recession that began to set in in only the third month of my administration, and kept key projects, with big payoffs in jobs and investment, moving forward to completion.

Through sound fiscal management and self-imposed discipline, the City succeeded in preserving financial stability through the last several years in spite of a great deal of turbulence in the State and National economies. Looking into an uncertain future, we began a series of austerity measures as early as late spring of 2008.

Throughout the first several years of my administration, we were able to control and in some cases reduce spending in the current budget year, generating fund balance to be re-appropriated for subsequent budgets. Through much of 2010 and 2011, we operated under a spending freeze, avoiding non-essential spending across budget account lines and trying to hold the line on upgrades and raises even when we knew they were well-deserved; that strategy was employed again in 2012. For several years, we built up Special Project Fund balance, created initially to fund critical projects in the face of declining State AIM aid. For example, we avoided budgeting non-recurring revenues like street sales and instead took the revenue to fund balance. We generated over \$10 million in savings through 2009 and 2010, so that even after using part of the funds for major paving and other capital projects, we started 2011 with approximately \$20 million on hand to deal with emerging threats. Confident as recently as last November that a resolution to the casino revenues impasse was imminent, we resolved to use these funds to cover for the missing casino revenues in paying debt service or bills for ongoing projects in order to keep these expenses off the backs of taxpayers. It was a great strategy—but we could not have predicted that the State-Seneca impasse would continue for three years, draining the City of its reserves and creating a full-blown cash flow crunch warning at the beginning of April of this year. Through some very intense cash-flow efforts, we will make our contractual obligations through the end of 2012.

Over the last half-dozen years, the City of Niagara Falls has consistently been among the most fiscally-disciplined municipalities in the State when it comes to keeping the tax levy down. Our 2006 levy—the total amount of property taxes collected from both residential and business taxpayers—was \$28,080,951. The 2012 tax levy—the total amount of property taxes we collected to run the government this year—is \$27,975,901. Yes, that's right, \$105,050 LESS than what was collected to run the City government six years ago, when total expenses were only \$67,207,152—almost \$20 million less than today. For the entire period of my first term in office, from 2008 to 2012, the levy increased only about 1/2% per year - far less than the rate of inflation, and a quarter of what would have been allowed even under a 2% tax cap. But while we were fighting to keep taxes down, everything else was going up.

First, wages went up. Our contractual obligation increased by over \$1.5 million from 2010 to 2011, by over \$1.7 million from 2011 to 2012, and we estimate by another \$1.1 million from 2012 to 2013. Note that we are still "out of contract" with many of our unions, and could see arbitration or other increases in future years. The majority of our wage increases are in public safety, where we are subject to compulsory arbitration to set wage adjustment standards. Earlier in the administration, with the full support of the Council and the taxpaying public, we expanded front-line manpower in Police and Fire using federal COPS and SAFER grants. I don't regret that in the least, but it has ongoing implications for our manpower levels and hence costs in those departments.

The COPS grant, implemented in July 2010, allowed us to add five positions to the 145 member department, bringing it up to 150 officers. The grant requires us to maintain this level of manning through the three years of the grant plus one year after, or until July 30, 2014. The SAFER grant, implemented in October 2008, helped us to hire 8 additional firefighters to increase the daily staffing level from 24 to 27 firefighters. It requires us to retain the firefighters hired for one year after the federal monies expire, or until October 2013.

Second, pension expenses had already increased about \$1.3 million from 2010 to 2011 as a result of lower returns on the fund's Wall Street investments. Last year, facing an additional increase of about \$640,000 in Employee Retirement System (ERS) retirement costs and over \$1.7 million in police and fire retirement (over \$2.4 million total), we amortized the cost over ten years. As a result of good bond ratings, we are able to finance this at 3.75% interest without bond costs. This reduced our 2012 cost for ERS to about \$150,000 less than the 2011 budget. By using an amortization strategy essentially similar to the flattening strategy that the State Comptroller's Office used in 2008 to deal with the initial shock to Wall Street, we reduced 2012 outlay for pension costs by over \$1.6 million. We will use that strategy

again this year. From ERS costs of \$1,548,323 for 2012, we will go to an estimated \$1,974,214 for 2013 with amortization, an increase of \$425,891. Without amortizing, that cost would be \$3,016,460—that's a huge savings in taxes and/or jobs. Similarly, police and fire retirement will be \$5,382,215; without amortizing they would total \$6,936,111.

