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**JANUARY 7, 2013**  
**REGULAR COUNCIL MEETING** **NIAGARA FALLS, NEW YORK**

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The first session of the January 7, 2013 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 December 26, 2012.

Chairman Fruscione opened nominations for Council Chairman.

Council Member Walker nominated Council Member Grandinetti, seconded by Council Member Grandinetti.  
Council Member Anderson nominated Council Member Choolokian, seconded by Chairman Fruscione.  
Council Member Anderson voted for Council Member Choolokian.  
Council Member Choolokian voted for Council Member Choolokian.  
Council Member Grandinetti voted for Council Member Grandinetti.  
Council Member Walker voted for Council Member Grandinetti.  
Chairman Fruscione voted for Council Member Choolokian.

Council Member Choolokian was voted as Council Chairman for 2013 by a vote of three to two.

City Clerk Carol Antonucci administered the Oath of Office to Chairman Choolokian, as the Chairman's wife and son held the Bible.

In the Administrative Update, Mayor Paul Dyster thanked Council Member Fruscione for his service as Council Chairman, and welcomed Chairman Choolokian as the new Chairman.

The Mayor also congratulated Fire Chief Thomas Colangelo and Congressman Brian Higgins for their efforts in obtaining the Assistance to Firefighters Grant for the City.

Council Member Fruscione said that at the last Council Meeting he had inquired about postings for available City jobs, and he had not noticed that any had been posted. The Mayor and City Administrator Donna Owens said that they would look into the matter.

Council Member Fruscione also asked if any employees were being moved without Council approval, and the Mayor and City Administrator responded that they were not aware of that happening.

Corporation Counsel Craig Johnson distributed copies of a communication to be added to the Agenda relative to approval of an agreement with Beatrice Brantigan to operate the snack stand at City Hall, and responded to questions about the communication.

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 #10.

This Session ended at 4:15 PM

Chairman Choolokian reconvened the Meeting at 7:02 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:

Henry Krawczyk                      Agenda Item #4

Paul Gromosiak                      Recognize/remember City residents who are part of City's History

Ron Anderluh                      Congratulations to new Council Chairman and thanks to previous Chairman; all should work together for the good of the City; Grant Writer position is important; encourage development to build up tax base & revenue; increase parking revenues; thanks to City Departments for help at Gill Creek Park

Henry Krawczyk                      Problems with In Rem auctions; denied Civil Service jobs

Amy Witryol                      Covanta Project concerns

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: SECURITY GUARD SERVICES, G4S SECURE SOLUTIONS (USA), INC.

Agenda Item #1

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

TO: G4S Secure Solutions (USA), Inc.  
1967 Wehrle Drive, Suite 7  
Williamsville, NY 14421

FOR: Watchman services at the Corporation Yard and the Rainbow Center Parking Ramp Contract in effect thru December 31, 2013. If mutually agreeable, it may be extended up to two (2) additional years thru December 31, 2015.

Estimated number of hours per year (17,520): \$18.75/hr.

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) companies. Six (6) bids were received (on file in the City Clerk's Office). The above referenced company submitted the lowest bid.

Funds for this expenditure are available in the Public Works Department, Administration code: A1490.0001.0449.004.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

CONTRACT: NIAGARA COMMUNITY ACTION PROGRAM INC., FUNDING

Agenda Item #2

The 2013 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 2013. 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 Anderson moved that the communication be received and filed and the recommendation approved.

|           |          |
|-----------|----------|
| Yeas      | 4        |
| Fruscione | ABSTAIN  |
| Nays      | 0        |
|           | APPROVED |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: STANEK, KIMBERLY

Agenda Item #3

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         | 12/05/2012             | \$35.52       |
| Niagara Family Medicine Assoc. | 12/14/2012             | \$71.40       |

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 BIDS, 1748 LASALLE AVE & 450 23<sup>RD</sup> ST.

Agenda Item #4

At your December 10, 2012 meeting, you rejected bids for properties at 1748 LaSalle Avenue and 450 23<sup>rd</sup> Street.

The back bidders on these two properties have been contacted and have agreed to purchase them as follows:

| <u>Property Address</u>     | <u>Bidder Name</u>                                   | <u>Bid Amount</u> |
|-----------------------------|------------------------------------------------------|-------------------|
| 1748 LaSalle Avenue         | Keith Canazzi<br>310 Deerwood Ln<br>Grand Island, NY | \$6,000.00        |
| 450 23 <sup>rd</sup> Street | Sharon Thompson<br>920 Garden Ave<br>Niagara Falls   | \$7,500.00        |

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 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 December 27, 2012, duly approved the following;

An Ordinance, relative to Amending the Historic Preservation Ordinance by the designation of 763 Portage Road, Oakwood Cemetery as a Historic Landmark as approved by the Historic Preservation Commission. THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: KING, JR., DR. MARTIN, HONORING, 2013-1

BY: ALL COUNCIL MEMBERS

Agenda Item #6

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

WHEARAS, 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

WHEARAS, January 21<sup>st</sup>, 2013 will mark the 27<sup>th</sup> 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

WHEARAS, 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 21<sup>st</sup>, 2013 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: NIAGARA GAZETTE, DESIGNATION AS OFFICIAL NEWSPAPER, 2013-2

BY: ALL COUNCIL MEMBERS

Agenda Item #7

BE IT RESOLVED, by the City Council of Niagara Falls, New York, that the designation of the Niagara Gazette as the official newspaper of the City of Niagara Falls, New York for purposes of printing and /or publishing of all legal notices, public hearing notices and any other matters required by law or by the City Council or the Boards of the City to be printed and/or published is hereby continued.

BE IT FURTHER RESOLVED, that this designation shall be in effect for the year 2013, but such designation shall not thereafter lapse until superseded.

Yeas

5

Nays

0

ADOPTED

RESOLUTION: INVESTMENT POLICY, ADOPTION, 2013-3  
BY: ALL COUNCIL MEMBERS

Agenda Item #8

WHEREAS, New York law requires the governing board of each municipality to adopt an investment policy; and

WHEREAS, the objectives of the investment policy are:

1. to conform with legal requirements
2. to provide for the safety of principal
3. to provide for sufficient liquidity to meet operating requirements
4. to obtain a reasonable rate of return; and

WHEREAS, the attached investment policy (on file in the City Clerk's Office) is designed to satisfy these objectives.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Niagara Falls, New York, that it hereby adopts the attached investment policy.

Yeas

5

Nays

0

ADOPTED

RESOLUTION: HOME IMPROVEMENT REGISTRATION, ORDINANCE AMENDMENT, 2013-4  
BY: COUNCIL CHAIRMAN SAMUEL FRUSCIONE

Agenda Item #9

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 340 of the Codified Ordinances entitled Home Improvement Registration is hereby amended as attached hereto (on file in the City Clerk's Office).

Bold and Underlining indicate Additions.

Strikethroughs indicate [Deletions].

Yeas

5

Nays

0

ADOPTED

CONTRACT: CITY HALL SNACK STAND

Agenda Item #10

The agreement with the previous operator of the snack stand in the ground floor of City Hall came to an end a few months ago and proposals were circulated for a new operator. A proposal was received from Beatrice Brantigan, owner and operator of Sweet BeeLin Diner. The proposal calls for Ms. Brantigan to provide a variety of items that have been previous available at the snack stand and stipulates hours for operation. The initial term is for a period of five (5) years with an option to renew for an additional five (5) years. Ms. Brantigan has proposed to pay the City \$100.00 per month with annual increases of 10 percent. This is similar to what the previous operator paid.

Will the Council so approve and authorize the Mayor to execute an agreement providing for the terms of occupancy 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

5

Nays

0

APPROVED

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 7:35 P.M.

Carol A. Antonucci  
City Clerk



**JANUARY 22, 2013**  
**REGULAR COUNCIL MEETING** **NIAGARA FALLS, NEW YORK**

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The first session of the January 22, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 4:06 P.M. in the Council Chambers.

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

Also present: Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell, City Controller Maria Brown and Seth Piccirillo, Community Development Director, was acting as City Administrator.

Council Member Fruscione moved to approve the Minutes from the City Council Organizational & Regular Meeting of January 7, 2013.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

Chairman Choolokian allowed Harvey Albond to speak. Mr. Albond spoke about the State Park (Robert Moses Pkwy). He would like the Council to reject the alternative selected by the State for the Parkway. He sees no use of that road other than bypassing the City.

Chairman Choolokian said that since Mayor Paul Dyster and City Administrator Donna Owens were not there, there would be no Administrative Report.

Seth Piccirillo, Community Development Director, stated he had the scheduled Administrative Updates ready. He then asked the Chairman if he would be able to do the DPW update. He said 7 jobs were posted by DPW and bids were received. DPW made hiring recommendations and there will be a 2<sup>nd</sup> round of posting.

Corporation Counsel Craig Johnson said that Item #21, was revised and handed out copies of the new Resolution.

|                                                        |   |
|--------------------------------------------------------|---|
| Council Member Fruscione moved to amend the Resolution |   |
| Yeas                                                   | 5 |
| Nays                                                   | 0 |

MOTION TO AMEND THE RESOLUTION APPROVED

Chairman Choolokian said that Item #17 was going to be addressed in Executive Session right after this meeting.

Council Member Fruscione motioned to go into Executive Session and his motion was unanimously approved. Council Member Fruscione moved to end the Executive Session, seconded by Council Member Grandinetti and was unanimously approved. The Executive Session ended at 4:31 PM.

This Session ended at 4:31 PM.

Chairman Choolokian reconvened the Meeting at 7:04 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Chairman Choolokian who also 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:

|                   |                                                                                                                                |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Harvey Albond     | Agenda Item #21; thanked Council on this Resolution                                                                            |
| Ron Anderluh      | Agenda Item #21; Parking Revenues                                                                                              |
| Henry Krawczyk    | Agenda Item #21; no fees for parking; getting list of Agenda Items; out of town contractors                                    |
| Paul Gromosiak    | Meetings being held on the future of the City; parking issue                                                                   |
| Ronald Cunningham | Thanked students for coming out for the meeting; we need to run the Robert Moses Pkwy into the City so money can be spent here |
| Henry Krawczyk    | Problem with In-Rem Auction; concerns about Covanta coming into the City                                                       |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1

CITY CLERK'S REPORT FOR THE MONTH OF DECEMBER 2012  
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2

CLAIM REPORT FOR THE MONTH OF DECEMBER 2012  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: JOHN B. DALY BLVD. EXTENSION, CONSULTANT SERVICES, STANTEC CONSULTING GROUP, INC., CHANGE ORDER #2

Agenda Item #3

A contract for the above referenced project was awarded to Stantec Consulting Group, Inc., 40 LaRiviere Drive, Suite 300, Buffalo, NY 14202, on June 7, 2004, in the amount of \$430,449.00.

Subsequent to the award of this contract and upon the initial environmental investigation of the project area, four (4) areas of concern were identified and targeted for more extensive testing. The cost for the extra environmental analysis and other Design Phase reimbursables totals \$73,921.00. A Change Order #1 was approved by the City Council on March 7, 2005.

A meeting was requested by the New York State department of Transportation (NYSDOT) on June 6, 2012. At that meeting the NYSDOT requested the City explore additional right-of-way alignments prior to completing the preliminary design for the project before they would sign off on the preliminary design in order to hold a public meeting. Stantec Consulting Group incurred an additional cost of \$28,321.00 for the work that was required to provide and alternate alignment and incorporate changes to the design reports. The consultant completed this work as not to miss a critical dead line where the preliminary design funds provided to the city would need to be returned.

Since the request for an additional alignment was made by the NYSDOT a request has been made to that agency for compensation for the additionally incurred design costs.

This Change Order will increase their contract to \$532,691.00. Funding is available in Code H0921.9901.0000.0900.H0303.

It is the recommendation of the undersigned that Change Order #2 be approved in the amount of \$28,321.00 and thus compensating the Consultant for the additional work that was required to complete the preliminary design phase of the project.

Will the Council vote to so approve Change Order #2.

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

Yeas

0

Nays

5

DEFEATED

CONTRACT: CUSTOM HOUSE RESTORATION PROJECT, WATTS ENGINEERS & KTA PRESERVATION, CHANGE ORDER #1

Agenda Item #4

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

CONTRACT: OFFICE FOR THE AGING, INFORMATION & ASSISTANCE SERVICES

Agenda Item #5

Annually the City enters into the above referenced agreement to provide information & assistance services for a person 60 years and older. This agreement will cover the period from January 1, 2013 through December 31, 2013 and total payments shall not exceed \$9,025.00.

Will the Council so approve and authorize the Mayor to execute the attached agreement (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

CONTRACT: SPCA EXTENSION AGREEMENT

Agenda Item #6

The City's agreement with the SPCA expired on December 31, 2009 and has been extended on several occasions while negotiations for a new contract took place. Negotiations broke off while the SPCA went through restructuring. The SPCA now has a new Board of Directors and a new Executive Director and the entire SPCA operation has been restructured. The City has resumed negotiations with the SPCA board which hopefully will result in a new agreement for services. In the meantime, it is desirable for the agreement dated December 16, 2008 to be extended once again for the period of time January 1, 2013 through March 31, 2013 in order to provide time for the City and the SPCA board to negotiate a new agreement. The extension will require the SPCA to continue to provide the services outlined in the expired agreement in exchange for the City paying the SPCA the sum of \$6,960.00 per month as it has been doing.

Will the Council so approve and authorize the Mayor to execute an Extension Agreement 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: SCHOOL DISTRICT, OSC-21, FUNDING

Agenda Item #7

The 2013 Budget contains an appropriation in the amount of \$10,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with OSC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for OSC?

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

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

APPROVED

CONTRACT: BEAUTIFICATION COMMISSION, FUNDING

Agenda Item #8

The 2013 Budget contains an appropriation in the amount of \$5,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with NBC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the NBC?

|                                                            |   |
|------------------------------------------------------------|---|
| Council Member Fruscione moved to Table the communication. |   |
| Yeas                                                       | 5 |
| Nays                                                       | 0 |
| TABLED                                                     |   |

CONTRACT: NIAGARA ARTS & CULTURAL CENTER, FUNDING

Agenda Item #9

The 2013 Budget contains an appropriation in the amount of \$30,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with the NACC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the NACC?

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

Yeas 2

Grandinetti, Walker

Nays 3

Anderson, Fruscione, Choolokian

DEFEATED

CONTRACT: BLOCK CLUB COUNCIL, FUNDING

Agenda Item #10

The 2013 Budget contains an appropriation in the amount of \$10,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with the Council is required.

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

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

Yeas 2

Grandinetti, Walker

Nays 3

Anderson, Fruscione, Choolokian

DEFEATED

CONTRACT: NIAGARA MILITARY AFFAIRS COUNCIL, FUNDING

Agenda Item #11

The 2013 Budget contains an appropriation in the amount of \$2,500.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with NIMAC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for NIMAC?

