

Item #1

The following is a report of the licenses issued and collections made in the Office of the City Clerk during the month of October 2008.

				<u>CONTROLLER</u>	<u>TOTAL</u>
A1255-001 A012	Vital Statistics			\$ 5,710.00	\$ 5,710.00
A1255-004 A013	Copies of Records			\$ 528.75	\$ 528.75
A1255-004 A013	Certificates of Marriage			\$ 640.00	\$ 640.00
A2501-011 A044	Peddler			\$ 250.00	\$ 250.00
A2501-016 A047	Stationary Engineers			\$ 80.00	\$ 80.00
A2501-021 A048	Amusement Games			\$ 100.00	\$ 100.00
A2542-000 A053	Dogs/N County Treasurer	\$ 321.55			\$ 321.55
A2542-000 A053	Dogs/NYS Agr. & Mkts	\$ 102.00			\$ 102.00
A2542-000 A053	Additional Dogs			\$ 1,952.45	\$ 1,952.45
A2545-001 A054	Marriage License/NYSHD	\$ 1,440.00		\$ 480.00	\$ 1,920.00
A1255-002 A123	Commissioners of Deeds			\$ 25.00	\$ 25.00
A2501-599 A130	Pawn Broker			\$ 150.00	\$ 150.00
A2501-015 A266	Home Improvement			\$ 625.00	\$ 625.00
A2545-021 A316	Vending			\$ 1,990.00	\$ 1,990.00
A2545-023 A318	Hunters/NYS DEC RAU	\$ 976.87			\$ 976.87
A2545-023 A318	Hunters Fees			\$ 57.13	\$ 57.13
A1255-003 A499	Notary Fee			\$ 22.00	\$ 22.00
A1255-005 A528	Dog Release			\$ 700.00	\$ 700.00
TA63008 A597	Marriage Performance			\$ 1,000.00	\$ 1,000.00
A2501-027 A696	Photos/passport-license			\$ 54.00	\$ 54.00
TOTAL:		<u>\$ 2,840.42</u>		<u>\$ 14,364.33</u>	<u>\$ 17,204.75</u>
Check #	<u>38910</u>	Niagara County Treasurer	\$ 321.55		
Check #	<u>38937</u>	NYS Dept. of Arg. & Mkts	\$ 102.00		
Check #	<u>38908</u>	NYS Health Department	\$ 1,440.00		
Check #	<u>ET</u>	NYS DEC RAU	\$ 976.87		

Item #2

**SUBJECT: CHANGE ORDER #1 – CONSULTANT SERVICES FOR THE RECONSTRUCTION OF
LOCKPORT STREET – PIN 5757.09**

A contract for the above referenced project was awarded to Urban Engineers of New York, P.C., The Brisbane Building, 403 Main Street, Suite 530 Buffalo, New York 14203, in the amount of \$635,288.00.

Subsequent to the start of the design of this project, the initial Environmental Analysis of the right-of-way and report revealed five discrete locations of either elevated petroleum products, metals or industrial-type solvents related to past uses of the properties adjacent to the road reconstruction project. It is the recommendation of the New York State Department of Transportation, New York State Department of Environmental Conservation the project design firm to investigate those locations further to avoid unnecessary and costly delays as the project progresses. This additional site testing and analysis is beyond the original scope of the design and will result in a net increase of \$16,933.00 to the project. Sufficient funding presently exists within our current funding agreement with New York State Department of Transportation.

It is the recommendation of the undersigned that Change Order #1 be approved in the amount of \$16,933.00, increasing the contract total to \$652,221.00. Funding is available in Code H0633.2006.0633.0449.599.

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

Item #3

**RE: 2009 COMMUNITY DEVELOPMENT ANNUAL PLAN
BUDGET AMENDMENTS**

Council Members:

The Department of Community Development is requesting that two budget amendments to the 2009 Consolidated Annual Plan be considered by City Council. The 2009 Annual Plan was adopted by City Council at the November 10, 2008 meeting.

**Budget Amendment #1 – Loan Technician Upgrade from Grade 18 to Grade
20**

It is recommended that this position be upgraded from the current grade 18 to grade 20 effective January 1, 2009. This would reflect a salary increase of \$1,751.35 to an annual salary of \$48,861.14 in 2009. This upgrade was not included in the CD administrative detail adopted by Council as the required City approvals were not all in place at that time. We are now in a position to recommend this upgrade. Community Development Funds will be available in budget code CRP008 for 2009.