Our third major area of concern is health care costs. We've taken steps to address this potentially explosive area of concern. We switched to self-insurance and changed brokers in 2009 (and will keep an eye open for potential savings in the future), but still saw a \$1.25 million increase from 2010 to 2011 driven largely by retiree health care costs. We had to budget over \$600,000 in 2012 to cover this year's increase. Implementing the "Forever Blue" program helped us avoid additional costs in retiree coverage, and the continued work of the Task Force for a Healthier Niagara Falls is designed to help everyone—including our employees and retirees-- improve care and reduce costs by moving to increased use of Preventive and Primary care. We're working hard with our third party administrator to find additional savings. This year will be a decisive year for our efforts to control long-term health care costs. I will ask all our City unions to sit with us in the health care committees mandated by our contracts and look at ways we can reduce costs going forward without compromising in any way the level of care we provide to our employees. We think we all will agree there are some obvious ways to save money (e.g., prescription drug costs are way up and we have a very low co-pay); we need to sit down as soon as possible after this budget is passed, regardless of where we stand with other aspects of contract negotiations. Lockport is engaged in discussions with its unions and many others will likely soon go the same way.

For 2011, we asked department heads to tighten their belts and cut an estimated \$1.2 million from an already bare-bones budget. They went back for 2012 and found an additional \$175,000. For 2013, our proposed budget reduces spending from \$86,257,328 to \$83,644,349—a decrease of approximately \$2.4 million. When you see a number like that, it is obviously not just "fat" being cut—you're into muscle and bone. This is in spite of having to absorb \$200,000 in additional gasoline costs and an additional \$44,000 for spare parts—the latter because without casino revenues we aren't replacing large capital equipment as soon as we had planned.

In the years 2009 through 2011, in accordance with a multi-year fiscal plan, we used declining amounts of AIM fund balance that we had set aside during the "good years" of AIM for tax relief, one of the specified purposes of the program: \$3 million in 2009, \$1.5 million in 2010, and the last \$756,000 in 2011. As AIM fund balance went down, we started using Special Projects Fund Balance as a source of funds for property tax relief: \$2.5 million each in the 2011 and 2012 budgets. This year, we propose to use \$2 million, consistent with 2011 and 2012's policy of adding property tax relief to the other restricted purposes (e.g., paving and other capital projects) for which we use these funds.

In past budget years, we had counted casino revenues due to the City as short-term receivables, consistent with our best estimate of when these funds would be received. Recall, in the fall of 2011 we believed receipt of these funds through a direct payment from the Senecas was imminent. In their revue of our 2011 financials, our independent auditors suggested we continue to count the 2009 through 2012 casino revenues as long-term assets, but not as short-term receivables. In other words, we were clearly owed this money, but had no way to estimate when we would be paid. Fair enough.

But something has changed for 2013. An arbitration process—the dispute resolution mechanism contemplated in the Casino Compact—is underway, and both sides are participating. It is binding on both parties, and is expected to result in a resolution during the first half of 2013. Our expectation is that at the conclusion of the arbitration, we will get paid what we are owed. We therefore will budget a limited amount of casino revenues to cover certain recurring expenses in 2013, including: the debt service on the public safety building, a share of public safety costs, and an amount to compensate for the loss of tax revenues when properties were taken off the tax rolls to create the Seneca territory. These expenses were planned to be paid with casino revenues in past years, but were subsequently covered by Special Projects Fund Balance when casino revenues were withheld. The total amount of these funds required for the 2013 budget is \$5,370,762.55. We budget them because our expectation is that we will be paid what we are owed.

As I noted earlier, our tax levy has basically not grown since 2006, while expenses are up about \$20 million. As I also noted, our expenses—despite our best efforts to keep them under control—have continued to grow. For that reason, we are proposing to raise an additional \$2,471,000 in tax revenues in 2013. This would bring the levy to a total of \$30,446,901—just \$2,365,950 more than the \$28,080,951 that was raised in 2006, and an average increase of just \$337,992.86 per year. That's an average annual increase of just 1.2% over those 7 years—an impressive performance by any standard and well below the average annual increase in the cost of living during those years. We have held the line on taxes in every year of my administration, but there comes a time when something has to give. This is that time, and we simply need more revenues to continue providing an acceptable level of services. The result is a proposed increase of approximately 8.3% in the homestead tax rate and about 5% in the non-homestead rate, which would require a vote to override the tax cap for 2013. The non-homestead rate increase may be smaller, but remember—non-homestead payers will still be paying substantially more per thousand dollars of assessed value than homestead payers. Unfortunately, the bad news does not end there.

I have consistently said that layoffs are the very last resort in trying to balance the budget, and my administration has managed to balance the budget without layoffs every year until now. But this time, the gap between revenues and expenses is simply too large. I try not to comment on hypotheticals, but it has been reported that early versions of this year's budgets contained gaps so large that huge numbers of layoffs of full-time personnel would be required. A lot of work has gone into minimizing the damage since that time, but there is still damage. When roughly 80% of your budget is personnel costs, it is inevitable that closing large gaps will require at least some reduction in manpower.

Through most of this year, we have sought to reduce force through attrition, i.e., by not filling positions when someone retires or otherwise leaves City employment. But we can't close the gap in one year in that way alone. In this budget, we reluctantly propose the elimination of 27.5 full-time equivalent (FTE) positions. Of those, 9 are covered by vacancies or retirements, leaving a total of 18.5 FTE positions currently occupied that would be eliminated. Since some of those positions are part-time, a total of 20 individuals would be laid-off. We know that these numbers are much lower than those contained in some City Hall rumors, but we believe that one layoff is one too many, and we take the impact very seriously.