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

Yeas 5

Nays 0

APPROVED

CITY COUNCIL, SUPPORT POSITION, SALARY INCREASE

Agenda Item #12

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

DPW, POSITION REORGANIZED/TRANSFERRED TO HR

Agenda Item #13

It is requested that a Jr. Account Clerk position in DPW be transferred from DPW to Human Resources, together with the salary and benefits that accompany the position. The DPW Account No. is A.1490.0001.0110.000 and the Human Resources Account No. is A.1430.0000.0110.000. There is no cost to the City for this transfer of position.

It is also requested that the DPW receive funding in the amount of \$5,383.00 (including FICA) in its Administration Temporary Account No. which is A.1490.0001.0130.000. Funding for this temporary assistant is available from A.1990.7630.0449.599 Council Contingency.

Both department heads have been consulted and are in accord with these initiatives.

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: 1212 NIAGARA ST, REPAYMENT TO HUD

Agenda Item #14

In 2000, Center City Neighborhood Development Corporation acquired 1212 Niagara Street. You may recall the brick apartment house with the columned front porch that was on the site. The apartment house was built in the late 19<sup>th</sup> century. It contained 8 units, and was in a dilapidated state when Center City purchased the property.

Center City obtained a \$700,000.00 allocation of state low income housing tax credits to renovate the structure. The City invested HOME funds and \$27,300.00 of CDBG funds for security, lead paint removal and other preliminary costs. In addition to lead paint removal requirements, the cost of maintaining the integrity of the building to SHPO standards contributed greatly to the higher costs for the project. Center City requested an allocation of \$300,000.00 of HOME funds for the project. The completed project was to pay the City about \$5,000.00 per year under a payment-in-lieu-of-tax agreement.

The City Council did not approve the allocation and the PILOT agreement. With the new casino, it was thought that commercial development was more appropriate for Niagara Street. Center City returned the \$700,000.00 tax credit allocation to the state, and eventually sold the property. The sale proceeds of about \$16,000.00 were returned to the City by Center City. The apartment building was eventually demolished. The vacant land is currently assessed for \$2,300.00.

A recent HUD audit of CDBG activities cited this project, stating that the expenditure of CDBG funds failed to meet any CDBG national objectives. This project has been cited in past audits. The City already paid back to HUD the HOME funds invested in the project. Now HUD is requiring the City to pay back the \$27,300.00 CDBG investment.

Funds are available to pay this back from unprogrammed miscellaneous revenues, budget line CD3.6980.0000.0450.500.

Will the Council vote to approve the payment to HUD of \$27,300.00 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

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 checks:

| <u>Provider</u>   | <u>Date of Service</u> | <u>Amount</u> |
|-------------------|------------------------|---------------|
| Quest Diagnostics | 3/13/2012              | \$135.30      |

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

CLAIM: EMPIRE AUTO LEASING a/s/o WOJNEROWICZ, AGNIESZKA & MARTINO, JAMES

Agenda Item #16

Date Claim Filed: September 20, 2011

Date Action Commenced:

N/A

Date of Occurrence:

September 14, 2011

Location:

Niagara Falls Boulevard at  
79<sup>th</sup> Street

Nature of Claim: Automobile damage sustained in an accident with City vehicle.

City Driver:

William Santiago

Status of Action: Claim stage.

Recommendation/Reason:

Best interests of City to pay claim.

Amount to be Paid:

\$677.77

Make Check Payable to:

Empire Auto Leasing a/s/o  
Agnieszka Wojnerowicz, and  
James Martino

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

TURTLE, ASSESSMENT SETTLEMENT

Agenda Item #17

The above referenced taxpayer has commenced assessment review proceedings challenging the assessments as set by the Board of Assessment Review for the assessment rolls which became final on July 1, 2011 and July 1, 2012.

The Board set the assessment for each year at \$1,500,000.

After settlement discussions conducted by Supreme Court, a proposed settlement has been arrived at.

The proposed settlement would set the value of the property for each year at \$900,000 and the assessment would reflect the equalization rate for each year. This would result in a refund of part of the 2012 City tax and a reduced amount for the 2013 City tax.

It is the recommendation of this office and the City Assessor that this settlement be adopted.

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 COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #18

Notice of Mayor's Approval of Resolution 2013-4, relative to Amending Chapter 340 of the Codified Ordinances entitled "Home Improvement Registration"

THIS ITEM WAS RECEIVED AND FILED

Agenda Item #19

Local Law #1 for the Year 2012, which was adopted by Council on November 26, 2012 and duly approved by Mayor Paul A. Dyster on December 6, 2012 was Received and Filed by the New York State Department of State on January 2, 2013.

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: TOURISM ADVISORY BOARD, APPOINTMENT, 2013-5

BY: COUNCIL MEMBER SAMUEL FRUSCIONE

Agenda Item #20

BE IT RESOLVED, that the following individual is hereby appointed to the Niagara Falls Tourism Advisory Board effective January 22, 2013, for the expiration date, which appears opposite his/her name:

| <u>APPOINTMENT</u> | <u>TERM EXPIRES</u> |
|--------------------|---------------------|
|--------------------|---------------------|

|                                                                          |          |
|--------------------------------------------------------------------------|----------|
| Trudy J. Christman<br>151 Buffalo Avenue #408<br>Niagara Falls, NY 14303 | 12/31/13 |
|--------------------------------------------------------------------------|----------|

Yeas

5

Nays

0

ADOPTED

RESOLUTION: ROBERT MOSES PKWY RECONSTRUCTION, 2013-6  
BY: ALL COUNCIL MEMBERS

Agenda Item #21

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (State Parks) is proposing the reconstruction of the Robert Moses Parkway from John Daly Boulevard to Old Main Street; and

WHEREAS, this reconstruction is proposed to include a roadway from John Daly Boulevard to Old Main Street, which will enhance the experience of a visitor to the City of Niagara Falls and which may be easily crossed by pedestrians who wish to enjoy that portion of the State Park lying between the new roadway and the Niagara River upper rapids; and

WHEREAS, this reconstructed roadway is proposed to be accessible via a new rotary system to be installed at the intersection of the Robert Moses Parkway and John Daly Boulevard; and

WHEREAS, this City Council needs assurance that State Parks, when making its plans for this reconstruction, will also provide for the best interests of the City of Niagara Falls.

NOW, THEREFORE, BE IT RESOLVED, that this City Council requests that the State Parks, in its planning for the reconstruction of the portion of the Robert Moses Parkway between John Daly Boulevard and Old Main Street with the installation of a traffic rotary system, also be sure to provide for vehicle exits from the rotary traffic system to facilitate vehicle traffic to enter the City of Niagara Falls to access John Daly Boulevard, Buffalo Avenue and Rainbow Boulevard and promote those exits through appropriate signage; and

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to Governor Cuomo, the State Parks, Senator Maziarz and Assemblyman Ceretto.

Yeas

5

Nays

0

ADOPTED

RESOLUTION: LIBRARY DOLLARS OWED THE CITY, 2013-7  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #22

WHEREAS, it has come to the attention of the City Council that the Niagara Falls Public Library will be remitting to the City the sum of \$181,716 for grant revenues it received and did not remit to the City during years 2009 and 2010; and

WHEREAS, refunds were made for year 2011; and

WHEREAS, refunds for 2012 will be forthcoming once 2012 financial books are closed; and

WHEREAS, the City Controller's Office has now invoiced the Niagara Falls Public Library for the amounts owed; and

WHEREAS, had this City Council been aware of these owed and unpaid amounts during the 2013 budget process, this City Council would have taken appropriate measures to include these dollars in the City Council Contingency Fund.

NOW, THEREFORE, BE IT RESOLVED, that upon receipt of the sum of \$181,716 from the Niagara Falls Public Library, this City Council requests that the City Controller allocate those dollars to the City Council Contingency Fund created during the 2013 budget process.

Yeas

5

Nays

0

ADOPTED

Council Member Grandinetti was offended by the surplus and that the Director received a raise.

Council Member Walker said he has received complaints about the darkness behind the Library and lighting should be looked into with this money.

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 7:43 P.M.

Carol A. Antonucci  
City Clerk



**FEBRUARY 4, 2013**  
**REGULAR COUNCIL MEETING** **NIAGARA FALLS, NEW YORK**

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The first session of the February 4, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 4:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

David Fabrizio gave an update on the Niagara Falls Veterans Memorial Project. He reported that the New York Power Authority will provide the electrical fixtures through a grant to the City, and although NYPA is committed to the Project, the Project is currently stalled due to the lack of the electrical fixtures. The dedication of the Memorial has been postponed until the electrical issues can be settled.

In the Administrative Update:

1. Mayor Paul Dyster gave background information on the Underground Railroad Project. He said that even though work on the Project has been slowed down due to the lack of Casino funds, the Project is ongoing. He expects that the Train Station and the Interpretive Center will open during the second half of 2014. City Controller Maria Brown spoke on the reporting requirements for use of Casino funds.

2. City Administrator Donna Owens reported that the Hope VI Project is in the second phase of the lighting component of the Project, and National Grid is responsible for the majority of the work. Chairman Choolokian questioned Norstar's responsibility for this phase of the Project, and Corporation Counsel Craig Johnson responded that he will look into the matter.

3. The City Administrator also reported that the Lewiston Road Project is 60% complete, and work has shut down for the winter. The expected completion date is July, but that is weather dependent. City Engineer Jeffrey Skurka added that the entire road would be resurfaced at some point.

Council Member Anderson commended Public Works Director David Kinney for the work done by his crew leader in snow plowing the LaSalle area over the weekend.

Mr. Johnson distributed a copy of a communication relative to an agreement with the Niagara Beautification Commission that was tabled at the January 22, 2013 Council Meeting.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

Council Member Anderson moved to amend the communication by changing the funding amount from \$5,000 to \$2,500.

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

MOTION TO AMEND APPROVED

The communication was added to the Agenda as #9.

Council Member Walker questioned the training involved for a Grant for the Fire Department from FEMA and DHS, and Fire Chief Thomas Colangelo responded.

This Session ended at 4:30 PM

Chairman Choolokian reconvened the Meeting at 7:02 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.

Chairman Choolokian asked those present to observe a Moment Of Silence in honor of Hank Zuba

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

|                     |                                                 |
|---------------------|-------------------------------------------------|
| Roger Spurbach      | Agenda Item #4                                  |
| Norma Higgs         | Agenda Item #4                                  |
| Gary Wolfe          | Agenda Item #5                                  |
| Ron Anderluh        | Agenda Item #6                                  |
| Mary Ann Rolland    | Agenda Items #4, #5, #9                         |
| Frankie VanWarmer   | Agenda Item #5                                  |
| Megan VanWarmer     | Agenda Item #5                                  |
| Seth Lamphere       | Agenda Item #5                                  |
| Olivia Adams        | Agenda Item #5                                  |
| Kathie Kiudela      | Agenda Item #5                                  |
| Cindy Duke          | Agenda Item #5                                  |
| Jay Mapstone        | Agenda Item #5                                  |
| Jonathan Rogers     | Agenda Item #5                                  |
| Brook D'Angelo      | Agenda Item #5                                  |
| William Horn        | Agenda Item #5                                  |
| Tim McSweeney       | Agenda Items #4, #5                             |
| Andrea Troisi       | Agenda Item #5                                  |
| Bob Pascoal         | Agenda Item #4                                  |
| Chloe Long          | Agenda Item #5                                  |
| Terri Williams      | Agenda Items #4, #5                             |
| Nicholas D'Agostino | Agenda Items #2, #3, #4, #5, #6                 |
| Bob Drozdowski      | Agenda Item #5                                  |
| Paul Gromosiak      | Agenda Item #5                                  |
| Kathie Kudela       | use of NACC by Independent Film Company         |
| Sam Fadel           | use of NACC for his business                    |
| Steven Martin       | chose not to speak                              |
| Eden Romero         | attends classes at NACC                         |
| Enoch Romero        | attends classes at NACC                         |
| Joan Romero         | classes at NACC                                 |
| Tom Saheed          | NACC                                            |
| Betsy Strzelczyk    | NACC                                            |
| Adria Strzelczyk    | NACC                                            |
| Melissa Griffin     | NACC                                            |
| Kelly Lang          | NACC                                            |
| Marjorie Gillies    | keep funding for NBC, NACC & Block Club Council |
| Tim McSweeney       | more citizens should attend Council Meetings    |
|                     | to express their views                          |
| Nicholas D'Agostino | various concerns                                |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: PUBLIC WORKS, UNDERGROUND PETROLEUM STORAGE TANKS, CONSENT ORDER

Agenda Item #1

As the Council is aware, the corporation yard previously had underground petroleum tanks at its fuel station which over the last year and a half have been replaced by above ground storage tanks and the three (3) underground storage tanks have been recently removed.

The regulations required periodic testing of the underground tanks which was last performed in 2003 and should have been performed in 2008.

This was not done and the DEC has requested the City enter into a consent order and pay a civil penalty in the amount of \$3,000 regarding these violations.

As this is a significantly reduced civil penalty it is recommended that the Council approve and enter into the Consent Order and authorize the Mayor to execute it in a 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

FIRE DEPARTMENT, TRAINING GRANT

Agenda Item #2

The Fire Chief advises that FEMA and DHS have approved the City's grant application under the FY2012 Assistance to Firefighter's Grant. This is primarily in the nature of training. The total project cost is \$53,000 with the Federal share being 80% or \$42,400. The City's share is 20% or \$10,600.

The training class has room for 35 attendees. NFFD will be sending only eight (8) members to this training class, leaving 28 unfilled spots.

The Fire Chief advises that he has had discussions with representatives from neighboring fire departments and there is much interest in this training class. He is permitted to allow members of volunteer fire departments to participate in this class as well as members of paid fire departments. The Fire Chief is able to charge a fee to other fire departments to participate in this training class as well as members of paid fire departments. The per person charge for members of other departments to attend is proposed to be \$500 and will more than cover the City's share. The Fire Chief advises that he is in the process of obtaining commitments from these various other fire departments to secure attendance numbers and commitments. The Fire Chief further advises that he has reviewed all this with IAFF staff and this is an acceptable practice per IAFF guidelines. In the event that the fees to be charged to members of other departments to participate in this training program do not raise enough money to cover the City's share, funding is available from A.3410.3010.0463.000 Travel & Training Firefighting.

Will the Council approve accepting the grant and its terms and conditions and authorize the Mayor to execute any agreements relating to the grant?

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

Yeas

5

Nays

0

APPROVED

CITY MARSHALLS, REAPPOINTMENT/EXTENSION OF TERMS

Agenda Item #3

The City Council has designated Mr. Eugene Oshal and Mr. Frederick Pucci as City Marshals with terms that expired on December 31, 2012. It is recommended that these two individuals be reappointed to terms expiring on December 31, 2015.

Additionally, the City Council has designated Gary A. Bevilacqua, Joseph Sacco and David Carl Cassert as City Marshals, with a term expiring on December 31, 2014. It is recommended that their terms be extended until December 31, 2015, so that all of the City Marshals have concurrent terms.

They will continue to provide satisfactory insurance coverage naming the City as Additional Insured and their remuneration will continue to be limited to the fees they collect for service of process.

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: BLOCK CLUB COUNCIL, FUNDING

Agenda Item #4

In the 2013 adopted budget, \$10,000.00 was appropriated for the COUNCIL. At this time it is requested that \$2,500.00 be made available to the COUNCIL. In order to effectuate this, an appropriation agreement with the COUNCIL is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the COUNCIL?

