

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 February 2009

		<u>CONTROLLER</u>	<u>TOTAL</u>
A1255-001 A012	Vital Statistics	\$ 5,184.00	\$ 5,184.00
A1255-004 A013	Copies of Records	\$ 395.00	\$ 395.00
A1255-004 A013	Certificates of Marriage	\$ 350.00	\$ 350.00
A2501-011 A044	Peddler	\$ 45.00	\$ 45.00
A2501-014 A046	Electrician - Active	\$ 125.00	\$ 125.00
A2501-016 A047	Stationary Engineers	\$ 240.00	\$ 240.00
A2501-021-A048	Amusement Games	\$ 200.00	\$ 200.00
A2542-000 A053	Dogs/N County Treasurer	\$ 217.62	\$ 217.62
A2542-000 A053	Dogs/NYS Agr. & Mkts	\$ 69.00	\$ 69.00
A2542-000 A053	Additional Dogs	\$ 1,351.88	\$ 1,351.88
A2545-001 A054	Marriage License/NYSHD	\$ 787.50	\$ 1,050.00
A1255-002 A123	Commissioners of Deeds	\$ 65.00	\$ 65.00
A2545-010 A128	Petroleum - Retail	\$ 700.00	\$ 700.00
A2545-010 A128	Petroleum - Storage	\$ 480.00	\$ 480.00
A2545-010 A128	Petroleum - Wholesale	\$ 400.00	\$ 400.00
A2501-015 A266	Home Improvement	\$ 375.00	\$ 375.00
A2545-023 A318	Hunters/NYS DEC RAU	\$ 81.24	\$ 81.24
A2545-023 A318	Hunters Fees	\$ 4.76	\$ 4.76
A1255-003 A499	Notary Fee	\$ 16.00	\$ 16.00
A1255-005 A528	Dog Release	\$ 500.00	\$ 500.00
TA63008 A597	Marriage Performance	\$ 300.00	\$ 300.00
A2501-027 A696	Photos/passport-license	\$ 144.00	\$ 144.00
TOTAL:		<u>\$1,155.36</u>	<u>\$ 11,138.14</u>
			<u>\$ 12,293.50</u>

Check #	<u>40675</u>	Niagara County Treasurer	\$217.62
Check #	<u>400711</u>	NYS Dept.of Arg. & Mkts	\$ 69.00
Check #	<u>40673</u>	NYS Health Department	\$787.50
		NYS DEC	
Check #	<u>ET</u>	RAU	\$ 81.24

Item #2

RE: Providing Niagara Falls, New York Logo Pins to Niagara Falls Rebels Baseball Team

Council Members:

The Niagara Falls Rebels Baseball Team is participating in a tournament in Cooperstown, New York this summer. This is the first time a baseball team comprised of boys from Niagara Falls is participating in this tournament. The team wishes to distribute Niagara Falls souvenir pins to other participants in this tournament and also wishes to distribute various other Niagara Falls promotional information. The cost for 1,000 such pins is \$1,600.00. The source of funds for this is found in Tourism Fund Balance.

Will the Council so approve?

Item #3

RE: 448 Third Street, Niagara Falls, New York

Council Members:

Please recall that on September 8, 2008 Council Members authorized the City to proceed to purchase 448 Third Street, Niagara Falls, New York for the sum of \$75,000. A contract has now been negotiated with the seller for the previously authorized \$75,000 amount plus the seller's reasonable and customary closing costs not to exceed \$3,000. In addition, the sum of \$75,000 is needed in order to install the landscaping necessary to create the arcade walkthrough for parking on Second Street to be able to access Third Street. The landscaping and expenses of the seller will be paid from casino revenues.

Will the Council confirm its determination to acquire 448 Third Street made on September 8, 2008, and also that it would be in the public interest and vote to approve the expenditure of up to \$3,000 of seller's closing costs from casino revenues, and also vote to approve the expenditure of \$75,000 of casino revenues in order to accomplish necessary landscaping, and authorize the Mayor to execute any documents necessary to effectuate the same?

