

Agenda Item #1

The following claims have been filed in the Office of the City Clerk during the month of May 2012. The claims were subsequently referred to the Office of the Corporation Counsel.

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

NOTICE OF AMENDED SUMMONS

Johnson, Rachael
Administratrix of the Estate of Kevin Johnson
c/o Brown Chiari LLP

Index#E144935/2011

NOTICE OF SUMMONS

Taylor, Marvell
c/o Eugene C. Tenney

Index#146977

SUMMONS

D'Arcy, Tina
c/o William P. Moore, ESQ.

Index#147079

Agenda Item #2

The City Council approved a contract to Wendel Duchscherer for design, permitting (SEQRA), construction bidding and construction monitoring, in the amount of \$14,450.00.

Subsequently, at the request of the City Engineer soils testing was ordered to verify sub-surface soil conditions to ensure proper design and construction. See attached invoice for cost detail. Funding is available for 100% of this cost under a Niagara County Environmental Fund grant in the amount of \$85,000.00. The balance of the grant will be used to pay the cost of construction.

Will the Council vote to approve the additional \$2,500.00 change to Wendel Duchscherer as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

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.).

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?

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?

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?

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 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?

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?

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?

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?

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?

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?

Agenda Item #13

RE: Request for Approval to Settle and Pay Claim of Daniel and Joann Martone
7 Plymouth Place, Williamsville, New York 14221

Council Members:

Date Claim Filed:	April 2, 2007
Date Action Commenced:	November 16, 2007
Date of Occurrence:	February 15, 2007
Location:	Intersection of Main Street and Third Street
Nature of Claim:	Personal injuries sustained in an accident with City vehicle.
City Driver:	Daniel Bird
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?

Agenda Item #14

Please be advised that Mayor Paul A. Dyster, on May 30, 2012, duly approved the following:

1. Resolution 2012-45, relative to Amending Chapter 1335 of the Codified Ordinances entitled "Historic Preservation Regulations".

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.

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

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

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.

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~~ **se** **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~~ **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

501.16 PARKING ALLEYS: ANGLE PARKING.

...

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

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 (NFMMC) 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 NFMMC 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.