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

Yeas

5

Nays

0

APPROVED

Council Member Grandinetti expressed her concern over the timing of Funding changes

Council Member Walker noted that the City is struggling financially and needs to make difficult decisions in choosing the organizations to support

CONTRACT: NACC, FUNDING

Agenda Item #5

The 2013 Budget contains an appropriation in the amount of \$30,000.00 for the non-profit agency listed above. In order to effectuate this, an appropriation agreement with the NACC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the NACC?

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

Yeas

2

Grandinetti, Walker

Nays

3

Anderson, Fruscione, Choolokian

DEFEATED

CONTRACT: FALLS CONCERT SERIES/SUNDAY JAZZ SERIES, 2013, FUNDING

Agenda Item #6

The Niagara Fine Arts Program Inc. has submitted a proposal to the City to undertake and carry out the Summer 2013 Friday at the Falls Concert Series on Old Falls Street consisting of eight (8) events as well as a proposal to undertake and carry out a Sunday Jazz Series on Old Falls Street consisting of eight (8) events. The primary difference this year from prior years is that all events will be taking place on Old Falls Street and Global Spectrum has offered to be a co-sponsor of these events along with the City.

The Friday Series on Old Falls Street will cost a total of \$15,840.00 with \$11,200.00 being paid by the City and \$4,640 being paid by Global Spectrum. The Sunday Jazz Series will cost \$11,200.00 with \$8,960.00 being paid by the City and \$2,240.00 being paid by Global Spectrum. As in the past, the City's bandstand and other usual City support services are required for these events. Attached (on file in the City Clerk's Office) are term sheets for both concert series.

Funding is available from Tourism Fund Balance.

Will the Council so approve?

Council Member Fruscione moved to Table the communication.

Yeas

5

Nays

0

TABLED

RESOLUTION: YOUTH BUREAU, REAPPOINTMENTS/APPOINTMENTS, 2013-8

BY: ALL COUNCIL MEMBERS

Agenda Item #7

BE IT RESOLVED, that the following individuals are hereby re-appointed to the City of Niagara Falls Youth Bureau for the term expiring on the date which appears opposite their names:

| <u>RE-APPOINTMENTS</u> | <u>TERM EXPIRES:</u> |
|------------------------|----------------------|
| Alexandrea Dell        | 12/31/2013           |
| Michael Montanaro      | 12/31/2013           |
| Rashad Travis          | 12/31/2013           |
| Allen Booker           | 12/31/2014           |
| Bryan Rotella          | 12/31/2014           |
| Andrea D. Randle       | 12/31/2015           |
| Joseph Celenza         | 12/31/2015           |

BE IT FURTHER RESOLVED, the following individuals are hereby appointed to the City of Niagara Falls Youth Bureau for the term expiring on the date which appears opposite their names:

| <u>APPOINTMENTS</u> | <u>TERM EXPIRES:</u> |
|---------------------|----------------------|
| Philip Mohr         | 12/31/2015           |
| Thomas Lowe         | 12/31/2015           |

Yeas

5

Nays

0

ADOPTED

RESOLUTION: KENNEL OR CATTERY REQUIREMENTS, ORDINANCE AMENDMENT, 2013-9

BY: ALL COUNCIL MEMBERS

Agenda Item #8

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 1328.5 entitled "Kennel or Cattery" and by adopting Section 1328.5 entitled "Kennel or Cattery Requirements" as attached hereto (on file in the City Clerk's Office).

Yeas

5

Nays

0

ADOPTED

CONTRACT: BEAUTIFICATION COMMISSION, FUNDING

Agenda Item #9

An appropriation for the non-profit agency listed above of \$2,500.00 is available. In order to effectuate this, an appropriation agreement with NBC is required.

Will the Council so approve and authorize the Mayor to execute an agreement in form acceptable to the Corporation Counsel for the NBC?

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 Choolokian adjourned the Meeting at 9:35 P.M.

Carol A. Antonucci  
City Clerk



**FEBRUARY 19, 2013**  
**REGULAR COUNCIL MEETING** **NIAGARA FALLS, NEW YORK**

---

The first session of the February 19, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 4:03 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Meetings of January 22 and February 4, 2013.

Yeas

5

Nays

0

APPROVED

Raymond Dashineau, Landlord and Property Owner Registration Clerk, gave a report on the licensing of rental properties in the City and revenue collected, as well as revenue projections.

Superintendent of Police Bryan DalPorto spoke on the Safe Neighborhood Active Patrols Program and Tourism Safety Initiative. He spoke on the components of the Programs and their impact. City Controller Maria Brown added that the Tourism Safety Initiative could properly be funded from the Tourism Fund.

In the Administrative Update, Mayor Paul Dyster spoke on the offer of the Oishei Foundation to match funding, dollar for dollar up to \$15,000, for the Niagara Arts and Cultural Center. The Mayor introduced Robert Gioia, President of the Foundation, who encouraged the Council Members to accept the offer. The Council Members expressed their appreciation for the offer.

During a discussion on the Financial Plan for the 2013 bond debt, Mayor Dyster said that the City's cash reserves have been depleted by using them to cover expenses incurred due to the Casino revenue not being received; the arbitration process has a gag order in place, but he is hopeful that the City's payments will be forthcoming; there are a variety of options that the Administration is looking at, if needed, including short term financing options and flexibility by the New York Power Authority in making payments to the City. Mrs. Brown spoke on a spending freeze, and structuring bond payments during times of revenue collections. A lengthy discussion followed, and Chairman Choolokian asked that the Administration work together with the Council on the City's Financial Plan, and start planning for the future now.

Corporation Counsel Craig Johnson spoke on an amendment to Agenda Item #6, relative to Police Department Initiatives. The amendments are to include funding for FICA for both Programs, and identify the source of funding for the downtown tourism safety initiative as the Tourism Fund.

Council Member Fruscione moved to amend the communication.

Yeas

5

Nays

0

MOTION TO AMEND COMMUNICATION APPROVED

Mr. Johnson distributed copies of a Resolution to be added to the Agenda relative to Black History Month and Delta Sigma Theta Sorority.

Council Member Fruscione 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.

This Session ended at 4:55 PM

Chairman Choolokian reconvened the Meeting at 7:00 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Fruscione 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:

|                        |                                                                                                                             |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Dwayne Ferguson        | Agenda Item #7                                                                                                              |
| Paul Gromosiak         | Support for Green Industry; NACC funding                                                                                    |
| Roger Spurbach         | Defense of Block Clubs                                                                                                      |
| Norma Higgs            | Part-time Council Members should not get Medical Opt Out; NACC & NBC funding cuts; Council Contingency Account              |
| Don Supon              | Casino Fund issues; Mayor & Council should work together; Council doing good job; Council Contingency Account               |
| Tom Lowe               | Main St. Symposium; opportunities for Youth/Young professionals                                                             |
| Richard Williams Jr.   | Support NACC                                                                                                                |
| Charles LaGreca        | Support NACC                                                                                                                |
| Michael Murphy         | Offended by Council comments; Council meals & Opt Out Medical; Mayor & Council should work together or leave Public Service |
| Joyce Sabin            | NFHS saved by ordinary citizens; funding for NACC, NBC & Block Clubs                                                        |
| Mary Ann Rolland       | Reinstate \$15,000 for NACC to match OISHEI                                                                                 |
| Kathy Kudela           | Thanks for community support for NACC                                                                                       |
| Jonathan Rogers        | Support NACC, various issues                                                                                                |
| Corey Frank            | Invest in artists/arts                                                                                                      |
| Terri Williams         | NACC funding already included in Budget; Cut meals for Council                                                              |
| Cheryl O'Loughlin      | Support NACC                                                                                                                |
| Andrew Bieniek         | Support NACC                                                                                                                |
| Michael Wilson         | Support NACC; work together                                                                                                 |
| Katherine Johnson      | Support NACC                                                                                                                |
| Ron Anderluh           | More citizens should attend Council Meetings; Parking revenues; start planning now for the future                           |
| Ray Robertson          | Support NACC                                                                                                                |
| Monica Pellegrino Faix | Funding for NACC, NBC & Block Clubs; process To revoke funding shows lack of leadership                                     |
| Henry Krawczyk         | Against additional funding for Police Initiatives; instead give money to NACC & Mad Dads                                    |
| Tony Scricco           | NACC should hold their own fundraiser                                                                                       |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1

CITY CLERK'S REPORT FOR THE MONTH OF JANUARY 2013  
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2

CLAIM REPORT FOR THE MONTH OF JANUARY 2013  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

POLICE DEPARTMENT, ELIMINATE VIOLENCE AGAINST WOMEN GRANT

Agenda Item #3

The Police Department has received a State Grant in the amount of \$38,600.00 under the Eliminate Violence Against Women Program. The term of this grant is from January 1, 2013 to December 31, 2013 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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas

5

Nays

0

APPROVED

POLICE DEPARTMENT, MOTOR VEHICLE THEFT AND INSURANCE PREVENTION GRANT

Agenda Item #4

The Police Department has received a grant of \$36,000.00 for the calendar year 2013 under the above-referenced grant program.

No City match is required.

Will the Council approve acceptance of the grant and authorize the Mayor to execute any Agreements or other documents necessary to effectuate this?

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

Yeas

5

Nays

0

APPROVED

POLICE DEPARTMENT, BUFFER ZONE PROTECTION PROGRAM GRANT

Agenda Item #5

The Police Department has received a grant in the amount of \$63,000.00 under the U.S. Department of Homeland Security FY2010 Buffer Zone Protection Program (BZPP).

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

POLICE DEPARTMENT, INITIATIVES

Agenda Item #6

The Police Superintendent is proposing to implement a City-wide program commencing April 15, 2013 and concluding August 31, 2013, which he refers to as "Safe Neighborhood Active Patrols (S.N.A.P.)". The S.N.A.P. Program is intended to utilize walking and bicycle police patrols in certain neighborhoods throughout the City designated by the Police Superintendent to increase police visibility and police presence. The neighborhoods targeted for this Program will be determined on a rolling basis as the result of statistical analysis and crime mapping, community/citizen complaints and NFPD field intelligence. The hours will vary depending on crime statistics and intelligence generated. Attached hereto (on file in the City Clerk's Office) is a summary of the S.N.A.P. Program provided by the Police Superintendent.

The funding for this Program is not anticipated to exceed \$53,825, including FICA. Funding is available from A.1990.7630.0449.599.

The Police Superintendent is also recommending the commencement of a crime fighting initiative in the downtown area. This initiative will consist of police presence in electric vehicles, bicycles and walking. The intent here is to be proactive in patrolling all downtown areas frequented by tourists, including attractions, hotels, parking lots and the City-owned parking ramp. This initiative is also intended to commence on April 15, 2013 and conclude August 31, 2013. Similarly, the objective here is to increase police visibility and police presence as a deterrent to crime.

The cost of this downtown initiative is not expected to exceed \$26,913, including FICA. Funding is available from T.0000.4999.000.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

MAD DADS OF GREATER NIAGARA FALLS, FUNDING OF CHAPTER

Agenda Item #7

The organization called "Men against destruction defending against drugs & social disorders" (MAD DADS) has operated a chapter in Buffalo, New York for the past 17 years and has now opened a chapter in Niagara Falls, New York. The mission of MAD DADS is to recruit, engage and activate men and women in the community to serve as parental role models to children, adolescents and young adults to ensure healthy development of each child's emotional, spiritual and physical well being. The signature program of MAD DADS is a Street Patrol where members go out into the streets anywhere young people congregate to talk with them and interact with them and render assistance in various ways. MAD DADS operates a safe haven house on 19<sup>th</sup> Street. The Superintendent of Police is supportive of the activities of MAD DADS. Attached (on file in the City Clerk's Office) is a copy of a request from MAD DADS for a funding contribution in the amount of \$2,500 to help offset the cost of its program.

Funding is available from A.1990.7630.0449.599.

Will the Council so approve?

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

Yeas

4

Anderson, Grandinetti, Walker, Choolokian

Abstain

Fruscione

1

Nays

0

APPROVED

CLAIM: GARFALO, NADINA

Agenda Item #8

|                        |                                                                                             |
|------------------------|---------------------------------------------------------------------------------------------|
| Date Claim Filed:      | August 28, 2009                                                                             |
| Date Action Commenced: | December 7, 2009                                                                            |
| Date of Occurrence:    | July 24, 2009                                                                               |
| Location:              | Intersection of 29 <sup>th</sup> Street and Independence Avenue                             |
| Nature of Claim:       | Personal injuries sustained during resurfacing project.                                     |
| Status of Action:      | Pretrial stage                                                                              |
| Recommendation/Reason: | Best interests of City to pay.                                                              |
| Amount to be Paid:     | \$50,000.00                                                                                 |
| Make Check Payable to: | Nadina Garfalo and Cantor, Dolce & Panepinto                                                |
| 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

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #9

Please be advised that Mayor Paul A. Dyster, on February 5, 2013, duly approved the following:

Resolution 2013-9, relative to Amending Chapter 1328 of the Codified Ordinances entitled "Special Permit Requirements"

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: BLACK HISTORY MONTH & DELTA SIGMA THETA SORORITY, 2013-10  
BY: ALL COUNCIL MEMBERS

Agenda Item #10

WHEREAS, February is Black History Month and the purpose of the celebration is to recognize and honor the accomplishments and contributions to society by African Americans all through history; and

WHEREAS, Delta Sigma Theta Sorority, Inc. Buffalo Alumnae Chapter presents their 11<sup>th</sup> Annual Western New York Black Film Festival; and

WHEREAS, on Saturday, February 23, 2013 they will present the film "Wolf" which is directed by Ya'Ke Smith who is widely regarded as one of this generation's next film director to watch. Films that have screened and won awards at over 80 national and international film festivals, garnering a Director's Guide of American Student Award, an HBO short film Award and many others; and

WHEREAS, Ya'Ke Smith, Eugene Lee and Irma P. Hall, will be present at the Market Arcade Film and Arts Center. Eugene Lee having a 30-year career in the entertainment industry. As an actor, on such shows as Good Times, The Guiding Light and such films as Coach Carter, Lackawanna Blues and the Jacksons: An American Dream. He plays the title role in "Wolf" and Irma Hall who gained momentum in 1978, after acting as Tilly the housekeeper in a number of episodes of the TV series Dallas. She won the NAACP Image Award for "Best Supporting Actress" for her 1998 work as Big Momma Jo in the film Soul Food. Ms. Hall is a member of Delta Sigma Theta Sorority, Inc.

NOW, THEREFORE, BE IT RESOLVED, that this City Council on behalf of the citizens of Niagara Falls, New York thank Delta Sigma Theta Sorority, Inc. Buffalo Alumnae Chapter for your vision and leadership in Western New York and we honor and welcome these three (3) great individuals for their contributions to education and entertainment all over the world and we welcome you to Western New York, especially the great City of Niagara Falls New York (The Honey Moon Capital of the World).

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 8:40 P.M.

Carol A. Antonucci  
City Clerk



**MARCH 4, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the March 4, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 4:08 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Meeting of February 19, 2013.