We made every effort not only to limit but to spread the pain. As noted earlier, grant rules associated with the COPS and SAFER grants limit our ability to lay off police and firefighters in the 2013 budget year. In any case, many citizens regard public safety as the most essential of City services, and would expect their elected officials to cut just about anything else before making any cuts there. We got the message. But please note that the grant-imposed restrictions will not apply in future budget years. We have a lot of work to do to reduce costs and avoid the possibility of future problems.

Of the 18.5 FTE positions proposed for elimination, 11.5 are Civil Servants (involving 12 individuals, since one is part-time), 4 are hourly employees, and 3 are exempts (involving 4 individuals, since 2 are part-time). These individuals will be given preference in future City hiring, as well as assistance in pursuing other employment opportunities. We hope to be able to bring them back as positions open up through vacancies and retirements, though we can make no guarantees given the uncertainties of the financial future.

There is another unfortunate consequence of these layoffs. According to Civil Service and contract rules, we cannot employ temporary or seasonal employees when there are laid-off full-time hourly employees who have not been rehired. This means that, unless and until we are able to bring back those laid-off hourly workers, we cannot run a variety of programs normally staffed by seasonals and temps. The total amount saved by not hiring seasonals and temps is approximately \$487,000; the total number of seasonals impacted is 82.

These might not be full-time employees, but for many of these workers and families the money they earn as part-time City employees helps pay the rent, the car loan or a tuition bill. Included are the recreation aides for summer

parcs programs, seasonal golf course workers, the people who oversee night gym programs during the school year, and even the lifeguards who staff our public swimming pools. Also impacted are large numbers of seasonal workers who work on paving or clean-up crews, dramatically increasing our ability to deliver these services. We will try to be prepared to restore these jobs and services at the earliest possible opportunity should circumstances permit, but know that their loss strikes a blow at the quality of life of many of our citizens.

A special case is the operation of our parking ramp, which we are obligated to keep in operation. We believe implementing some version of the parking plan presented to Council last year, getting the City out of the parking business altogether and creating income going forward, is the best policy.

We have tried to structure our 2013 budget so that, in spite of the cuts we will have to endure, we will be able to deliver the essential City services that our citizens have come to expect. Public safety and other essential services will continue to be delivered as the taxpayers expect. In some cases, there will have to be an adjustment in the level of services the City is able to provide based on the resources we have to provide them. We will continue our efforts to reorganize and modernize service delivery so that we get the most bang for the buck, and bring our long-term recurring expenses in line with our future recurring revenues.

We were pleased to add \$22.7 million of new business properties to the tax rolls in 2010, then saw slight drops for 2011 and 2012. I'm happy to report that the taxable value of non-homestead property rebounded for 2013, as we added \$18,526,264—a 4.6% increase—to the non-homestead rolls. As I suggested last year, the new Olive Garden and Buffalo Wild Wings were completed and became fully taxable this year, and Hobby Lobby, Panera and Walgreens came on line as well. And once again this year, I can report that we have reason to believe new business construction will occur in the Military Road corridor, and will help increase revenues and reduce the future burden on other taxpayers—especially other businesses. Some IDA properties nearing the end of their PILOTs will be put back on the non-homestead totals over the next few years, and the PILOT payments for new projects like Greenpac will create new revenue. This is all good news, more evidence that our long-term strategy is working, and a reason to be optimistic about the future. But it doesn't solve our short-term problem. For example, we lost a total of \$639,157 from two PILOTs that were ending, but didn't recoup the funds in regular tax revenues because of the way the tax cap is calculated.

Last year homestead valuation was up, a pleasant surprise to be sure, but not something we counted on to continue this year. We were right. Homestead valuation was down \$3,159,456—about a third of one percent. Several trends contributed to this result. We continue to be concerned about the effect of reductions in assessed value granted by the Board of Assessment Revue, and the impact of the loss of property value as now-vacant, once-valuable houses are demolished. Consider this statistic. In 2012 alone, we lost \$1,661,200 in homestead value to the wrecking ball. I don't mean to suggest that these demolitions should not have been done—clearly they were needed as these buildings had past the point of no return. But one of our greatest long-term challenges is increasing the value of our residential real estate through improvements and new construction. That's why we're putting so much effort and creative energy into recruiting new residents into our city.

There are other revenues we are having to do without. City court fines and parking ticket revenues are together down \$450,000. Approximately \$574,000 of casino revenues that we used to pay for 7 employees in 2012 working on economic development are not there. An agreement with State Parks that brought in \$75,000 for someone to work on the Underground Railroad project has expired. The SAFER and COPS grant payments from the federal government expired, reducing our revenues \$474,490. The amount of funds we have available to transfer from the capital account from closed projects is down a million from \$3.9 million to \$2.9 million. \$1.5 million we had available from the debt fund each of the last two years is not there for 2013.