Budget Amendment #2 – Emergency Shelter Grant Funding to Odallam Inc.

The narrative portion of the 2009 Consolidated Plan and the HUD Project list indicated that \$10,000 in ESG funding would be provided to Odallam Inc for operating costs associated with their shelter located at 915 Ferry Avenue. The project was inadvertently omitted from the ESG line item budget page and we are asking that Council now approve this appropriation.

Will the Council vote to so approve the amendments and authorize the Director of Community Development to effectuate same?

Item #4

**RE: LETTER OF AWARD
ASBESTOS SERVICES CONTRACT 2009-2010**

Council Members:

The Department of Community Development received bids for the referenced project on November 17, 2008. Listed below are the bids that were received, the low bidder being JMD Environmental at \$123,300. The asbestos services contract includes asbestos surveys, sample analysis and air monitoring relative to City demolition contracts. The bid amount is a maximum contract upset fee for a two-year period beginning January 1, 2009 and ending December 31, 2010.

<u>CONTRACTOR</u>	<u>BASE BID</u>
JMD Environmental, Inc.	\$123,300
Stohl Environmental, LLC	\$132,100
Upper New York State Environmental (UNYSE)	\$138,000
Buffalo Environmental/AFI	\$144,900

It is the recommendation of the undersigned that this project be awarded to the low bidder, JMD Environmental at their base bid of \$123,300. Funding is available in Community Development Budget Code CDR099.

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

Item #5

**SUBJECT: Old Falls Street- West Mall Project, Time Extension
CHANGE ORDER #1**

The contract for the above referenced project was awarded to Mark Cerrone Inc. 2368 Maryland Avenue, Niagara Falls, NY 14305 on September 29, 2008 in the amount of \$4,376,043.00.

Subsequent to the start of this project, the anticipated funding from the State of New York to the City of Niagara Falls experienced a three-week delay. The delay is no fault of the Contractor Mark Cerrone Inc. who had executed the contract documents in a timely matter. This delay was discussed with all the stakeholders involved and it is the recommendation of undersigned that a no cost Change Order for a request of time extension to complete the project be approved. Change Order #1 allows the completion date and all associated bonuses and penalties to be moved from June 5th, 2009 to June 29th, 2009.

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

Item #6

**RE: City Council Agenda Item:
HOPE VI Remediation Plan
\$3 Million of City Casino Revenues**

Council Members:

We are moving toward a plan for the HOPE VI for excavation and disposal of the incinerator ash. We are also finalizing details such as the type of fill which can be used in utility trenches. The overall principle is that excavated ash will be removed from foundations, roads, utility trenches, water main trenches and similar areas. Two feet of clean fill will be placed within the HOPE VI area as required by Department of Environmental Conservation and other applicable regulatory agencies. All excavated material will be disposed of in an appropriate landfill. Plastic barriers to mark the boundaries between ash and clean fill are required. In some instances (around water lines), protective barriers may be required.

Consultation with the County Department of Health and other public agencies has resulted in a request for more testing of the site. The initial testing and soil management plan were oriented to the former railroad property south of Center Avenue. Most of the new testing will be done on the ash disposal site of the Center Court playground. It is felt that the new testing is necessary to allay concerns raised as to the character and composition of the ash.

Once all public agencies have reached a level of confidence concerning the construction of the HOPE VI project on the site, the City is prepared to assist with the cost of disposal of the excavated material. You may recall that the City approved a grant of \$3 Million to the Project, with \$2 Million to be used for hard costs for Phase 1 and \$1 Million to be used for hard costs for Phase 2. The State has agreed to provide \$1 Million of the \$3 Million City grant from the City casino funds that the State was holding. The City transferred the other \$2 Million to the Housing Authority. We are told that the additional remediation work will cost in excess of \$3 Million. The City is prepared to commit or promise assistance to help meet these costs.