Yeas

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Nays

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APPROVED

Seth Piccirillo, Director of Community Development, spoke on the Community Development Demolition Plan, and said that the Item on the Agenda for the Asbestos Services Contract was the first step in the process. He noted that the contract is being recommended to be awarded to the second lowest bidder because of discrepancies in laboratory reports by the lowest bidder. The contract cost will be up to \$299,100, and the total amount of the contract may not be entirely expended.

Superintendent of Police Bryan DalPorto and Fire Chief Thomas Colangelo presented a commendation to Antwan Moore, a local citizen, who climbed onto a snow covered roof to rescue a child who had crawled out onto the roof.

In the Administrative Update:

1. Mayor Paul Dyster spoke on the transformer fire in City Hall over the weekend, and thanked City Electrician Tony Pareto and City Hall Maintenance Man Don Joyce for their work during the emergency. Public Works Director David Kinney also thanked the Fire Department members and DPW crews for their quick response to the emergency. Council Member Anderson noted that cost savings that the Council had enacted contributed to helping to pay the costs incurred for this emergency.

2. The Mayor noted that leaks on the roof at the Ice Pavilion and problems with the refrigeration system need to be addressed. Council Member Anderson asked when the roof leak at the Fire Department Administration Building would be addressed. City Controller Maria Brown added that the funds that had been set aside for that repair had been depleted.

3. The Mayor also spoke on the Blight Blitz for 2013, which would be started in the Center City Area of the City in March, weather permitting.

4. Regarding the plan for debt payment for 2013, the Mayor said that he had requested Governor Cuomo to allow Niagara Falls to be the first city to participate in the Financial Restructuring Assistance Program, which would provide expertise and assistance to local governments in restructuring their finances. Mrs. Brown again noted for the Council Members that debt payment is the first priority, with payment of the Pension Bill the next priority for the City.

Chairman Choolokian asked the Mayor to work together with the Council on financial issues on an ongoing basis, and not wait for Budget time, and also to keep the Council updated on any information regarding the arbitration process for the Casino funds.

Corporation Counsel Craig Johnson informed the Council Members that amendments needed to be made to two Agenda Items, and distributed copies of another Item to be added to the Agenda:

1. The amount of the change order for Agenda Item #4, relative to the construction management/inspection services for the rehabilitation/upgrade of City Parking Ramp II should be \$5,904.64.

Council Member Fruscione moved to amend the communication.

Yeas

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Nays

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MOTION TO AMEND COMMUNICATION APPROVED

2. The list for appointments as Commissioners of Deeds, Agenda Item #6, has names that should be added, as well as names that should be removed.

Council Member Fruscione moved to amend the communication.

Yeas

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Nays

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MOTION TO AMEND COMMUNICATION APPROVED

3. A communication relative to approval of emergency repairs to City Hall to be added to the Agenda.

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

Yeas

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Nays

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MOTION TO ADD ITEM TO AGENDA APPROVED

The Item was added to the Agenda as #9.

City Clerk Carol Antonucci thanked Shirley Bernat, from the Purchasing Department, for her research on the lease of mailing equipment (Agenda Item #2) which resulted in a cost savings of over \$3,000 per year for the term of the lease.

This Session ended at 4:30 PM.

February 28, 2013

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 Monday, March 4, 2013 at 4:30 p.m. in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purpose:

1. To act on the City Council agenda for the March 4, 2013 7:00 p.m. meeting.

Respectfully submitted,

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GLENN CHOOLOKIAN  
Council Chairperson

Chairman Choolokian called the March 4, 2013 Special Meeting of the Niagara Falls City Council to order at 4:56 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:

|                  |                                                                                     |
|------------------|-------------------------------------------------------------------------------------|
| Norma Higgs      | Agenda Items #4, #7                                                                 |
| Ken Hamilton     | Agenda Item #8                                                                      |
| Dorothy West     | Agenda Item #7                                                                      |
| Paul Gromosiak   | Celebrate history of Niagara Falls; attract Green industry to City of Niagara Falls |
| Roger Spurbach   | Apology to Council Member Fruscione                                                 |
| Diane Tattersall | Establish Landlord/Tenant Association; owners cleanup after dogs                    |
| Ken Hamilton     | Establish Landlord/Tenant Association; encourage recycling; mascot for City         |
| Lewis BATTERY    | Support for NACC                                                                    |
| Samika Sullivan  | Fairness for Landlords & Tenants; support NACC                                      |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: ASBESTOS SERVICES, STOHL ENVIRONMENTAL, LLC

Agenda Item #1

Every two years, the City awards a contract to an asbestos services contractor for preparation of the asbestos surveys, lab tests and demolition monitoring for City demolitions. The costs are paid by the Community Development Department.

This year, the Department solicited proposals and received the following proposals:

|                                            |                    |
|--------------------------------------------|--------------------|
| Upper New York State Environmental (UNYSE) | ..... \$290,325.00 |
| Stohl Environmental, LLC                   | ..... 299,100.00   |
| AMD Environmental Consultants, Inc.        | ..... 311,850.00   |
| AFI Environmental                          | ..... 314,975.00   |

The UNYSE price corrects an arithmetic error in its proposal.

The proposal prices represent an upset figure based on an estimate of the services to be rendered. The actual cost is based upon unit prices for the services for the total services provided.

We have reviewed the submittals from the asbestos services contractors. In reviewing the submittals from UNYSE, we have discovered discrepancies between the laboratory reports for asbestos containing material, the tables listing the sampling areas and the floor plans showing the locations of the samples and which samples contain asbestos. A confusing asbestos survey will make it very difficult for a demolition contractor to identify the asbestos containing material for a bid and for the actual demolition.

An asbestos services contract is exempt from the sealed, competitive bid requirements of General Municipal Law §103. The City has discretion in determining to whom to award the contract. For that reason, the Community Development Department solicited prices through and RFP process, as opposed to a sealed bid process. The CD Department carefully reviewed all of the submissions, with attention to the quality of the submissions and, of course, to the price.

In fact, the Community Development Department gave UNYSE a chance to supplement its initial sample reports, so as to demonstrate an ability to address the Department's concerns. However, the additional reports still included inconsistencies.

Due to the inconsistencies in the sample report submitted by UNYSE, it is recommended that the asbestos service contract be awarded to Stohl Environmental, LLC. Stohl has provided these services in the past, and have a demonstrated track record of exemplary service. The

proposal submitted by Stohl only served to emphasize its ability to deliver the services requested.

The contract period will be from the date the contract is signed through December 31, 2014. The contractor will provide the services as directed by the City. All standard City professional services and liability insurance is required. Funds are available to pay the costs in any of the funding sources set out below (on file in the City Clerk's Office). This is a pay as you go contract, with no financial liability for the City being created on awarding the contract.

Will the Council vote to approve asbestos services contract to Stohl Environmental, LLC 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

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Nays

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APPROVED

PURCHASE: MAILING EQUIPMENT, CITY CLERK, PITNEY BOWES, INC.

#### Agenda Item #2

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

WITH: Pitney Bowes, Inc.

Suite 116

405 North French Road

Buffalo, NY 1428-2097

FOR: 60 month lease of a Pitney Bowes Connect+2000 Series mailing system including maintenance: \$590.45/mth.

This equipment is available through a NJPA (National Joint Powers Alliance) Contract #043012. The City is eligible to use this contract per the amendment to Section 103 of the General Municipal Law which the City currently uses as its Purchasing guidelines.

The new equipment will replace the existing mailing system whose lease is expiring. The new lease will show a cost savings of \$3,186.60 per year over the previous lease because of our ability to use the NJPA Contract pricing.

Funds for this expenditure are available in the City Clerk's Office budget code: A1410.0000.0440.599.

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

Yeas

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Nays

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APPROVED

CONTRACT: NACC FUNDING, OISHEI, JOHN R. FOUNDATION, CHALLENGE GRANT

#### Agenda Item #3

The John R. Oishei Foundation has offered the Niagara Falls City Council a dollar for dollar matching grant from any funds restored to the Niagara Arts and Cultural Center (NACC). Robert Gioia, President of the John R. Oishei Foundation, sent the City Council correspondence dated February 12, 2013, formalizing the offer. As stated in that correspondence, the Oishei Foundation will match any restored dollar, up to a \$15,000 maximum. The foundation has successfully executed the same funding model in Erie County.

This challenge grant is in direct response to the City Council's elimination of the NACC's \$30,000 allocation after it was passed in the 2013 Annual Budget. The NACC was set to receive its funding from the bed tax, generated from tourist visits, and not local taxpayer dollars. Historically, the city has used a small portion of the bed tax to fund arts and cultural programs because they provide clear tourism benefits. Nevertheless, the City Council voted to reverse the NACC funds by a vote of three to two.

As this is a monetary offer to the City of Niagara Falls, just as with certain grants, acceptance or denial of these funds is being submitted for a full City Council vote.

Will the Council vote to approve the John R. Oishei Foundation's matching grant offer, restoring funding to the Niagara Arts and Cultural Center?

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

Yeas 2

Grandinetti, Walker

Nays 3

Anderson, Fruscione, Choolokian

DEFEATED

CONTRACT: PARKING RAMP, CONSTRUCTION MANAGEMENT/INSPECTION SERVICES FOR THE REHABILITATION/UPGRADE, CANNON CONSTRUCTION SERVICES, AMENDMENT

#### Agenda Item #4

A contract for consultant services for the above-referenced project was entered 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 1 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 wrap. 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 with SJB Services Incorporated.

Because of delays of the delivery of new elevator and special testing to complete the structural fiber wrapping of concrete columns and beams, it was required to keep SJB Services, Inc. while these items were completed to finish the project.

The final cost incurred by Canon Construction Services for providing those special inspections was \$5,904.64. Contract Amendment #2 was approved by the City Council on October 15, 2012 for \$33,800.00. Therefore, total sum required for the special inspections by SJB Services, Inc. for the Rainbow Ramp Rehabilitation project is \$39,704.70.

The City will be fully reimbursed for the balance all costs incurred through a funding agreement with USA Niagara Development Corporation; the 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 #3 for the contract between the City of Niagara Falls and Cannon Construction Services for an amount \$5,904.64 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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas 5

Nays 0

APPROVED

CLAIM: ALLSTATE INSURANCE CO. /A/S/O YOUNGBLOOD, KIMBERLY

Agenda Item #5

|                        |                                                           |
|------------------------|-----------------------------------------------------------|
| Date Claim Filed:      | April 6, 2012                                             |
| Date Action Commenced: | N/A                                                       |
| Date of Occurrence:    | February 27, 2012                                         |
| Location:              | In front of 1306 Niagara Ave.                             |
|                        | Nature of Claim: Automobile damage from falling limb      |
| City Driver:           | N/A                                                       |
| Status of Action:      | Claim stage                                               |
| Recommendation/Reason: | Best interests of City to pay.                            |
| Amount to be Paid:     | \$1,592.09                                                |
| Make Check Payable to: | Allstate Insurance Company                                |
| Conditions:            | 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

COMMISSIONER OF DEEDS, APPOINTMENTS

Agenda Item #6

The following have requested City Council approval for Commissioner of Deeds for a term from April 1, 2013 to March 31, 2015.

|                      |                                                      |
|----------------------|------------------------------------------------------|
| Lorrie Alvarez       | NFPD                                                 |
| Shawn Bosi           | NFPD                                                 |
| Amy Guilliani        | NFPD                                                 |
| Patricia McCune      | NFPD                                                 |
| Nicholas Paonessa    | NFPD                                                 |
| James Bragg          | Planning                                             |
| John P. Caso         | DPW                                                  |
| Thomas Etopio Jr     | Fire Department                                      |
| Theresa Kasper       | DPW                                                  |
| Fifi Sandonato       | Waterboard                                           |
| Jane Travis          | Law Department                                       |
| Dennis Virtuoso      | Inspections                                          |
| Nadine Wasson        | City Clerk's Office                                  |
| Gloria Andrews       | 207 84 <sup>th</sup> St., NF NY 14304                |
| Kathleen Baldwin     | 839 17 <sup>th</sup> St., NF NY 14301                |
| Patricia Castillo    | 9129 Rivershore Dr., NF NY 14304                     |
| Luke A. Copelin      | 9302 Hennepin Ave., NF NY 14304                      |
| Cheree J. Copelin    | 9302 Hennepin Ave., NF NY 14304                      |
| Maria Crea-Smith     | 5252 Lewiston Rd. Lewiston, NY 14092                 |
| Lisa Dugan           | 519 87 <sup>th</sup> St., NF NY 14304                |
| Rebecca Dyster       | 626 Orchard Parkway, NF NY 14301                     |
| Peggy Frame          | 8403 Buffalo Ave., #3, NF NY 14304                   |
| Janet Gallo          | 1822 Hyde Park Blvd.                                 |
| Jerauld Genova       | 757 Seymour Ave., NF NY 14305                        |
| Stephen Godzisz      | 1822 Hyde Park Blvd.                                 |
| Bobbie Hart          | PO Box 1022, NF NY 14304                             |
| Ragini Jain          | NF Housing Authority, 744 10 <sup>th</sup> St. NF NY |
| David James          | 4660 Perry Ct., Lewiston NY 14092                    |
| James Joyce          | 2744 Thornwood Dr., NF NY 14304                      |
| Michelle Kelly       | 6921 Nash Rd., North Tonawanda, NY 14120             |
| Gloria Mayes         | 243 77 <sup>th</sup> St., NF NY 14304                |
| Joshua Mayes         | 191 59 <sup>th</sup> St., NF NY 14304                |
| Vincent Mameli       | 462 77 <sup>th</sup> St., NF NY 14304                |
| Gail Merino          | 9365 Rivershore Dr., NF NY 14304                     |
| Rozanne Muto         | NF Housing Authority, 744 10 <sup>th</sup> St NF     |
| Eugene Piekarski Sr. | 151 Buffalo Ave P1412, NF NY 14303                   |
| Diana Restaino       | 826 College Ave., Niagara Falls, NY 14305            |

|                 |                                        |
|-----------------|----------------------------------------|
| Janice Reynolds | 2490 South Ave.                        |
| Brian Shaffer   | 1401 Lafayette Ave. NF NY 14305        |
| Betty Scrivano  | 1269 91 <sup>st</sup> St., NF NY 14304 |
| Pam Smith       | 628 Chestnut Ave, NF NY 14305          |
| David Tothill   | 2256 Ontario Ave., NF NY 14305         |
| Randy Ubriaco   | 837 15 <sup>th</sup> St., NF, NY 14301 |

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

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Nays

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APPROVED

RESOLUTION: SPENDING FREEZE, 2013-11

BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #7

WHEREAS, the City is facing a potential structural deficit in its 2013 Budget of approximately \$7 million as a result of revenues budgeted: \$5.3 million budgeted from anticipated Casino Revenues and \$2 million from 2012 appropriated fund balance. As a result of the City of Niagara Falls, NY not receiving the local share of Casino Funds for 2009, 2010, 2011 and 2012 this has placed a significant hardship on the City's cash flow, and

WHEREAS, the \$5.3 million due from Casino Funds consists of approximately \$3.6 million for increase in debt service since 2005, and other projects and commitments that are included in the \$5.3 million, and

WHEREAS, due to the fact that there currently exists no financial plan with which to address the coverage of this debt payment beyond the wishing and hoping that the casino revenue owed to the City does appear, and

WHEREAS, nothing less than the financial stability and very future of the City rests in the balance as to how this anticipated debt payment is resolved, and

WHEREAS, in light of the debt payment and in light of the lacking of a plan with which to address this debt payment the City Council does recommend a series of actions to address the situation,

NOW THEREFORE BE IT RESOLVED, that the Niagara Falls City Council does hereby: impose a spending freeze to be effective immediately on non-essential services such as consultants, engineering studies, training, conferences, travel, events, concerts, advertising and all meals (including the city council's meals) and planning consultants. The City Controller shall submit a monthly expenditures report to the City Council Chairman and all requests to move and or spend money shall be submitted to the Council Chairman for review. This freeze will work to prevent the possibility of an unexpected tax increase mid-year along with layoffs and reduction of essential City services.