Last year, before the casino issue fully drained our fund balance, we were able to transfer \$2.5 million to the general fund for tax relief and another \$710,708 as our match for the SAFER grant, for a total of \$3,245,169. Without the casino problem, we could have used \$3 million this year—we had it there for that purpose. But we are only able to do \$2 million this year—another \$1 million lost to the general fund.

If these numbers are starting to make your head spin, please know I'm sympathetic. This is why I called this a "disaster budget." As the 2013 picture started to come clear, we realized we were starting down \$5,957,380 in revenues and up about \$3.9 million in expenses, with no casino revenues on hand to help cushion the blow. You do the math.

How did we balance the budget? We proposed \$2.471 million in new tax revenues. But that was not until we looked at every other source of possible non-property tax revenue. We used the additional time working on the budget to look at historical figures for hotel and restaurant taxes (HRU), and raised them \$300,000. We looked at Niagara County sales tax, and even with the distribution of funds shifting against us because of the new census numbers, we were able to raise these revenues \$100,000. We were able to raise the Utility Gross Receipts Tax revenues \$100,000 as a result of our analysis. These new revenues totaled \$2.971 million.

There were some smaller but still significant contributions—every dollar counts. We were able to save an additional \$30,000 through shared services with the Water Board, raising that total to \$120,000. Thanks to the efforts of our Corporation Counsel—and City Council and Purchasing get a nod here too—our ice pavilion lease revenue will be up \$103,000 in the first year of the new operating agreement alone. Thanks to Dennis Virtuoso and his staff, building and plumbing permit revenues are estimated to go up a total of \$191,000. CD Director Seth Piccirillo found \$54,000 for an Inter-fund Transfer to pay the rent and other costs to operate police sub-stations. We can't cut costs to run street lights overnight, but we cut our utility costs with efficiency audits and saved \$162,850 on natural gas and building electric costs. When we had casino funds, we used them to repair leaks and cut sewer and water bills \$37,900. That's \$200,750 savings on energy efficiency and leaks alone; that's a lot of taxes and/or jobs. We renegotiated our property and liability insurance and saved \$45,000. Maybe that saved someone's job. It all helps.

But in the end, we simply had to reduce our overall costs to operate City government to bring them more in line with our recurring revenues. We were simply not bringing in enough recurring revenues to sustain our operational and contractual expenses going forward at last year's \$86.2 million level, independent of who sits in the mayor's office or on the City Council. Again, remember—our expenses went up over \$19 million from 2006 to 2012, but the levy went down \$105,000. We needed to bring things back into line for the long-term, and did so by cutting expenses \$2,556,187 overall.

This includes a net decrease from 2012 to 2013 of \$1,103,063 in bi-weekly payroll costs, reductions for temps of \$279,812 and a net reduction in overtime of \$211,001, for a total reduction with FICA included of \$1,588,875 total in these personnel costs, part of an overall reduction of \$1,706,788.

In 2011, we established the Tax Relief for Economic Development Fund to help compensate all property owners, not just those able to qualify for City grants or loans, for the extra burden they have carried since properties were taken off the tax rolls for the Seneca casino. Basically, the Fund buys down the total amount to be raised by the property tax. We used \$455,000 of casino revenues to create the Fund in 2011, funded it with \$449,000 last year, and propose \$454,000 for 2013; the number is derived from the non-homestead base proportion. We propose to do a 20% equalization for 2013, as we did last year, but because the value of homestead properties has fallen while non-homestead has risen, the effect of the 20% "shift" is not to reduce the non-homestead base proportion, but merely to prevent the current skewed situation from getting even worse. Between equalization efforts and the fund, we will continue our efforts to make sure that the tax burden doesn't fall disproportionately on the backs of small businesses.

We are not alone in facing the challenge of rising annual expenses—many of which we have no ability to control—and stagnant or insufficiently expanding revenues. Cities across New York State are struggling with many of the same problems. We knew we were not immune to the same ills they faced. But it seems to us patently unfair that, after years of sound financial management, and the build-up of cash reserves to help us weather financial

storms, we find ourselves in the predicament we're in. We did multi-year financial planning. We in effect provided our own safety net. We knew that, like municipalities all across our state, we would need to be reinventing government for many years into the future. Now, because of forces over which we have no control related to the ongoing dispute between the Seneca Nation of Indians and the State of New York, we face the prospect of fiscal crisis without the full range of resources that should justly be at our disposal to help weather the storm. It's just not fair, and we will continue to fight in every way possible to get what is justly ours as a result of the sacrifice of so many of our interests to the creation of the gaming concession in our city—like giving away over 50 acres of prime development real estate downtown, including operating hotels.