**RE: City Council Agenda Item:
Sale of Wintergarden to USA Niagara
Cancellation of Reconveyance Agreement/Approval of Sale
Termination of Sidewalk License
Cancellation of Access Easement
Cancellation of Restaurant Lease
Termination of East Mall License**

Council Members:

USA Niagara Development Corporation has been moving toward completing the purchase of the Wintergarden. In connection with that sale, the City will receive the balance of its \$950,000 mortgage (approximately \$500,000 plus any unpaid interest). City action is required to clear up a number of title issues regarding the property.

The sale by the City was subject to a reconveyance agreement, under which no sale of the Wintergarden prior to December 31, 2009 could occur unless the City had approved of the sale and the purchaser. The first action is approval of the sale by Wintergarden Entertainment, LLC of the Wintergarden to USA Niagara Development Corporation. In addition, the balance of the term of the reconveyance agreement will be cancelled.

The City granted a sidewalk license agreement to Wintergarden Entertainment, LLC, to allow for patron lines and attractions on the sidewalk plaza on the west side of the Wintergarden. The second action is to agree to the termination of the West Mall sidewalk license agreement with Wintergarden Entertainment, LLC.

The Wintergarden sale was subject to a requirement that access through the Wintergarden be maintained 24/7 by and through the premises. Since the Wintergarden will be demolished and replaced with a public street, the access easement will not be required. The third action is cancellation of the access easement, to take effect upon demolition of the Wintergarden and re-establishment of public access through the area.

In 1984 the City granted a lease to the original operator of the Wintergarden Inn, allowing construction and operation of a "greenhouse restaurant" in the Wintergarden in conjunction with the hotel operation. The lease term was 40 years, with two ten year renewal options. The lease was not assignable. The original operator has long since ceased to operate the hotel or the restaurant. The City never approved assignment of the restaurant lease. The fourth action is cancellation of the lease agreement.

Finally, in 2004 the City entered into a license agreement with East Mall Entertainment, LLC, an affiliate of Wintergarden Entertainment, LLC, the current owner/seller of the Wintergarden. The sale of the Wintergarden to USA Niagara requires East Mall Entertainment, LLC to terminate its license agreement with the City. The final action is to agree to the termination of the East Mall license agreement with East Mall Entertainment, LLC.

Will the Council vote to approve the actions as set forth herein, and authorize the Mayor to execute any documents in form acceptable to our Corporation Counsel necessary to effectuate the same?

Item #5

RE: Reallocation of 2008 Casino Capital Funds for the Police Department

Council Members:

The Council previously approved a list of expenditures for the Police Department for capital purchases from the 2008 casino funds. Due to the ability to use other funding sources and some costs being less than anticipated, it was not necessary to expend all of these funds. The Police Department requests that these funds be reallocated to the purchases on the attached list.

Will the Council so approve?

Item #6

SUBJECT: Bid # 09-09 Lease of Golf and Utility Carts

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

TO: Golf Car Supply, Inc.
27 Morgan Street
Akron, NY 14001

FOR: Five (5) year lease of the following:

75-Golf Carts	\$4,344.00/mth.	\$260,640.00
8-Utility carts (1,200 lb. load capacity)	1,000.00/mth.	60,000.00
1-Utility cart (800 lb. load capacity)	83.33/mth.	4,999.80
2-Utility carts (800 lb. load capacity) with enclosed cabs)	300.00/mth.	<u>18,000.00</u>
	Total:	\$343,639.80

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 six (6) vendors. two (2) bids were received. The above referenced company submitted the overall lowest bid.

Funds for this expenditure are available in the following budget codes: A7110.3450.0440.003, CE1720.2560.0440.003, CR1720.2570.0440.003, GC7250.0100.0442.003 and GC7250.0200.0440.003.

Item #7

SUBJECT: Bid # 05-09 Wheel Loader

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

TO: Milton-Cat
4610 East Saile Drive
Batavia, NY 14020

FOR: One (1) Caterpillar Model 938H wheel loader:	\$167,785.00
Trade-in of one (1) 1985 Caterpillar Model 936 wheel loader:	-9,000.00
Trade-in of one (1) 1986 Caterpillar Model 936 wheel loader:	<u>-16,000.00</u>
Net Total:	\$142,785.00

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 bid requests were sent to seven (7) vendors. Four (4) bids were received. The above referenced company submitted the lowest bid for the new equipment and the highest bids for the trade-ins.

Funds for this expenditure are available in the 2009 Capital budget code:
H0912.2009.0912.0230.000.