BE IT FURTHER RESOLVED, that the City Council will act as a Control Board and freeze all non-essential City services and their related expenditures in order to address the approximate \$7 million structural deficit, as above, until the Mayor enacts a financial plan.

Yeas

3

Anderson, Fruscione, Choolokian

Nays

2

Grandinetti, Walker

ADOPTED

RESOLUTION: HOUSING ASSISTANCE REFORM PACKAGE OF NIAGARA COUNTY  
LEGISLATURE  
BY: MAYOR PAUL A. DYSTER

Agenda Item #8

WHEREAS, Niagara County Legislators Dennis Virtuoso and Jason Zona introduced the Housing Assistance Reform Package to the full legislative body on January 15, 2013 and it was passed by the full legislative body on February 19, 2013, and

WHEREAS, the continuous deterioration of Niagara Falls housing stock, as with many American urban areas, is a serious problem that affects crime prevention, loss of property value, and loss of population in this city, and

WHEREAS, the State of New York provides a shelter allowance grant for people on public assistance which is to go toward the cost of rent with no guarantee that these funds will be used properly, and

WHEREAS, a revision to county law, and possibly a New York State home rule approval, is necessary to ensure that social services clients use their housing allocations properly, and

WHEREAS, this City Council and administration supports a greater level accountability for all public spending, and strategies that will preserve the value of neighborhood housing stock in Niagara Falls

NOW, THEREFORE, BE IT RESOLVED, that this City Council and administration supports the Housing Assistance Reform Package and urges its expedient passage by the Niagara County Legislature.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Chairman William Ross of the Niagara County Legislature, State Senator George Maziarz, Assemblyman John Ceretto and all others deemed necessary and proper.

Council Member Walker moved to Table the Resolution.

Yeas

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Nays

0

TABLED

CONTRACT: CITY HALL EMERGENCY REPAIRS

Agenda Item #9

As the Council is aware on March 3, 2013 there was a transformer fire in one of the transformer servicing City Hall.

The transformer will have to be replaced and City Hall is being powered by a portable generator in the meantime.

The current estimate for these costs are \$95,000.00.

Will the Council vote to appropriate this sum from H0912.2009.0912.0449.599 and authorize the Mayor to execute contracts in form acceptable to the Corporation Counsel to perform the needed repairs?

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

Yeas

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Nays

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APPROVED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 5:40 P.M.

Carol A. Antonucci  
City Clerk



**MARCH 18, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the March 18, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 4:03 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Meeting of March 4, 2013.

Yeas

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Nays

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APPROVED

Public Works Director David Kinney spoke on the Annual Easter Egg Hunt which will be held at the Duke Center on March 23 from 9:30 to 11 AM. He noted that 90 children have signed up to date; there will be a lot of activities for the children in addition to the Egg Hunt, and everything for the Egg Hunt has been donated. Chairman Choolokian thanked Mr. Kinney and his staff for all their work on the Egg Hunt.

In the Administrative Update:

1. City Engineer Jeffrey Skurka spoke on the outdoor light replacement at the Library, and said that he had researched a company that would provide a trial light for 30 days that would last longer, give off brighter light and use less energy. Council Member Walker asked that the broken light pole behind the Library be repaired. Council Member Fruscione asked if the 2013 Street List had been prepared, and asked that the area of 24<sup>th</sup> Street and Weston Avenue be included on the 2013 List. Mr. Skurka responded that he would check into it.

2. Mayor Paul Dyster said that the Administration continues to carefully track cash flow, in anticipation of a shortfall late in the summer. He noted that the NYPA option is still under consideration, that NYPA may be flexible in their terms, and private sector lending may also be an option. The Mayor also added that NYPA will be responsible for the lighting at the Veterans Memorial.

3. The Mayor said that work has resumed on Lewiston Road, and is on schedule to be completed in July of 2013. Work is continuing on Buffalo Avenue, with a scheduled completion date of January 2014.

Council Member Anderson asked City Controller Maria Brown about the total amount due for debt payments for 2013, and Mrs. Brown gave a brief summary of the schedule and amounts due, and how the payments are staggered to coincide with revenue collections.

Chairman Choolokian asked if the funds are available to make the payment for the Municipal Complex that is due in June, and Mrs. Brown responded yes, but that something else might have to be let go in order to make that payment. Mayor Dyster added that more information will become available as time goes on.

Chairman Choolokian acknowledged the workers from the various trades that were present for the Meeting, and said that the Council was supportive of providing work for them, but the City had financial difficulties that had to be dealt with.

Chairman Choolokian said that he was confused about Agenda Item #6, relative to the City's acceptance of a Grant Agreement with the Community Foundation for Greater Buffalo, and asked if Buffalo was trying to buy favoritism in the City. Council Member Anderson noted that this was not a matching grant. Mayor Dyster responded that the City had made application for the grant to pay the dues for membership in the Great Lakes and St. Lawrence Cities Initiative for 2013, and the application was accepted. Council Member Walker added that they should look at the bigger picture, and Niagara Falls should be part of regional growth and investment.

Council Member Grandinetti noted that there may be the misconception that the City does not have the funds for the new Train Station (Agenda Item #9), and this is an important Project; City dollars will be the last to be added to the Project, and additional development with private dollars will follow after the Project is completed. Susan Sherwood of the Wendel Companies was present to answer questions. Council Member Walker added that the Project's jobs will help the area economy.

Chairman Choolokian noted that the \$2,500,000 in funds for Agenda Item #12, relative to an agreement with the Commissioner of the NYSDOT for the obligation of NYS 2009 Passenger Freight Rail Import Funds are NYS DOT funds, and not City funds, and these funds will be used for Agenda Item #13, relative to an agreement with Wendel for bidding phase services for the International Railway & Intermodal Transportation Center.

During a lengthy discussion on Agenda Item #21, relative to changing the times for the Council Work Session and Legislative Meeting for the remainder of 2013, Council Member Grandinetti said that she was not against the change, but the Council's #1 priority should be to involve the public in the Meetings. She suggested the Item be tabled, and to try the time change for a few Meetings to get the public's response. Council Member Walker said that he had a concern with the time for public speakers not being a set time, and asked that the Resolution be amended to hold a Public Hearing before any time changes in the Meetings were made.

Council Member Grandinetti moved to approve the amendment.

Yeas 2

Grandinetti, Walker

Nays 3

Anderson, Fruscione, Choolokian

MOTION TO AMEND DEFEATED

Council Member Walker asked the Agenda Item #22, relative to the paving of certain streets in the City, be amended to include all streets in the City.

Council Member Grandinetti moved to approve the amendment.

Yeas 5

Nays 0

MOTION TO AMEND APPROVED

This Session ended at 4:50 PM

Chairman Choolokian 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 Items #6, #20                                                                         |
| Diane Tattersall  | Agenda Items #6, #9, #10, #11, #12, #21                                                      |
| Andrew Touma      | Agenda Items #9, #10, #11, #12                                                               |
| Anthony Gara      | Agenda Items #9, #10, #11, #12                                                               |
| Terri Williams    | Agenda Item #21                                                                              |
| Matt Green        | Agenda Items #6, #21                                                                         |
| Michael Murphy    | Agenda Item #21                                                                              |
| Rick Crogan       | No Verbal Comments                                                                           |
| Bruce Becker      | Agenda Items #9, #10, #11, #12                                                               |
| Denise Easterling | Agenda Items #9, #10, #11, #12                                                               |
| Norma Higgs       | Agenda Item #21                                                                              |
| Paul Gromosiak    | Museum for History of Niagara Frontier                                                       |
| Diane Tattersall  | John Daly Blvd. Project not a priority; need picture of Nik Wallenda Walk in City Hall Lobby |
| Marjorie Gillies  | Work of the Niagara Beautification Commission; NACC funding                                  |
| Joe Swartz        | Lack of Casino funding; parking revenues at State Park should go to the City                 |
| Miranda Lux       | Need more bicycle signs around City; rename 56 <sup>th</sup> St. Bridge for her late husband |
| Mark Emanuele     | Code Blue Shelter in City                                                                    |
| Matthew Green     | Main Street Symposium                                                                        |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

Agenda Item #1  
CITY CLERK'S REPORT FOR THE MONTH OF FEBRUARY 2013  
THIS ITEM WAS RECEIVED AND FILED

Agenda Item #2  
CLAIM REPORT FOR THE MONTH OF FEBRUARY 2013  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

PURCHASING DEPARTMENT, REORGANIZATION

Agenda Item #3  
It is requested that certain adjustments be made in the City Purchasing Department which are intended to increase efficiency and, at the same time, achieve a savings of \$9,616.00. Attached (on file in the City Clerk's Office) hereto is a spreadsheet reflecting these changes.

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

N.F.C. DEVELOPMENT CORP., MAIN ST. GRANT, STREETSCAPE MAINTENANCE & RELEASE

Agenda Item #4

N.F.C. Development Corp. obtained a New York Main Street grant for planting on Main Street from 1509-1705 Main Street. One condition of the grant is a declaration that the improvements will be maintained. A second grant condition is to give to the state a publicity release to take pictures of the improvements and to publish those pictures. Since the improvements are in the public right of way, the City, not NFC, will be maintaining the improvements and the City, not NFC, has authority to grant the permission to photograph the improvements.

Will the Council vote to approve the maintenance covenant and publicity release as described 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: GOLF COURSE, SOFTWARE, CHELSEA INFORMATION SYSTEMS

Agenda Item #5

Chelsea Information Systems currently provides the Tee Time Reservation Software and Point of Sale Software for the Golf Course.

Attached (on file in the City Clerk's Office) is a proposed agreement which would provide for substantial updating and improvements to both systems and by utilizing the option of providing for a third party VOIP system for golf reservations resulting in significant savings to the City.

It is the recommendation of both the DPW and MIS Departments that the City enter into this agreement. Funding is available from account# GC.7250.0200.0444.007.

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

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

Yeas

5

Nays

0

APPROVED

CONTRACT: COMMUNITY FOUNDATION FOR GREATER BUFFALO, GRANT AGREEMENT

Agenda Item #6

The City has applied for and received a grant from the Community Foundation for Greater Buffalo in the amount of \$4,000.

The grant is to pay the City's membership in the Great Lakes and St. Lawrence Cities Initiative (GLSLCI) for 2013. No City match is required.

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

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

Yeas

2

Grandinetti, Walker

Nays

3

Anderson, Fruscione, Chairman Choolokian

DEFEATED

CONTRACT: FIRE PROTECTION AGREEMENT WITH AIR BASE

Agenda Item #7

The Fire Chief advises that the City has had a mutual aid arrangement in place for quite some time with the Niagara Falls Air Base and that it is desirable to reduce that arrangement to writing. It is recommended that the City enter into this agreement as the Air base has resources available to it that NFFD does not have and that are occasionally necessary.

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

CONTRACT: PUBLIC WORKS, GENERATOR, MAINTENANCE AGREEMENT, CUMMINS NORTHEAST, LLC

Agenda Item #8

The Department of Public Works recommends that the City enter into this agreement with Cummins Northeast, LLC for the purpose of maintaining the emergency standby generating and/or associated equipment to provide the best possible operation conditions when needed. Attached (on file in the City Clerk's Office) hereto is a copy of the planned maintenance agreement.

Funding is available from account# A.1620.2325.0444.000

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

CONTRACT: TRAIN STATION, LABOR AGREEMENT

Agenda Item #9

A project labor agreement has been negotiated with all of the local construction trades for the construction of the train station. The City is not a signatory to this agreement but, by approving it and incorporating it into the bid specifications, it allows for the construction of the train station without having the separate prime contracts ordinarily required under the Wicks Law, and will result in cost savings to the project.

Will the Council approve the attached (on file in the City Clerk's Office) project labor agreement and direct its incorporation into the bid documents for the train station?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: TRAIN STATION, RIGHT OF ENTRY, CANADIAN NATIONAL RAILWAY CO.,  
AMTRAK, BRIDGE COMMISSION

Agenda Item #10

Because of the close proximity of property owned by the Canadian National Railway Company, Amtrak and the Niagara Falls Bridge Commission, it is appropriate to have right of entry agreements allowing City contractors to enter onto the adjacent property to perform construction related activities for the new train station.

Will the Council authorize right of entry agreements with Canadian National Railway Company, Amtrak and the Niagara Falls Bridge Commission and authorize the Mayor to execute right of entry agreements with each entity in forms 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: AMTRAK PARTY WALL AGREEMENT, TRAIN STATION

Agenda Item #11

When the construction of the new train station is complete, a portion of the passenger platform and the CSX bridge over Main Street will adjoin, and to clarify ownership and maintenance issues, it is appropriate to establish a party wall agreement setting forth the respective rights and responsibilities of the parties.

The City has negotiated this agreement with Amtrak and it is recommended that the Council approve the agreement establishing the party wall between Amtrak and the City and authorize the Mayor to execute an agreement in a 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

CONTRACT: NYSDOT, 2009 PASSENGER FREIGHT RAIL IMPORTS FUNDS, TRAIN STATION

Agenda Item #12

The New York Department of Transportation has designated \$2,500,000 of 2009 Passenger Freight Rail Imports Funds for the train station project.

In order to fully obligate these funds for the project, it is necessary to enter into an agreement with the Commissioner of the New York State Department of Transportation.

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

CONTRACT: INTERNATIONAL RAILWAY/INTERMODAL TRANSPORTATION CENTER, BID PHASE SERVICES, WENDEL

Agenda Item #13

The City has received the attached proposal (on file in the City Clerk's Office) from Wendel to perform the services outlined.

The funding for this will be available under the agreement with the New York State Department of Transportation, which appears elsewhere on this Council agenda.