I was only three months into my administration when I had to start dealing with the consequences of the Great Recession. Nonetheless, we were able to consistently improve on City services, keep taxes down, and improve our reputation for fiscal stability and the ability to get things done, UNTIL the consequences of the failure to resolve the Seneca-State dispute finally grew beyond our ability to hold them at bay. Budgets, both annual and multi-year, are after all plans, and all plans must react to unanticipated circumstances. From our perspective, the delay in the delivery of casino revenues has been a catastrophe. It may not compare for pure drama with the recent events surrounding Hurricane Sandy, but make no mistake. The economic and social devastation that our City has faced over the last several decades of job and population loss has done as much cumulative damage as many a natural disaster, even if the effects have gone on in slow motion. Wise use of casino revenues to rebuild roads and other infrastructure, improve vital services, purchase public safety equipment and facilitate economic development was our lifeline out. Now the lifeline has been at least temporarily severed by forces beyond our control.

The budget I present to you today is not what I hoped to be able to present to you a year ago. But it is certainly a far cry from where we stood a month ago. There is a tax increase, but it is the first significant tax increase that has been proposed in many years, and would bring us to only about 85.61% of our constitutional taxing limit (we were at 81% just a couple years ago)—not bad under the circumstances, and representing an average annual increase of just 1.2% per year since 2006. There are layoffs, but not hundreds or even several dozens of layoffs, as many of us initially feared. We are budgeting casino revenues for 2013, but there is an arbitration process underway and the amount budgeted is modest compared to any recent year's revenues. Still, raising taxes, laying-off workers and cutting services fits my definition of a "disaster" budget.

I first used that term several weeks ago without knowing that in the intervening period, significant regions in our own and neighboring states would fall victim to a natural disaster of unprecedented proportions. When I was growing up, I was constantly reminded at such times to "count my blessings" and remember how much worse things could be.

Thanks to our City Administrator, all the Department heads and their staff who have worked so hard to minimize the negative impacts of a very difficult fiscal situation. Your efforts have been tremendous. I look forward to working with the City Council to finalize the 2013 budget. My administration presents you with a difficult but balanced budget that tries to balance the necessary evils of reductions in staff, cuts in some services, and the first tax increases in several years. There is a lot of positive progress being made in our community, and by getting through this difficult budget year with our essential services intact, we can help guide the way to the better tomorrow we all desire. God bless you, and keep planning for a better tomorrow.

Sincerely yours,

Hon. Paul A. Dyster
Mayor

Corporation Counsel Craig Johnson distributed copies of four items to be added to the Agenda.

1. A communication relative to notice of submission of proposed 2013 Executive Budget and Public Hearing.

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 #3

2. A communication relative to the Budget Resolution Meeting Schedule.

Council Member Walker 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 #4

3. A communication for a Letter of Award for Roof replacement at the Stone Comfort Bldg. at Hyde Park Ice Rink

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 #5

4. A communication for Contract Amendment for the NF International Railway Station & Intermodal Transportation Center Project to Wendel Duchscherer Architects

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 #6

COMMUNITY DEVELOPMENT: 2013 ANNUAL PLAN/BUDGET, REVISED VERSION

Agenda Item #1

Council Member Choolokian moved to remove Item from the Table

Yeas 5
Nays 0

APPROVED

COMMUNITY DEVELOPMENT: 2013 ANNUAL PLAN/BUDGET, REVISED VERSION

Agenda Item #2

A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached with a detailed breakdown of program administrative costs. The CD Action Plan was tabled by the Niagara Falls City Council at the October 15, 2012 City Council Meeting. This draft reflects revisions submitted to Seth Piccirillo, Director of Community Development, by the City Council, through Department Liaison, Councilman Charles Walker. Only the Community Development Block Grant Section of the Action Plan was revised. The first document details the original draft plan amount, the new draft amount, and the monetary change per project. The revisions were presented to CD on October 23, 2012.

All Council Members received the ORIGINAL DRAFT Action Plan via memo on October 6, 2012 and September 7, 2012, to allow ample time for review. The proposed budget is the key component of the City's 2013 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 2013 Annual Plan is the end result of a lengthy, detailed, and well advertised, citizen participation process that included four neighborhood based meetings in June 2012 designed to encourage comments, suggestions, and ideas from various community groups, residents, business persons, and other interested parties. The DRAFT Action Plan was made available for public review on August 31, 2012, a public hearing was held on September 6, 2012, and a month long public comment period concluded on October 6, 2012. The public hearing reviewed the plan specifics, and a copy of the public hearing minutes is included with this agenda item. The Annual Plan was originally submitted for vote at the earliest possible date, as the public comment period ended on October 6, 2012.