First, we will allow the \$1 Million of the City's \$3 Million grant which was reserved for Phase 2 to be used for Phase 1 remediation costs. Next, the City will grant \$1 Million of 2007 casino revenues received in 2008 to Phase 1 remediation costs. Finally, the City will express its intent to appropriate \$1 Million of 2008 casino revenues to Phase 1 remediation costs. These 2008 revenues cannot be appropriated at this time, and further Council action will be required to validate this "promise" when the 2008 casino revenues are received in 2009.

Former Mayor Anello, in a letter dated May 1, 2006, "pledged" \$2 Million in CDBG or HOME funds to Phase 2 of the Project. The Mayor was not authorized to make that "pledge," and revenues of the City can only be appropriated for each year in the annual budget process. The \$2 Million of additional funds for Phase 1 remediation proposed under this action will fulfill Mayor Anello's "pledge" and the City commitments which HUD relied on in awarding the

HOPE VI grant. Upon payment of these funds, the City will have fulfilled its promises for the HOPE VI Project. There will be no obligation, legal or otherwise, for the City to provide additional funds.

None of the City grant funds may be used for the project until the current round of testing, and any subsequent tests occasioned by the new testing, has taken place. The plan for the excavated materials and development of the site must incorporate any requirements necessitated by the new test results. All permits and approvals must be obtained prior to the expenditure of City grant funds.

The City funds granted for remediation will remain on deposit with the City until needed for hard costs only. The funds may not be used for architects, lawyers, engineers or developers fees, project administrative costs, NFHA administrative costs or other soft costs. NFHA and its development partners have stated that they will provide funds for all costs exceeding the City \$3 Million grant and for all soft costs associated with the remediation, including monitoring and reporting as may be required. City funds will be released upon proof of incurring of the costs. The final City draw of \$100,000 will be released only upon completion of all remediation work. The City and NFHA will enter into a grant agreement regulating the use of the funds and reflecting the approvals set forth herein.

This \$5 Million grant is without precedent. The \$5 Million grant is an indication of City's commitment to revitalization of the Highland Avenue neighborhood and the City's support for housing for its citizens.

Will the Council vote to approve the commitment of casino revenues to the HOPE VI Project in conformity with the conditions set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

Item #7

RE: State Urban Area Supplemental Program Grant

Council Members:

The Police Department has been awarded \$140,000.00 under the above referenced Grant program.

Funding for this is provided by the U.S. Department of Homeland Security and the Federal Emergency Management Agency.

There is no City match required.

Will the Council approve the acceptance of the Grant and authorize the Mayor to execute the Grant agreement and other required documentation to effectuate the Grant?

Item #8

RE: Request for Approval to Settle and Pay Claim of James Daley
18 Florence Avenue, Buffalo, New York

Council Members:

Date Claim Filed:	November 5, 2008
Date Action Commenced:	N/A
Date of Occurrence:	September, 2008
Location:	Baldassara Collision, 1119 11 th Street, Niagara Falls, New York
Nature of Claim:	Storage fees due to lack of notification.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$90.00
Make Check Payable to:	James Daley
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?

Item #9

**RE: Peter and Elizabeth Poblete V. City of Niagara Falls
Index No. 135037**

Council Members:

The Plaintiffs were the owners of 8121 Valle Drive, Unit C-1.

This property was included in the City's last In Rem proceeding and was ultimately sold at auction.

At the auction the City netted \$30,000.00 more than the outstanding taxes.

The Plaintiffs had paid the outstanding City taxes prior to the In Rem auction and the property proceeded to auction due to the fact there were outstanding Niagara County taxes. Supplemental notices were not received prior to the auction by the Plaintiffs due to an incorrect address in the City's records.

It is the recommendation of this office that the City settle this matter by the payment of \$30,000.00 to Kathleen Gaines, as attorney, subject to the receipt of a stipulation of discontinuance and a general release in a form acceptable to the Corporation Counsel.

Will the Council so approve?

The following have requested City Council approval for Commissioner of Deeds for a term from January 1, 2009 to December 31, 2010.