Item #8

*RE: Request for Approval to Settle and Pay Claim of Artasker M. Walker
2748 Grand Avenue, Niagara Falls, New York*

Council Members:

Date Claim Filed:	October 30, 2008
Date Action Commenced:	N/A
Date of Occurrence:	October 25, 2008
Location:	2748 Grand Avenue, Niagara Falls, NY
Nature of Claim:	Damage to vehicle due to City tree.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$2,095.20
Make Check Payable to:	“Artasker M. Walker”
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?

RESOLUTION No. 2009–

RESOLUTION FOR USE OF POLLING PLACE FOR THE
ANNUAL SCHOOL ELECTION

BY:

Council Chair Chris Robins
Council Member Robert A. Anderson, Jr.
Council Member Steve Fournier
Council Member Sam Fruscione
Council Member Charles Walker

WHEREAS, the Annual School Election will be held on Tuesday, May 19th, 2009.

Attached 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.

RESOLUTION No. 2009–

REMOVAL OF THE ROBERT MOSES GORGE PARKWAY
BY:
Council Member Sam Fruscione

WHEREAS: The lower Niagara River and the Niagara gorge is a natural wonder of international botanical, cultural, ecological, geological, and historical significance and remains a unique corridor of wilderness within our urban region; and

WHEREAS: The Robert Moses Gorge Parkway bypasses the entire Main Street Business District, Pine Avenue Business District, Niagara Street Business District, Third Street Business District, the Niagara Falls Downtown Business District, and the City's core; and

WHEREAS: The Niagara Falls' City Master Plan calls for miles of parkway removal and the Niagara Falls' December, 2008 "A View of the Falls Final Report," (page 51), USA Niagara has proposed the 6.5 mile section of the Robert Moses Parkway along the lower river gorge from Niagara Falls to Lewiston be removed with traffic channeled through the city's center; and

WHEREAS: Eco-tourism is one of the fastest growing major trends in the U.S. and over 55 million U.S. travelers can be classified as eco-tourists who can be drawn to the area to create new economic opportunities; and

WHEREAS: Green Infrastructure Planning College Curriculum (page 10) notes there are economic reasons to protect "viewsheds" since they are important to attracting what are known as Heritage Tourists who come to see historic or culturally important sites spending, on average, two-and-a half times as much money than do other tourists; and

WHEREAS: The 32 member, Smart Growth Network's (page 43-44) economic analysis concluded owners of small companies ranked recreation, parks, and open space as the highest priorities in choosing new locations for their businesses; and

WHEREAS: Niagara Falls and the Niagara River Region has been designated a National Heritage Area and removal of the Robert Moses Gorge Parkway is consistent with its goals; and

WHEREAS: Removal of the Robert Moses Gorge Parkway is consistent with the Niagara River Greenway Plan for the Region and New York State; and

WHEREAS: the New York Natural Heritage Program concludes the Niagara Gorge calcareous cliff community harboring some of the oldest trees (500-1,000 years old) in the state are threatened by adjacent upslope development (e.g. residential, agricultural, utility right-of-ways and roads) and its associated runoff and other habitat alteration (NYNHP Conservation Guide – Calcareous Cliff Community -page 2); and

WHEREAS: When land adjacent to a historic site is developed, it can mar or even destroy the integrity of the historic site and when these scenic vistas are lost, visitors may stop coming and residents will lose aspects of the landscape that they most value; and

WHEREAS: The people of our region as well as the people around the world should have an opportunity to experience this wonder in its natural and restored state, unmarked by destructive and unsightly development; and

WHEREAS: The Niagara Heritage Partnership's online petition (www.niagaraheritage.org) and list of supporting organizations represents an informal marketing study of over 1 million people who support total gorge parkway removal; therefore, be it

RESOLVED, that the Niagara Falls City Council strongly endorses the Main Street Business and Professional Association resolution for four lane removal of the Robert Moses Gorge Parkway from Niagara Falls, north, to the city line and the subsequent restoration of this land as a heritage natural area, as described herein with the supporting documents attached; and therefore, be it

RESOLVED that the Niagara Falls City Council strongly endorses demapping the Robert Moses Gorge Parkway, remapping it as parkland, as the road is neither environmentally sound nor economically feasible and notes that such action is financially sound, more sensible, and cost effective.