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	\$2,189,900
HOME Investment Participation Program	\$315,000
HOME Program Income	\$62,000
Emergency Shelter Grant	\$156,000
Section 8 Leased Housing Program	\$3,100,000
PROJECTED FEDERAL REVENUE	\$5,822,900

CD is cutting **\$135,000** in 2013 salaries and can transfer and additional **\$85,000** in 2013 salary costs to outside grant funding sources. CD will continue to solicit outside grant funding to further offset administrative costs. This will help pay a greater portion of employee salaries, reduce the need for general fund assistance, and protect the City from future HUD entitlement reductions. If the post April 2012 trend continues, CD will not require and general fund contribution in out years.

Moving forward, Community Development's (CD) goal is a sustainable budget every year. The 2012 revenue to expenditure gap was **\$383,000**. Recent CD administrative actions and the proposed 2013 budget are meant to ultimately eliminate reliance on casino revenues, whether collected or uncollected. The proposed changes also direct HUD funding to more appropriate activities.

The 2013 budget proposal requests that the City of Niagara Falls fund all Carnegie Building utility/maintenance costs (\$18,300), and \$75,000 of CD's annual retirement costs, for a total of \$93,300. The requested retirement contribution represents 39% of the department's total retirement costs (\$195,000). The proposed gap would be \$289,070, or 75% less, than the 2012 CD administrative budget gap.

The Consolidated Plan, including the proposed budgets, must be adopted by the City Council and submitted to HUD by November 15, 2012. 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 Emergency Shelter budgets for FY 2013. 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 2013 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 Grandinetti moved that the communication be received and filed and the recommendation approved.

Yeas	4
Anderson, Choolokian, Grandinetti, Fruscione	
Nays	0
Abstain	1
Walker	

RESOLUTION: 2013 EXECUTIVE BUDGET & PUBLIC HEARING, 2012-85

Agenda Item #3

WHEREAS, on November 1, 2012, the Mayor of the City of Niagara Falls duly submitted to the City Council the proposed 2013 Executive Budget for the City of Niagara Falls; and

WHEREAS, pursuant to Section 5.6a of the Niagara Falls City Charter, this Council shall cause public notice of submission of said Executive Budget to be published together with a copy of a summary of said budget, and notice of the time and place of a public hearing thereon.

NOW THEREFORE BE IT RESOLVED, by the City Council of Niagara Falls, New York, NOTICE IS HEREBY GIVEN that on November 1, 2012, the proposed 2013 Executive Budget, a summary of which is attached hereto and made a part hereof, was duly submitted to this Council; and

BE IT FURTHER RESOLVED, that a public hearing be held on November 13, 2012 at 7p.m. Eastern Standard Time in the Council Chambers of the City of Niagara Falls, New York pertaining to the adoption of the Proposed 2013 Executive Budget, at which time the Mayor, Administrator and Controller shall be present, at which time any person may be heard for or against the proposed budget; and

BE IT FURTHER RESOLVED, that a copy of this resolution calling for a hearing, together with the budget summary, be published in the Niagara Gazette at least one week prior to the date of said hearing; and

BE IT FURTHER RESOLVED, that copies of said proposed budget be made available for inspection in the office of the City Clerk.

Yeas 5
Nays 0

ADOPTED

RESOLUTION: BUDGET RESOLUTION MEETING SCHEDULE, 2012-86

Agenda Item #4

BE IT RESOLVED, By the City Council of the City of Niagara Falls, New York, that it hereby schedules Budget Resolution Meetings to commence at 4:00pm in the Council Chambers on:

November 27, 28 and 29.

Yeas 5
Nays 0

ADOPTED

CONTRACT: HYDE PARK ICE RINK, ROOF REPLACEMENT, GROVE ROOFING SERVICES, INC.

Agenda Item #5

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

<u>CONTRACTOR</u>	<u>BASE BID</u>
Grove Roofing Services, Inc. 131 Reading St. Buffalo, NY 14220	\$ 113,700.00
Joseph A. Sanders & Sons	\$ 133,314.00
Sunset Custom Homes, Inc.	\$ 143,400.00

It is the recommendation of the undersigned that this project be awarded to the low bidder Grove Roofing Services, Inc. at their Base Bid of \$113,700.00. Funding is available in H1214.2012.1214.0449.599, the source of which is Greenway Funds allocated to this project.

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

Yeas 5
Nays 0

APPROVED

CONTRACT: NF INTERNATIONAL RAILWAY STATION/INTERMODAL TRANS. CENTER PROJECT, AMENDMENT, WENDEL DUCHSCHERER, ARCHITECTS

Agenda Item #6

A contract for consultant services for the above referenced project was awarded to Wendel-Duchscherer, Architects and Engineers, Inc. (WD), 140 John James Audubon Pkwy, Suite 201, Buffalo, NY 14228 by City Council on July 25, 2005 and dated January 3, 2006, which was subsequently extended on February 11, 2010 to include right-of-way services, final design, and other services associated with the above project.

Since that time, substantial "pre-obligation" requirements of the TIGER II Grant's federal funding agency -Federal Railroad Administration and additional "pre-construction" activities have resulted in additional costs associated with the final design phase of the station project.