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

Alexis, Angel	Department of Engineering
Alvarez, Lorrie	NFPD
Andrews, Gloria	207-84 th St., Niagara Falls, NY 14304
Baldwin, Kathleen M.	839-17 th St., Niagara Falls, NY 14304
Bevilacqua, Gary	8421 Buffalo Ave #26, Niagara Falls, NY 14304
DeCicco, Joelle	Law Department
Etopio Jr., Thomas J.	NFFD
Ewing, Thomas G.	NFPD
Garlitz, Denise J.	2247 Grand Ave., Niagara Falls, NY 14301
Heichel, Patricia J.	Office of the City Clerk
Larrabee, Shawn	NFPD
Letty, Robin	487-26 th St., Niagara Falls, NY 14303
Lipniarski, Deborah	2709 Woodlawn Ave., Niagara Falls, NY 14301
McCune, Patricia	NFPD
Pennell, Bobbie J.	8532 Krull Parkway, Niagara Falls, NY 14304
Thomason, Laura	337 Oak St., Youngstown, NY 14174

Item #11

NIAGARA FALLS PLANNING BOARD

APPROVAL OF REFFERAL TO CITY COUNCIL
DRAFT Comprehensive Plan

Pursuant to action taken by the Niagara Falls Planning Board on the 12th day of November 2008, this referral is hereby granted.

NAME OF OWNER: *N/A*

ADDRESS OF ACTION: *City-wide*

PURPOSE: *See attached resolution*

DATE: November 12, 2008

Angelo D'Aloise, Chairman

Niagara Falls Planning Board

NIAGARA FALLS PLANNING BOARD

APPROVAL OF REFFERAL TO CITY COUNCIL
DRAFT Zoning Ordinance

Pursuant to action taken by the Niagara Falls Planning Board on the 12th day of November 2008, this referral is hereby granted.

NAME OF OWNER: *N/A*

ADDRESS OF ACTION: *City-wide*

PURPOSE: *See attached resolution*

DATE: November 12, 2008

Angelo D'Aloise, Chairman

Niagara Falls Planning Board

NIAGARA FALLS PLANNING BOARD

APPROVAL OF REFFERAL TO CITY COUNCIL
DRAFT Generic Environmental Impact Statement

Pursuant to action taken by the Niagara Falls Planning Board on the 12th day of November 2008, this referral is hereby granted.

NAME OF OWNER: *N/A*

ADDRESS OF ACTION: *City-wide*

PURPOSE: *See attached resolution*

DATE: November 12, 2008

Angelo D'Aloise, Chairman

Niagara Falls Planning Board

RESOLUTION

**By the Niagara Falls Planning Board
November 12, 2008**

**Recommendation to City Council
To Adopt the 2008 Niagara Falls Comprehensive Plan and
Zoning Ordinance Updates**

WHEREAS, the Planning Board of the City of Niagara Falls previously determined, by resolution dated February 27, 2007, that adoption of a 2007 City of Niagara Comprehensive Plan and associated amendments to the City of Niagara Falls Zoning Ordinance is required and necessary to promote greater social opportunity and enhanced quality of life, guide the physical revitalization of the neighborhoods and other community districts, and encourage greater economic prosperity throughout the City of Niagara Falls; and

WHEREAS, on February 27, 2007, the Planning Board further determined that comprehensive zoning amendments and reform will positively affect the immediate and long-range protection, enhancement, growth and development of the state and the Niagara Region generally, and the City of Niagara Falls specifically; and

WHEREAS, the aforementioned 2007 Comprehensive Plan and associated Zoning Amendments were the culmination of a widely publicized and open planning process dating back until at least the spring of 2003; and

WHEREAS, the Planning Board has, since its prior determinations on February 27, 2007, further examined the provisions of the 2007 Comprehensive Plan and Zoning Amendments and made certain additional changes thereto which are designed to address concerns expressed by the public and various City officials, to clarify the documents, further the purposes and intent of the Comprehensive Plan, and enhance consistency of the proposed zoning changes with applicable enabling legislation and other legal and procedural requirements; and

WHEREAS, the aforementioned changes are embodied in a draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008, and such changes are summarized in Section I(A)(2) of a Draft Generic Environmental Impact Statement (DGEIS) dated October 8, 2008 which has been prepared in accordance with the New York State Environmental Quality Review Act (SEQRA); and

WHEREAS, this body of work represents years of community involvement, city staff efforts, professional legal, design, and land use planning consultation, and the diligent effort by the Planning Board; and

WHEREAS, the future of our City mandates that we have a clear plan of action and accompanying rules and regulations to ensure our economic viability and to improve the quality of life for our citizens; and

WHEREAS, our sense of place and the success of our City depends upon having an appropriate guide for development and real property investment that creates places that will add to our assets, quality of life, and the human environment; and

WHEREAS, the draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 provide a sound basis for discussion and refinement by the City Council to achieve the aforementioned objectives; and

WHEREAS, the Planning Board members are amenable to fully participate in work sessions with City Council as needed to further understanding and discussion of these documents.