Will the Council so approve and authorize the Mayor to execute an agreement 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: SATARIAN, GEORGE

Agenda Item #14

|                        |                                                                                             |
|------------------------|---------------------------------------------------------------------------------------------|
| Date Claim Filed:      | November 4, 2011                                                                            |
| Date Action Commenced: | September 17, 2012                                                                          |
| Date of Occurrence:    | August 24, 2011                                                                             |
| Location:              | 2325 Pine Avenue, Niagara Falls, NY                                                         |
| Nature of Claim:       | Property damage sustained during tree removal.                                              |
| Status of Action:      | Pretrial stage.                                                                             |
| Recommendation/Reason: | Best interests of City to pay claim.                                                        |
| Amount to be Paid:     | \$1,750.00                                                                                  |
| Make Check Payable to: | George Satarian                                                                             |
| Conditions:            | Stipulation of Discontinuance and General Release to City, approved by Corporation Counsel. |

It is the recommendation of this Department that the above action 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: GRUKA, TRACY, AS PNG OF DOMINIC GUALTIERE

Agenda Item #15

|                        |                                                                                                      |
|------------------------|------------------------------------------------------------------------------------------------------|
| Date Claim Filed:      | July 9, 2008                                                                                         |
| Date Action Commenced: | April 21, 2009                                                                                       |
| Date of Occurrence:    | May 4, 2008                                                                                          |
| Location:              | 2310 Hyde Park Boulevard,<br>Niagara Falls, NY                                                       |
| Nature of Claim:       | Injuries suffered during<br>arrest.                                                                  |
| Status of Action:      | Pretrial stage.                                                                                      |
| Recommendation/Reason: | Best interests of City to pay.                                                                       |
| Amount to be Paid:     | \$25,000.00                                                                                          |
| Make Check Payable to: | Rosenthal, Siegel & Muenkel,<br>LLP and Dominic Gualtieri                                            |
| Conditions:            | Stipulation of Discontinuance<br>and General Release to City,<br>approved by Corporation<br>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

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> |
|--------------------------------|------------------------|---------------|
| Niagara Family Medicine Assoc. | 1/28/2013              | \$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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE TRAFFIC ADVISORY COMMISSION

13<sup>TH</sup> STREET BETWEEN GARDEN/CENTRE AVE., ALTERNATE OVERNIGHT PARKING

Agenda Item #17

At a Traffic Advisory Commission meeting held on March 7, 2013 the Commission recommended APPROVAL of the following item:

INSTALL ALTERNATE OVERNIGHT PARKING ON 13<sup>TH</sup> STREET BETWEEN GARDEN AVENUE & CENTRE AVENUE

A Petition from the residents of this block was received with **67%** signatures.

Submitted By: Angela Ellison, 1161 Garden Avenue and  
Petition/Residents of Block

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 |   |

2811 HIGHLAND AVE., 40' LOADING ZONE

Agenda Item #18

At the Traffic Advisory Commission meeting held on March 7, 2013 the Commission recommended APPROVAL of the following item:

INSTALL A 40' LOADING ZONE (8A.M. - 3P.M.) IN FRONT OF 2811 HIGHLAND AVENUE

Request was made to facilitate a place for clientele to have in and out service and delivery vehicles to load/unload in front of 2811 Highland Avenue.

Submitted By: Rahsheena Jones, RTR Grocery & Deli, 2811 Highland 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 |   |

2498 FOREST AVE., 5' HANDICAPPED ACCESS SPACE

Agenda Item #19

At the Traffic Advisory Commission meeting held on March 7, 2013 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE  
IN FRONT OF 2498 FOREST AVENUE

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

Submitted By: Marge Lostracco, 2498 Forest 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 |   |

BUFFALO AVE & 4<sup>TH</sup> ST ALL WAY STOP SIGNS, TRAFFIC SIGNAL INDICATIONS,  
PORTAGE RD. & CEDAR AVE., TRAFFIC SIGNAL INDICATIONS, DENIAL

AGENDA Item #20

1) Request submitted by Amanda Buonopane, 123 - 4<sup>th</sup> Street to INSTALL ALL WAY STOP SIGNS AT THE INTERSECTION OF BUFFALO AVENUE & 4<sup>TH</sup> STREET. This intersection has previously been studied in 2007 & 2009 and the traffic volumes counted at peak times during the summer have fallen far short of MUTCD Minimum Warrants for the placement of "ALL WAY" stop signs. In addition, only four total right angle/turning collision accidents have occurred in the last two and one half years which also falls short of these warrants. All sight distances and stop signs were observed as clear and unobstructed and therefore the Commission denied this request.

2) Request submitted by Trudy Christman, Public Relations & Marketing, Oakwood Cemetery Association, 763 Portage Road to INSTALL TRAFFIC SIGNAL INDICATIONS FOR EXITING OAKWOOD CEMETERY AS PART OF THE EXISTING TRAFFIC SIGNAL SYSTEM AT THE INTERSECTION OF PORTAGE ROAD AND CEDAR AVENUE. Per MUTCD guidelines, a minimum of two sets of red/yellow/green signal faces would be required on any approach to an intersection and they would need to be installed within specific alignment requirements to provide uninterrupted visibility to motorists. The existing mast arm layout, plus the geometry of this intersection with the stone pillars at the cemetery's narrow driveway will not allow these requirements to be met. Engineering has examined the existing mast arms and adding the weight of hanging additional equipment was not recommended. The combination of visibility and structural concerns, along with zero accidents having occurred here for vehicles exiting the cemetery during the three plus years that were studied (starting 1/1/10) and that any new mast arms/signal equipment which would need to be installed to satisfy these requirements would cost over \$20,000 led the Commission to deny this request.

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: CITY COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE MEETINGS,  
TIME CHANGE, 2013-12  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #21

WHEREAS, this City Council wishes to be more efficient in its use of time to conduct public business and make it more convenient for the public to attend both the City Council Committee of the Whole meeting as well as the Legislative session; and

WHEREAS, this City Council desires to change the time for the commencement of the Committee of the Whole meeting for each regularly scheduled City Council meeting during calendar year 2013 from 4:00 p.m. to 5:00 p.m., briefly recess for 15 minutes at the conclusion of the Committee of the Whole meeting and then commence the Legislative session thereafter in an effort to promote efficiency and make it more convenient for those present for the Committee of the Whole meeting to also be present for the Legislative session; and

WHEREAS, such an amendment will allow and encourage Department Heads, the Mayor and the City Administrator to be present for both the Committee of the Whole meeting as well as the Legislative meeting; and

WHEREAS, this amendment will likely result in a reduction of overtime for the Police Officer who attends both City Council sessions by shortening the amount of time he is required to be on duty in City Hall and/or free him or her up to participate in the Police patrol rotation.

NOW, THEREFORE, BE IT RESOLVED, that this City Council does hereby amend the commencement of the Committee of the Whole meeting from 4:00 p.m. to 5:00 p.m. and does further amend the commencement of the time of the Legislative session from 7:00 p.m. to a time immediately following the conclusion of the Committee of the Whole meeting and a 15 minute recess; and

BE IT FURTHER RESOLVED, that such time amendments shall apply for each regularly scheduled City Council meeting for the balance of calendar year 2013 commencing with the next regularly scheduled City Council meeting on April 1, 2013.

Yeas

5

Nays

0

ADOPTED

RESOLUTION: CITY STREEETS, UNIMPROVED, PAVING, 2013-13  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #22

Whereas, unimproved streets in the City of Niagara Falls are in need of paving, and

Whereas, the current residents of these streets should not be penalized by being made to pay for this paving, and

Whereas, there is a precedent for allowing such relief to residents on an unimproved street with one such example being the paving of Point Avenue several years ago that was paved at no cost to the residents

NOW, THEREFORE, BE IT RESOLVED, that these unimproved streets be added to the list of streets to be paved during the 2013 paving season, and

BE IT FURTHER RESOLVED, that said paving costs will not be passed on to the residents of the neighborhood streets.

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 8:08 P.M.

Carol A. Antonucci  
City Clerk



APRIL 1, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

The first session of the April 1, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

Present: Council Chairman Glenn Choolokian, Council Members Robert Anderson, Kristen Grandinetti and Charles Walker.  
Council Member Samuel Fruscione was excused.

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 18, 2013.

Yeas

4

Nays

0

APPROVED

Representatives of Thermo Source gave a presentation on the use of their geothermal system at the Ice Pavilion. They noted that their product is an all natural based system, and results in an average of 55% savings on energy use. A lengthy discussion followed on the costs for use of the system and the need for repairs to be completed before the start of the hockey season.

In the Administrative Update:

1. Mayor Paul Dyster said that the City continues to communicate with the New York Power Authority regarding options for payments to the City; the City's Bond Rating has been downgraded due to the Casino Funds issue; and the City is hoping for a settlement regarding the receipt of the Casino Funds before the arbitrator makes a decision.

2. Director of Public Works David Kinney reported on the number of square yards of sidewalks that were repaired by the City's outside contractor and in-house; the sidewalk repairs would begin in May, and noted that the in-house program has decreased over the years due to the lack of funding. Mayor Dyster added that the City has been notified of an increase in CHIPS funding, which can be used for street and sidewalk repairs.

3. Mr. Kinney also reported that forestry crews continue to work closely with the Water Board and National Grid. He noted that the City no longer has the funding to pay an outside contractor to do the grass cutting on over 600 properties, and, also, the City does not have the equipment and employees to do the work in-house; the Clean Team is down to 8 employees; and there is no funding in the Budget for the Pothole Killer. Council Member Walker said that it is important to come up with a plan to address these issues. Council Member Grandinetti asked about the condition of the parking lot behind DeVeaux Manor, and Mr. Kinney replied that he will try to use the Zipper to fix the area. Chairman Choolokian inquired about dirt from the Lewiston Road Project that is piled in the Unity Park area, and City Engineer Jeffrey Skurka responded that he would look into the matter.

4. Community Development Director Seth Piccirillo reported that the 2013 Demolition Program is on schedule, and the first houses should be taken down in June; the downtown area is a target area, and a grant had been received from the State for this area; funding is available for the demolition of approximately 50 houses; and more bid packages are being prepared so that there can be simultaneous ongoing contracts for demolitions.

Council Member Walker asked about the lights behind Wrobel Towers, and Mr. Kinney responded that the poles and wiring are deteriorated, and he will prepare a cost estimate for repairs for the next Council Meeting.

Corporation Counsel Craig Johnson distributed copies of a Resolution honoring Bishop Euriah Colvin to be added to the Agenda.

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

Yeas

4

Nays

0

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #16.

Chairman Choolokian asked Mr. Johnson if the costs for the Change Order in the contract for the Lewiston Road Project (Agenda Item #4) would be billed to the original contractor for the Project, and Mr. Johnson responded that the costs would be included in the lawsuit against Man O'Trees.

This Session ended at 6:15 PM .

Chairman Choolokian reconvened the Meeting at 6:42 P.M. in the Council Chambers with all Council Members present excluding Council Member Samuel Fruscione. The Prayer was said by Council Chairman Choolokian who also 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:

|                  |                                                                                                                               |
|------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Donald Supon     | Agenda Items #7, #8, #9, #14                                                                                                  |
| Terry Williams   | Agenda Item #14                                                                                                               |
| Paul Gromosiak   | Ice Dam anniversary; wonders of the Falls                                                                                     |
| Diane Tattersall | Meeting time change; disrespect shown to Council Majority; Nik Wallenda Walk on TV in Texas                                   |
| Gerald Skrlin    | Opening of Historic Museum; condition of houses in his neighborhood; thanks to Mayor for article attacking blight in the City |
| Tracy Greene     | Cleanup by CSX                                                                                                                |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: BRIDGE MAINTENANCE PROJECT, PAUL J. GALLO CONTRACTING, INC.

Agenda Item #1

The following was the result of bids received on February 26, 2013, for the above referenced project:

| CONTRACTOR                                                                  | BASE BID      |
|-----------------------------------------------------------------------------|---------------|
| Paul J. Gallo Contracting, Inc.<br>4242 Ridge Lea Road<br>Amherst, NY 14226 | \$ 155,049.00 |
| Yarussi Construction, Inc.                                                  | \$ 163,110.00 |
| Nichol's Long & Moore Construction                                          | \$ 193,031.25 |

It is the recommendation of the undersigned that this project be awarded to Paul J. Gallo Contracting, Inc. at its Base Bid of \$ 155,049.00 Funding is available under Code H1113.2011.1113.0449.599.

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

4

Nays

0

APPROVED

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

Agenda Item #2

The following is the result of bids received on March 19, 2013, for the above referenced project:

| <u>CONTRACTOR</u>                                                                  | <u>BASE BID</u> |
|------------------------------------------------------------------------------------|-----------------|
| Valeri Concrete Construction, Inc.<br>6655 Errick Road<br>North Tonawanda NY 14120 | \$217,400.00    |
| Campobello Construction, Inc.                                                      | \$243,498.00    |
| Mark Cerrone, Inc.                                                                 | \$344,750.00    |

It is the recommendation of the undersigned that this contract be awarded to the low bidder, Valeri Concrete Construction, Inc. in the amount of \$217,400.00. 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 Board, to a not-to-exceed amount of \$20,000.00, pending the execution of a standard inter-agency agreement between the City and the Niagara Falls Water Board. Therefore, the City of Niagara Falls will enter into a contract with Valeri Concrete Construction, Inc. for a total of 237,400.00 at this time.

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

|          |   |
|----------|---|
| Yeas     | 4 |
| Nays     | 0 |
| APPROVED |   |

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

Agenda Item #3

The following was the result of bids received on March 19, 2013, for the above referenced project:

| <u>CONTRACTOR</u>                                                        | <u>BASE BID</u> |
|--------------------------------------------------------------------------|-----------------|
| Yarusso Construction Inc.<br>5650 Simmons Ave.<br>Niagara Falls NY 14304 | \$ 131,910.00   |
| N.F.P. Trucking & Excavating                                             | \$ 133,490.00   |
| Mark Cerrone, Inc.                                                       | \$ 143,525.00   |

It is the recommendation of the undersigned that this project be awarded to the low bidder Yarussi Construction Inc. at their Base Bid of \$131,910.00. 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     | 4 |
| Nays     | 0 |
| APPROVED |   |

CONTRACT: NYS ROUTE 140 MAIN ST & LEWISTON RD, CHANGE ORDER #1, ACCADIA SITE CONTRACTING, INC.

Agenda Item #4

A contract for the above referenced project was awarded to Accadia Site Contracting, Inc. on October 1, 2102, in the total amount of \$4,359,854.00.

During the course of construction it was determined that additional corrective work should be implemented prior to the installation of surface course asphalt on Lewiston Road. This work is required to correct non-conforming profile and cross slope variations associated with base and binder asphalt courses that were placed by Man O' Trees. Generally, additional areas requiring corrective work includes the balance of the pavement installed by Man O' Trees.

Wendel has developed a program for this corrective work. Corrective work includes the following:

- Production and Miscellaneous Cold Milling of Bituminous Concrete to remove the non-conforming pavement.
- Altering Manholes, Drainage Structures and Valve Boxes to facilitate milling and paving operations.
- Installation of Tack Coat and Type 3 Binder Course.

The cost for this corrective work is based on Accadia's Contract Unit Price Items. The total estimated cost is approximately \$ 130,000. Since this work is necessary to correct non-conforming work performed by Man O' Trees, it is not eligible for Federal Aid Reimbursement.

This Change Order will increase their contract to approximately \$4,489,854.00. Funding is available from H0812 fund balance.