These ongoing and additional work activities will progress the Project through the bidding preparation before award and construction. This ongoing and additional work tasks total \$268,750.00. A more detailed explanation of work activities completed and proposed are contained in the letter and services summary provided by Susan Sherwood, Wendel Project Manager, dated July 20, 2012, and made an attachment hereto.

The 15.6% local (non-federal) matching share of this contract amendment amount has previously been approved by Council. Those dollars are dedicated for this project. The non-local share above 15.6% is fully reimbursable under the terms of the existing NYS-DOT Supplemental Agreement No. 2 (Comptroller's Contract No. D017307 for the NF Intermodal Transportation Center Project -PIN 5756.28), which specifically stipulates for reimbursement of expenditures, to the City, up to \$4,366,856.83.

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

Council Member Choolekian moved that the communication be Tabled.

Yeas	5
Nays	0

TABLED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 4:42 PM.

Carol A. Antonucci
City Clerk



DECEMBER 10, 2012

SPECIAL COUNCIL MEETING

NIAGARA FALLS, NEW YORK

Members of the City Council
And
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to Section 3.9b of the City Charter, to be held on Monday, December 10, 2012 at 3:45 PM in the Council Chambers, City hall, 745 Main Street, Niagara Falls, New York for the following purpose:

1. To reconsider and act upon all amendments to the proposed budget
Vetoed by the Mayor

Respectfully submitted,

SAMUEL FRUSCIONE,
Council Chairman

12/10/2012

The December 10, 2012 Special Meeting of the Niagara Falls City Council was called to order by Council Chairman Samuel Fruscione at 4:00 p.m. in the Council Chambers.

Present: Council Chairman Samuel Fruscione, Council Members Robert Anderson Jr., Glenn Choolokian, Kristen Grandinetti, 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.

The Council sustained 12 of Mayor Paul Dyster's vetoes of Amendments Made to the Proposed 2013 Executive Budget, and overrode 37 Amendments (On file in the City Clerk's Office)

There being no further business to come before the Council, Chairman Fruscione adjourned the meeting at 4:15 P.M.

Carol A. Antonucci
City Clerk



May 15, 2012

SPECIAL COUNCIL MEETING

NIAGARA FALLS, NEW YORK

May 15, 2012

Members of the City Council
And
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to the City Charter, to be held on Friday, May 18, 2012 at 4:00 PM in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purpose:

Approve Amendment to Chapter 341 of the Codified Ordinances "Vendors and Peddlers"

Respectfully submitted,

Samuel Fruscione
Council Chairman

RESOLUTION RELATIVE TO AMENDING CHAPTER 341
OF THE CODIFIED ORDINANCES ENTITLED
"VENDORS AND PEDDLERS"

By: Council Chairman Samuel Fruscione

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 341 of the Codified Ordinances entitled AVendors and Peddlers@ is hereby amended by adopting Section 341.80 entitled "Special provisions for the period of June 14 through June 17, 2012" to read as follows:

341.80 Special provisions for the period of June 14 through June 17, 2012.

Notwithstanding any provision of this ordinance to the contrary, for the period June 14 to June 17, 2012 the fee for all vendor licenses shall be \$100.00 for merchandise and \$150.00 for prepared food. The fee for annual licenses shall remain \$250.00.

Licenses issued under this section will not be valid in the Old Falls Street Special Vending District as defined in Section 341.16.

Licenses will be issued on a first come, first served basis after review and approval by the City Clerk of identification, health department permits for food service, a list of items to be sold and insurance certificate. Locations will be determined by the City Clerk's License and Code Compliance Inspector.

This section shall be repealed and of no further effect as of June 20, 2012.

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



June 18, 2012

SPECIAL COUNCIL MEETING

NIAGARA FALLS, NEW YORK

June 18, 2012

Members of the City Council
And
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to the City Charter, to be held on Monday, June 18, 2012 at 4:00 PM in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purpose:

Call for Public Hearing; RE: Decision of the City of Niagara Falls Historic Preservation Commission relative to 533 Tenth Street

Respectfully submitted,

Samuel Fruscione
Council Chairman

The June 18,2012 Special Meeting of the Niagara Falls City Council was called to order by Council Chairman Samuel Fruscione at 4:00 p.m. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell, Controller Maria Brown.

RESOLUTION: RELATIVE TO CALLING FOR A PUBLIC HEARING, 2012-50
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that a Public Hearing be held pursuant to Section 1335.12 of the Codified Ordinances, relative to a request for the City Council to review the denial of the Certificate of Appropriateness for 533 Tenth Street; said Public Hearing to be held at a meeting of the Council to be held in the Council Chamber in City Hall on June 25, 2012 at 7:00 p.m., Eastern Daylight Time, and the City Clerk is hereby directed to publish notice of this Public Hearing in the official newspaper prior to June 25, 2012.

Yeas	4
Nays	0
Abstain	
Walker	

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 4:02 p.m.