THEREFORE, BE IT RESOLVED, that the Planning Board of the City of Niagara Falls does hereby make the following findings:

1. The Planning Board duly noticed and conducted a public hearing on November 5, 2008 concerning the draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008, and has heard and considered all public comments submitted up to and including November 5, 2008; and
2. Due to the current social, economic, land use and other conditions described in Part I of the draft 2008 Comprehensive Plan, the revisions reflected in the draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 are required and necessary to promote greater social opportunity and enhanced quality of life, guide the physical revitalization of City neighborhoods and other community districts, and encourage greater economic prosperity throughout the City of Niagara Falls; and
3. The revisions reflected in the draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 will positively affect the immediate and long-range protection, enhancement, growth and development of the state and the Niagara Region generally, and the City of Niagara Falls specifically; and
4. The draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 will further the purposes set forth in Section 1300.01 of the City's current Zoning Ordinance for the reasons detailed throughout the 2008 Comprehensive Plan itself and in the accompanying October 8, 2008 DGEIS; and
5. The changes to the City's zoning regulations reflected in the draft Zoning Ordinance dated October 11, 2008 are fully consistent with, and were prepared in direct response to, the purposes and intent of the draft 2008 Comprehensive Plan; and
6. The draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 will otherwise be protective of the public health, safety and general welfare of City residents.

AND, BE IT FURTHER RESOLVED, that the Planning Board recommends that the City Council, upon receipt of this recommendation, act to:

1. Declare itself lead agency for purposes of compliance with SEQRA;
2. Determine that the proposed adoption of the draft 2008 Comprehensive Plan and draft Zoning Ordinance dated October 11, 2008 constitutes a "Type I" action under SEQRA;
3. Issue a determination of significance under SEQRA (i.e., a Positive Declaration) reflecting the Council's determination that preparation of a Generic Environmental Impact Statement for the action is appropriate;
4. Expediently review and refine, if necessary, the draft 2008 Comprehensive Plan, draft Zoning Ordinance dated October 11, 2008 and DGEIS dated October 8, 2008;
5. Thereafter issue a Notice of Completion of the DGEIS and schedule a public hearing for purposes of receiving further public comments with respect to the proposed action in accordance with SEQRA and General City Law § 28-a(7)(b);
6. Duly refer the aforementioned Comprehensive Plan, Zoning Ordinance and DGEIS, with any City Council refinements, to the Niagara County Planning Board in accordance with § 239-m of the General Municipal Law; and
7. Thereafter issue a Final GEIS based upon all public comments received and render its independent findings under SEQRA with respect to the aforementioned Comprehensive Plan and Zoning Ordinance, and act affirmatively to adopt those proposed documents.

I certify that the above resolution was adopted at a meeting of the Niagara Falls Planning Board held November 12, 2008.

Date: November 12, 2008

Angelo D'Aloise, Chairman

Niagara Falls Planning Board

Item #12

RESOLUTION RELATIVE TO AMENDING CHAPTER 365
OF THE CODIFIED ORDINANCES ENTITLED
“TAXICABS AND TAXICAB DRIVERS”

By: Council Member Chris Robins

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 365 of the Codified Ordinances entitled ATaxicabs and Taxicab Drivers@ is hereby amended by amending Section 365.34 to read as follows:

365.34 RATES OF FARE: RATE CARD REQUIRED.

No owner or driver of a taxicab shall charge a sum for the use of a taxicab other than the following rates:

- (a) [~~Two Dollars and thirty cents (\$2.30)~~] Two Dollars and forty cents (\$2.40) for the first one-sixth mile or any portion thereof;
- (b) [~~Forty cents (\$.40)~~] Fifty cents (\$.50) for each additional one-sixth mile thereafter;

...

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