It is the recommendation of the undersigned that Change Order #1 be approved not to exceed the amount of \$130,000.00 and thus compensating the contractor on a unit price basis for the additional work actually completed to perform this corrective work.

Will the Council vote to so approve Change Order #1.

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

Yeas

4

Nays

0

APPROVED

COMMUNITY DEVELOPMENT: CDBG BUDGET REVISION, ESG PROGRAM BUDGET AMENDMENT

Agenda Item #5

The Community Development Department (CD) requests Council approval of the following budget revisions. Both revisions are required by HUD, and the information was made available to the community at a public hearing on March 15, 2013.

(a) 2013 Community Development Block Grant (CDBG) Budget Revision - 1212 Niagara Street Repayment

On January 22, 2013, the City Council approved the use of \$27,300 of Community Development miscellaneous revenue to repay United States Department of Housing and Urban Development (HUD) for the 1212 Niagara Street project (Year 2000), which was never completed. The HUD line of credit must be repaid because the national objective was never met. HUD will not accept CD's recent request to use miscellaneous revenue for the repayment. However, HUD did accept our request to use 2013 CDBG funds, instead of general fund dollars, to repay the line of credit.

The \$27,300 reduction will impact both the public services cap of 15 percent of the CDBG amount and the administrative cap of 20 percent. Attachment one includes proposed reductions to ensure that both capped amounts are within the guidelines. All HUD CDBG sub-recipients are notified that their level of HUD funding is not finalized until the actual appropriation is released by the federal government. We make that known in order to anticipate situations like this one, and or unscheduled reductions to HUD funding.

(b) 2011 Part B through 2013 Emergency Solutions Grant (ESG) Program Budget Amendment

HUD has revised the program formerly known as the Emergency Shelter Grant Program, and re-launched it as the Emergency Solutions Grant Program (ESG). The City, as the official ESG recipient, must meet specific rapid rehousing and essential services percentage caps. This requested amendment does not change the amount of available funding in each federal fiscal year. However, it does change sources and uses. CD has met with all sub-recipients impacted by these revisions, and this plan as seen as the most responsible course of action given the new HUD guidelines. The changes are detailed in Attachment two (on file in the City Clerk's Office).

Will the Council vote to approve this \$27,300 budget amendment and ESG budget amendment as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

Council Member Anderson moved to Table the communication.

Yeas

4

Nays

0

TABLED

CONTRACT: PORTER RD. BRIDGE PAINTING PROJECT, CSX TRANSPORTATION, INC.

#### Agenda Item #6

The City Council has previously approved an agreement with the New York State Department of Transportation for the above project which is related to a bridge over CSX facilities.

In order to progress the project it is necessary to enter into a construction agreement with CSX Transportation. For CSX to review and perform work related to the Porter Road Bridge Painting project the agreement requires an advanced deposit in the amount of \$30,519.00.

This amount is included in the previously approved overall budget for the project.

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

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

Yeas

4

Nays

0

APPROVED

EARL BRYDGES LIBRARY, REPLACEMENT OF BULBS/BALLASTS

#### Agenda Item #7

Michelle Petrozullo, the Director of Library Services, requested that the Engineering Department investigate alternatives to increase the level of light around the Earl Brydges Library for security purposes.

Currently the Engineering Department has a proposal from Global Energy and Lighting (GEL) where they will send us three ceramic halide bulbs and ballasts, which they have sole proprietary rights to the ballasts, for thirty days to perform a test to determine if this emerging technology can solve the lighting and security issue at the library without the large construction expense of have a contractor install new poles. Another advantage is that this equipment can be changed out by DPW personnel.

As claimed by GEL, not only do these ballasts and light provide more visible light by increasing the frequency at which bulbs operate which in effect reduces the amplitude of the power being delivered to the bulb thereby reducing the temperature at which the bulb operates making the bulb more efficient. Therefore, given the reduction in power being used by this technology, over time the equipment will pay for itself over the life of the equipment installed.

Also, by reducing the temperature and increasing the frequency, the light is softer and not as harsh. In addition, rather than producing a bright spot directly under the light fixture, the light is more diffuse over a greater area that is not found with metal halide bulbs.

Another advantage of this technology is that by increasing the frequency at which the light bulb is operating they are finding that the resolution of security cameras is improved thereby improving the security system without making any other modifications.

If this test proves to perform to the satisfaction of the City, this technology has other applications such as Hyde Park, inside the ice rinks, the golf course, and any other lighting fixtures that are owned by the city.

The total cost to complete the replacement of the bulbs and ballasts is \$9,324.00. Funding for this project is available in Code: H0912.2009.0912.0449.599.

Will the City Council so vote to approve the funding for this project if the test proves to be satisfactory and perform as anticipated?

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

Yeas

4

Nays

0

APPROVED

#### PUBLIC WORKS: CITY POOLS/SPRAY PARK, COST TO OPERATE

##### Agenda Item #8

The DPW Director has provided an estimate of the amount of money required to operate the City pools and spray park for year 2013. Attached hereto (on file in the City Clerk's Office) is that request estimated to total \$77,262.71. Funding is available from A.1990.7630.0449.599 (Council Contingency).

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

#### CONTRACT: NEW ROAD EQUIPMENT STORAGE BLDG., INSPECTION, EMPIRE GEOSERVICES

##### Agenda Item #9

Special inspections proposals were solicited from four companies. Of these, three submitted proposals (APEX Consulting, PSI Engineering, Empire GeoServices, Inc.) for the New York State Building Code mandated services.

The cost for these services is to be borne by the City.

Upon comparison of rates, Empire GeoServices, Inc. was found to provide the lowest cost when rates and estimated hours of service were compiled.

The expected expenditure is \$3,000.00-\$4,000.00, so it is suggested that a contract amount not-to-exceed \$5,000.00 be set aside for possible contingencies. Funding is available in the project code H1119.2011.1119.0449.599.

Therefore, it is the recommendation of the undersigned that a contract for special inspections be approved in an amount not to exceed \$5,000.00, and thus compensating the Empire GeoServices, Inc. on a unit price basis for the work actually completed per their proposal.

Will the Council vote to so approve and authorize the Mayor to execute a contract with Empire GeoServices, Inc. 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: ICE PAVILION, RENOVATION OF RINK 1, RETENTION OF RINK SPECIALISTS

Agenda Item #10

Rink 1 at the Hyde Park Ice Pavilion was constructed approximately 42 years ago. Significant problems have been identified at Rink 1 including but not limited to numerous pipes in the manifold pit being severely corroded at the concrete wall of the manifold pit. This corrosion is starting to cause pinhole leaks in the refrigeration lines under the ice surface. Also, due to the rink being in service on a twelve month basis permafrost heaving under the rink, absent of subterranean heating system under the refrigeration lines, has caused substantial heaving which has the potential to break the refrigeration lines under the concrete surface which is also some 42 years old.

The City Engineer began searching for a consultant with much experience in the design and construction of ice rinks and surfaces and located Rink Specialists. Preliminary conversations have taken place with Rink Specialists pertaining to the scope of services to be provided in designing and managing the renovations to Rink 1. Attached (on file in the City Clerk's Office) is a proposal from Rink Specialists. The cost for these consultant services is not anticipated to be more than \$85,500.00. Approximately 3 ½ years ago, the City began making significant improvements to the Hyde Park Ice Pavilion and set money aside from Special Projects Fund Balance (approximately \$650,000) to fund further renovation projects at the Ice Pavilion. Although all the renovations required for Rink 1 at this time were not recognized at that time, it is clear that these renovations are needed now in order to secure the future viability of Rink 1. Funding for these consultant services is available from those dollars.

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

Council Member Anderson moved to Table the communication.

Yeas

4

Nays

0

TABLED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: SMITH, LISA A.

Agenda Item #11

|                        |                                                           |
|------------------------|-----------------------------------------------------------|
| Date Claim Filed:      | January 22, 2013                                          |
| Date Action Commenced: | N/A                                                       |
| Date of Occurrence:    | December 30, 2012                                         |
| Location:              | 2416 Monroe Avenue, Niagara Falls, NY                     |
| Nature of Claim:       | Damage to fence caused by snowplow.                       |
| Status of Action:      | Claim stage.                                              |
| Recommendation/Reason: | Best interests of City to pay claim.                      |
| Amount to be Paid:     | \$350.00                                                  |
| Make Check Payable to: | Lisa A. Smith                                             |
| 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

4

Nays

0

APPROVED

CLAIM: SYPOSS, GREG A.

Agenda Item #12

|                        |                                                               |
|------------------------|---------------------------------------------------------------|
| Date Claim Filed:      | January 2, 2013                                               |
| Date Action Commenced: | N/A                                                           |
| Date of Occurrence:    | December 27, 2012                                             |
| Location:              | 600 block of 81 <sup>st</sup> Street, Niagara Falls, NY       |
| Nature of Claim:       | Automobile damage sustained in an accident with City vehicle. |
| City Driver:           | Jason Klein                                                   |
| Status of Action:      | Claim stage.                                                  |
| Recommendation/Reason: | Best interests of City to pay claim.                          |
| Amount to be Paid:     | \$90.94                                                       |
| Make Check Payable to: | Greg A. Syposs                                                |
| 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 | 4 |
| Nays | 0 |

APPROVED

CLAIM: DELONG, SHAWN

Agenda Item #13

|                        |                                                                         |
|------------------------|-------------------------------------------------------------------------|
| Date Claim Filed:      | November 19, 2012                                                       |
| Date Action Commenced: | N/A                                                                     |
| Date of Occurrence:    | November 11, 2012                                                       |
| Location:              | Mackenna Avenue and 20 <sup>th</sup> Street                             |
| Nature of Claim:       | Automobile damage sustained in an accident with falling City equipment. |
| Status of Action:      | Claim stage.                                                            |
| Recommendation/Reason: | Best interests of City to pay claim.                                    |
| Amount to be Paid:     | \$500.00                                                                |
| Make Check Payable to: | Shawn DeLong                                                            |
| 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 | 4 |
| Nays | 0 |

APPROVED

RESOLUTION: CITY COUNCIL, LEGISLATIVE MEETING TIME CHANGE, 2013-14  
BY: COUNCIL MEMBER SAMUEL FRUSCIONE

Agenda Item #14

WHEREAS, during its meeting on March 18, 2013 the City Council amended the time of its Committee of the Whole meeting for each regularly scheduled City Council meeting during the remainder of calendar year 2013 from 4:00 p.m. to 5:00 p.m. and also amended the commencement of the Legislative session to begin 15 minutes subsequent to the conclusion of the Committee of the Whole meeting; and

WHEREAS, upon further reflection, this City Council wishes to further amend the time of the commencement of the Legislative session to designate the Legislative session to commence at 6:00 p.m. in an effort to be consistent with the time many other City boards, such as the Planning Board and the Tourism Advisory Board, commence their business; and

WHEREAS, such an amendment to the time of the Legislative session is intended to be on a temporary basis and until further notice, so as to give this City Council an opportunity to gage public participation. NOW, THEREFORE, BE IT RESOLVED, that this City Council does hereby restate the commencement of the Committee of the Whole meeting to take place at 5:00 p.m. as previously resolved and does further amend the commencement of the time of the Legislative session from commencing 15 minutes following the conclusion of the Committee of the Whole meeting to commencing at 6:00 p.m.; and

BE IT FURTHER RESOLVED, that at or before the 6:00 p.m. Legislative session this City Council will provide ample time for members of the public to sign up to speak on agenda items or on matters for the good of the community; and

BE IT FURTHER RESOLVED, that these amendments in the time of commencement of the Committee of the Whole meeting and the Legislative session are to be on a temporary basis and until further notice so as to give this City Council the opportunity to gage public participation; and

BE IT FURTHER RESOLVED, that such time amendments shall apply for each regularly scheduled City Council meeting for the balance of calendar year 2013 commencing with the next regularly scheduled City Council meeting on April 15, 2013.

Yeas

4

Nays

0

ADOPTED

RESOLUTION: DISCRIMINATION & HARASSMENT, ORDINANCE AMENDMENT, 2013-15  
BY: ALL COUNCIL MEMBERS

Agenda Item #15

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 178 of the Codified Ordinances entitled "City of Niagara Falls Policy against Discrimination and Harassment" is hereby amended as follows:

#### Section 178.01 INTRODUCTION

The City of Niagara Falls recognizes the right of all persons to equal opportunities and recognizes that all employees have the right to work in an environment free from discrimination and harassment. In this regard, it is the City's responsibility and practice to protect and safeguard the rights and opportunities of any person who might seek or obtain employment with the City or who might participate in the City's process for licenses and/or permits. Solely for the purposes of this policy, the term "employee" shall also include a volunteer or a member of a board, commission and committee.

#### Section 178.02 POLICY STATEMENT

The City shall not tolerate employment discrimination. The City's policy is to provide equal ~~employment~~ opportunity without regard to age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status. All ~~employment~~ decisions shall be non-discriminatory, including, but not limited ~~to~~, decisions regarding hiring, promotions, terminations, and other terms and conditions of employment, examinations and the granting of licenses and/or permits. The City also prohibits the discriminatory harassment of its employees or officers in any form. The City will take all steps necessary to prevent and stop the occurrence of any illegal discrimination or harassment in the workplace. Specifically:

...

(d) This policy applies to all City officers and employees and all individuals who serve as contractors to the City. This Policy may also apply to the conduct of individuals who are not officers, employees or contractors of the City over whom the City exercises sufficient control, including members of boards, commissions and committees. This policy applies to any City facility and all work-related settings and locations where City employees are assigned to work.

~~CITY OF NIAGARA FALLS  
COMPLAINT OF DISCRIMINATION OR HARASSMENT~~

~~Name of Complainant: \_\_\_\_\_~~

~~Address: \_\_\_\_\_~~

~~Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_~~

~~Date of Hire: \_\_\_\_\_~~

~~Job Title: \_\_\_\_\_~~

~~Department: \_\_\_\_\_~~

~~Department Head: \_\_\_\_\_~~

~~Name of Person Complained Of: \_\_\_\_\_~~

~~Date of Incident(s): \_\_\_\_\_ Time: \_\_\_\_\_~~

~~Description of Incident(s): (Use additional sheets if necessary)~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~Are you still employed by or volunteering for the City of Niagara Falls: \_\_\_\_\_~~

~~Action you are seeking: \_\_\_\_\_~~

~~SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_~~

~~Forward Original to: DISCRIMINATION/HARASSMENT COMMITTEE~~

~~Forward copy to: EEO OFFICER FOR COMPLIANCE AND WORKFORCE DIVERSITY~~

~~CITY OF NIAGARA FALLS  
WITHDRAWAL OF DISCRIMINATION OR HARASSMENT COMPLAINT~~

~~Name of complainant: \_\_\_\_\_~~

~~Date complaint was filed: \_\_\_\_\_~~

~~Department Head notified: \_\_\_\_\_~~

~~I HEREBY WITHDRAW THIS COMPLAINT AND AGREE THAT NO FURTHER ACTION IS  
REQUIRED ON IT.~~

~~SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_~~

~~Forward Original to: DISCRIMINATION/HARASSMENT COMMITTEE~~

~~Forward copy to: EEO OFFICER FOR COMPLIANCE AND WORKFORCE  
DIVERSITY~~

CITY OF NIAGARA FALLS  
COMPLAINT OF DISCRIMINATION/HARASSMENT FORM

Name of Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_

☐ Employee

☐ Volunteer

☐ Applicant (for

Exams, Licensing, Permits)

If an employee of the City of Niagara Falls:

Job Title: \_\_\_\_\_

Department: \_\_\_\_\_

Supervisor (if different from Dept. Head): \_\_\_\_\_

Date of Hire: \_\_\_\_\_

If an applicant:

Date of Application: \_\_\_\_\_

Name and department, board, commission or committee that you believe discriminated against you: \_\_\_\_\_

Please indicate the basis for the alleged discrimination:

☐ Age

☐ Gender Identity or Expression

☐ Race

☐ Religion

☐ Creed

☐ Disability

☐ Color

☐ Predisposing Genetic

Characteristics

☐ National Origin

☐ Marital Status

☐ Sex

☐ Military Status

☐ Sexual Orientation

☐ Domestic Violence Victim

Status

☐ Retaliation

Date(s) & Times of  
Incident(s): \_\_\_\_\_

Description of Incident(s): (Use additional sheets if necessary)

What actions have you taken concerning the alleged discrimination?