Carol A. Antonucci
City Clerk



June 4, 2012

SPECIAL COUNCIL MEETING

NIAGARA FALLS, NEW YORK

June 1 2012

Members of the City Council
And
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to the City Charter, to be held on Monday June 4, 2012 at 4:00 PM in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purpose:

1. Approve A Home Rule Request

Respectfully submitted,

Samuel Fruscione
Council Chairman

Chairman Fruscione called the June 4, 2012, Special Council Meeting to order at 4:01 PM in the Council Chambers.

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

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

RESOLUTION: FIRE DEPARTMENT, HOME RULE, 2012-46

RELATIVE TO HOME RULE LAW FOR THE CITY OF NIAGARA FALLS FIRE DEPARTMENT
BY: Council Chairman Samuel Fruscione

WHEREAS, the City of Niagara Falls is a participating employer in the New York State and Local Police and Fire Retirement, has elected to offer the optional 20 year retirement plan 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, was enrolled in the retirement plan established pursuant to section 384-d of the Retirement and Social Security Law; and

WHEREAS, Richard E. Mylchreest, Jr., who, for reasons not ascribable to his own negligence, enrolled instead in the retirement plan established pursuant to section 375-i of the Retirement and Social Security Law; and

WHEREAS, this consequence, while unintended, punitively affects firefighter Mylchreest and will deprive him of deserved retirement benefits; and

WHEREAS, currently before both houses of the state legislature, a bill has been proposed and supported by members of the Western New York delegation to allow firefighter Richard E. Mylchreest, Jr. to elect to be covered by the provisions of Section 384-d of the Retirement and Social Security Law, therefore entitling him to the full rights and benefits associated with coverage under such section.

NOW THEREFORE BE IT RESOLVED, that the Niagara Falls City Council does hereby recognize, acknowledge and support Assembly Bill (A.10227-A) and Senate Bill (S.7526) and its passage to correct and offer the benefits sought by said bills; and

BE IT FURTHER RESOLVED, that the Clerk of this Council is directed to complete and certify the Home Rule Requests and to forward copies to the New York State Legislature as required.

Yeas	3
Nays	0
Absent	2
Grandinetti, Walker	

ADOPTED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 4:03 PM.

Carol A. Antonucci
City Clerk



August 30, 2012

SPECIAL COUNCIL MEETING

NIAGARA FALLS, NEW YORK

August 24, 2012

Members of the City Council
and
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to Section 3.9.b of the City Charter, to be held on Thursday, August 30, 2012 at 4:00 p.m. in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purposes:

1. To approve a proposed license agreement by and between the City and Niagara Sports Tournament, Inc.
2. To approve the commencement of litigation against Man O' Trees, Inc. and its bonding company, The Hanover Insurance Company, in connection with the reconstruction of New York Route 104, PIN 5045.24 and the retention of the Hodgson Russ LLP law firm to handle same.
3. To receive and file the City's 2011 audited financial statements.

Respectfully submitted,
SAM FRUSCIONE
Council Chairperson

The August 30, 2012, the Special Meeting of the Niagara Falls City Council was called to order by Council Chairman Samuel Fruscione at 4:05 p.m. in the Council Chambers.

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

Absent: Council Member Charles Walker

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

CONTRACT: Hyde Park Ice Pavilion, Niagara Sports Tournament, Inc.

Agenda Item #1

At a meeting of the City Council held on July 23, 2012, the City Council designated Niagara Sports Tournament, Inc. ("NST") as the entity to have the opportunity to participate in negotiations with the City for a license agreement for the operation of the Hyde Park Ice Pavilion. Attached hereto is a copy of that City Council designation. Lengthy negotiations have taken place between the City and NST and those negotiations have resulted in agreement on the terms and conditions to be contained in a license agreement. Attached (on file in the City Clerk's Office) hereto is a summary of the primary points agreed upon by the parties subject to City Council approval.

The form of any final agreement will be subject to approval of the Corporation Counsel.

Will the Council so approve?

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

Yeas

4

Nays

0

APPROVED

CONTRACT: LEWISTON ROAD PROJECT

Agenda Item #2

As the Council is aware, it has become necessary to terminate the contract for the reconstruction of Lewiston Road and to bid the balance of the project and pursue litigation against the contractor, Man O' Trees, Inc. and its bonding company, The Hanover Insurance Company.

It is in the best interests of the City to commence and pursue this litigation and for the outside counsel firm of Hodgson Russ to handle this matter and any related matters.

Will the Council so approve?

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

Yeas

4

Nays

0

APPROVED

Randy Shepard, CPA, of the Bonadio Group spoke on the City's 2011 audited Financials (on file in the City Clerk's Office).

Council Member Choolekian moved that the Information and Documentation he provided be received and filed.

Yeas

4

Nays

0

APPROVED

There being no further business to come before the Council, Chairman Fruscione adjourned the Meeting at 4:15 PM.

Carol A. Antonucci
City Clerk

08/30/2012