Are you still employed by or volunteering for the City of Niagara Falls:  
☐ Yes ☐ No

What action(s) are you seeking?

---

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Signature \_\_\_\_\_ Date \_\_\_\_\_  
In filing this complaint, you are saying that the allegations you are making are true and correct to the best of your knowledge. You acknowledge that the information may be used by the City of Niagara Falls to further investigate the complaint.

Forward to: EEO Officer for Compliance and Workforce Diversity  
City Hall  
745 Main Street, Room 16  
Niagara Falls, NY 14302

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

|         |   |
|---------|---|
| Yeas    | 4 |
| Nays    | 0 |
| ADOPTED |   |

RESOLUTION: COLVIN, BISHOP EURIAH, HONORING, 2013-16  
BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, Bishop Euriah Colvin peacefully transitioned from labor to reward on Saturday, March 23, 2013, we take this moment to honor his memory; and

WHEREAS, Bishop Colvin was married to Laura Colvin for 66 years and to that union they were blessed with 12 children; and

WHEREAS, Bishop Colvin was the Pastor and Overseer of the New Jerusalem Revival Center, Independent Church of God in Christ on 20<sup>th</sup> Street here in the City of Niagara Falls for 55 years; and

WHEREAS, under his leadership a new church building was erected, several ministries in other states were started, as well as locally. He established the Rainbow School of the Bible, Project T.Y.P.E. (Training Young People for Excellence), Life Transformation Ministries, Food Pantry and many other programs supporting the needy in the community.

NOW, THEREFORE, BE IT RESOLVED, that this City Council, on behalf of the citizens of Niagara Falls, New York, recognize in Bishop Euriah Colvin that we lost a great citizen and leader. We honor him and all of his accomplishments and recognize that because of his efforts, Niagara Falls is a better place for all to live.

|         |   |
|---------|---|
| Yeas    | 4 |
| Nays    | 0 |
| ADOPTED |   |

There being no further business to come before the Council, Chairman Choolokian recessed the Meeting at 7:15 P.M. until April 8, 2013 at 5:00 PM

Carol A. Antonucci  
City Clerk



APRIL 15, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

---

The first session of the April 15, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:02 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, 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 1, 2013.

Yeas

5

Nays

0

APPROVED

In the Administrative Update:

1. Police Superintendent Bryan DalPorto noted that the Police radio dispatch system is located at the old Public Safety Building, so the building cannot be sold to a developer until another option for the system can be coordinated. Also, the Police Department conducts training exercises in the building; a cell tower located on the building brings revenue into the City and the building is used for storage of the displays for the Holiday Lights. There are expenses for heating and lighting the building. Deputy Corporation Counsel Thomas O'Donnell added that demolition of the building was not included in contract for the construction of the Municipal Complex, and the LDC was formed for the construction of the Municipal Complex only. Superintendent DalPorto also spoke on a vehicle that was submerged in Hyde Park Lake, and the Boston Marathon incident.

2. Mayor Paul Dyster said that negotiations are ongoing for the development, at no cost to the City, of the parcel at 310 Rainbow Boulevard and, also, a market rate parking agreement with the developer.

Chairman Choolokian asked for an update on the repairs at the Ice Pavilion, and Mayor Dyster responded that the Administration is recommending that the Agenda Item for Rink Specialists to perform the work be approved, and due to time constraints, the geo-thermal system that was presented to the Council is not a good idea at this time. Chairman Choolokian added that it is important to get this Project up and going in order to have the Rink ready for the season.

Community Development Director Seth Piccirillo spoke on revisions to the CD Budget, and said there will be no additional funding requested from the City's General Fund. He noted that while funding for the New Jerusalem Reporting Center has been cut, the Center is still receiving the maximum amount allowable under law. A lengthy discussion followed on the funding for the Center, with Council Member Walker noting that the Center provides a Program for Crime Prevention, and funding from the City is used to leverage funding from the County. Council Member Grandinetti asked if there was alternative funding that the Center could seek, and Mr. Piccirillo responded that his Department had assisted the Center in applying for grants which then were not received. Mayor Dyster added that the Administration is sympathetic to the Center's issues.

Corporation Counsel Craig Johnson distributed copies of Items to be amended and/or added to the Agenda:

1. A communication relative to the CDBG Budget Revision and ESG Program Budget Amendment which was tabled at the April 1, 2013 Council Meeting.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE ITEM FROM TABLE APPROVED

Council Member Grandinetti moved to amend the Item as recommended by reducing the amounts allocated for a new Police Officer salary and the New Jerusalem Reporting Center.

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

MOTION TO AMEND COMMUNICATION APPROVED

The communication was added to the Agenda as #12.

2. A communication relative to the retention of Rink Specialists as a consultant to the renovation of Rink I which was tabled at the April 1, 2013 Council Meeting.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

The communication was added to the Agenda as #13.

3. A communication relative to overtime for the Department of Code Enforcement.

Council Member Fruscione moved to add the communication to the Agenda.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #14.

4. A Resolution relative to extending the expiry date of the Niagara Falls Underground Heritage Commission enabling legislation.

Council Member Fruscione 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 5:30 PM

Chairman Choolokian reconvened the Meeting at 6:00 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 Chairman asked if anyone wished to speak on Agenda Items or Community Interests, and the following spoke:

|                     |                                                                                                                                            |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Paul Gromosiak      | Maid of the Mist boats                                                                                                                     |
| Ron Anderluh        | For the Budget process, hold Public Hearing for Citizen input before Budget is put together; find developer for old Public Safety Building |
| Pastor Tim Brown    | Funding cut for New Jerusalem Reporting Center                                                                                             |
| Rev. Jimmie Seright | Funding cut for New Jerusalem Reporting Center                                                                                             |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

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

Agenda Item #2  
CITY CLERK'S REPORT FOR THE MONTH OF MARCH 2013  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: MEALS FOR PRISONERS, FRANKIES DONUTS, INC.

Agenda Item #3  
The City Purchasing Division 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 (on file in the City Clerk's Office). The above referenced company submitted the overall lowest bid to meet the City's specifications.

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 |

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

Agenda Item #4  
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 |

CONTRACT: BUFFALO AVE. RECONSTRUCTION, CHANGE ORDER #2, CATCO

Agenda Item #5  
A contract for the above referenced project was awarded to CATCO on May 29, 2012 in the amount of \$9,979,999.00.

As the project progresses, additional groundwater handling and disposal costs continue to amass, and are paid for on a quarterly basis.

The costs associated with groundwater handling this quarter (ending March 31, 2013) is an additional not to exceed amount of \$ 215,000.00.

However, sufficient funding presently exists 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: CAYUGA CREEK HABITAT RESTORATION PLAN, US FISH & WILDLIFE SERVICE

Agenda Item #6

At the March 5, 2012 meeting, a Funding Agreement with the United States Fish & Wildlife Service to fund \$22,000.00 for the preparation of a habitat restoration plan for Cayuga Creek was approved.

Attached (on file in the City Clerk's Office) hereto is a proposal from ecology and environment, inc. to draft the plan within the perimeters of the federal funding.

Will the Council so approve and authorize the Mayor to execute an agreement with ecology and environment, inc. 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: REORGANIZATION OF COMMAND STAFF

Agenda Item #7

The Superintendent of Police is recommending the creation of two Acting Deputy Superintendent of Police positions. Attached (on file in the City Clerk's Office) is a proposed chart of organization. One Acting Deputy Superintendent of Police position will be in charge of the Office of Professional Standards. The duties assigned will be to oversee all police internal investigations, oversee internal City investigations, be in charge of police community relations and outreach, as well as recruiting. The salary for this position is proposed to be \$59,779.82. The other Acting Deputy Superintendent of Police position will oversee Operations, including police administration, budget and personnel. The salary for this position is proposed to be \$69,595.33.

The Superintendent of Police proposes to name as Acting Deputy Superintendent of Police in charge of Professional Standards a detective whose present salary is \$59,779.82. The Superintendent of Police proposes to name as Acting Deputy Superintendent of Police in charge of Operations a detective lieutenant whose present salary is \$69,595.33.

Both of these individuals will receive the same salaries in their new positions as they presently receive in their current positions and the budget will be amended to reflect a salary of \$1.00 for the detective lieutenant position and \$1.00 for the detective position. This reorganization will result in no cost to the City.

Both individuals in the "Acting" Deputy Superintendent of Police positions will be entitled to receive the same salary and benefits they presently receive, inclusive of overtime.

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: WOOD CHIP & WOOD WASTE AGREEMENT, J.F. KRANTZ NURSERY, INC

Agenda Item #8

The Director of the Department of Public Works is recommending that the City enter into another agreement with J.F. Krantz Nursery, Inc. ("Krantz"), which will allow Krantz to remove wood waste substances from the DPW dumpsite on Porter Road and use those substances for its own purposes in exchange for the City receiving from Krantz 60 cubic yards of organic topsoil and colored mulch at no cost each year during the term of this agreement. The term is proposed to be for three years.

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

CONTRACT: TROLLEY SERVICE, NFTA

Agenda Item #9

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 17, 2013 and conclude December 31, 2013. During the months of May and December, 2013 the Trolley Service will operate on weekends only (Friday, Saturday and Sunday). Trolley service from June 1, 2013 through November 30, 2013 will be on a daily basis. The cost to the City for this service will be \$512,294.00. 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 Fruscione 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 April 2, 2013, duly approved the following:

Resolution 2013-15 relative to Amending Chapter 178 of the Codified Ordinances entitled "City of Niagara Falls Policy Against Discrimination and Harassment"

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: NIAGARA COUNTY EMERGENCY SERVICES MUTUAL AID PLAN, 2013-17  
BY: ALL COUNCIL MEMBERS

Agenda Item #11

WHEREAS, the Fire Chief has reviewed the Niagara County Emergency Services Mutual Aid Plan and has participated in the revision of that Plan; and

WHEREAS, by communication dated March 27, 2013, the Fire Chief is recommending that the Niagara Falls Fire Department be authorized to participate in the Niagara County Emergency Services Mutual Aid Plan; and

WHEREAS, this City Council is permitted to authorize such participation pursuant to Section 209 of the General Municipal Law.

NOW THEREFORE BE IT RESOLVED, that this City Council encourages the participation by the Niagara Falls Fire Department in the Niagara County Emergency Services Mutual Aid Plan as now in force and as amended from time to time, and certifies to the Niagara County Legislature through its County Fire Coordinator that no restriction exists against "outside service" by the Niagara Falls Fire Department within the meaning of Section 209 of the General Municipal Law, which would affect the power of the Niagara Falls Fire Department to participate in such Plan; and be it further

RESOLVED, that a copy of this resolution be filed with the County Fire Coordinator.

Yeas

5

Nays

0

ADOPTED

COMMUNITY DEVELOPMENT: CDBG BUDGET REVISION, ESG PROGRAM BUDGET AMENDMENT

#### Agenda Item #12

The Community Development Department (CD) requests Council approval of the following budget revisions. Both revisions are required by HUD, and the information was made available to the community at a public hearing on March 15, 2013.

##### (a) 2013 Community Development Block Grant (CDBG) Budget Revision - 1212 Niagara Street Repayment

On January 22, 2013, the City Council approved the use of \$27,300 of Community Development miscellaneous revenue to repay United States Department of Housing and Urban Development (HUD) for the 1212 Niagara Street project (Year 2000), which was never completed. The HUD line of credit must be repaid because the national objective was never met. HUD will not accept CD's recent request to use miscellaneous revenue for the repayment. However, HUD did accept our request to use 2013 CDBG funds, instead of general fund dollars, to repay the line of credit.

The \$27,300 reduction will impact both the public services cap of 15 percent of the CDBG amount and the administrative cap of 20 percent. Attachment one (on file in the City Clerk's Office) includes proposed reductions to ensure that both capped amounts are within the guidelines. All HUD CDBG sub-recipients are notified that their level of HUD funding is not finalized until the actual appropriation is released by the federal government. We make that known in order to anticipate situations like this one, and or unscheduled reductions to HUD funding.

##### (b) 2011 Part B through 2013 Emergency Solutions Grant (ESG) Program Budget Amendment

HUD has revised the program formerly known as the Emergency Shelter Grant Program, and re-launched it as the Emergency Solutions Grant Program (ESG). The City, as the official ESG recipient, must meet specific rapid rehousing and essential services percentage caps. This requested amendment does not change the amount of available funding in each federal fiscal year. However, it does change sources and uses. CD has met with all sub-recipients impacted by these revisions, and this plan as seen as the most responsible course of action given the new HUD guidelines. The changes are detailed in Attachment two.

Will the Council vote to approve this \$27,300 budget amendment and ESG budget amendment as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

THE AMENDMENT IS AS FOLLOWS:

The April 1, 2013 Council agenda included revisions to the CDBG Budget in order to return 27,300.00 to HUD which was attributable to a project commenced in year 2000 which was never completed. This is reflected as item (a) on the tabled Council item.

It has now been requested by Chairman Choolokian and Councilman Fruscione that these revisions be amended as shown on the schedule attached to this communication. Reductions will now affect only dollars allocated to the City of Niagara Falls for a new Police Officer salary (\$21,000.00) and the New Jerusalem Reporting Center for operations (\$35,000.00).

Will the Council so approve?

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

Yeas 3

Anderson, Fruscione, Choolokian

Nays 2

Grandinetti, Walker

APPROVED

CONTRACT: ICE PAVILION, RENOVATION OF RINK 1, RETENTION OF RINK SPECIALISTS

#### Agenda Item #13

Rink 1 at the Hyde Park Ice Pavilion was constructed approximately 42 years ago. Significant problems have been identified at Rink 1 including but not limited to numerous pipes in the manifold pit being severely corroded at the concrete wall of the manifold pit. This corrosion is starting to cause pinhole leaks in the refrigeration lines under the ice surface. Also, due to the rink being in service on a twelve month basis permafrost heaving under the rink, absent of subterranean heating system under the refrigeration lines, has caused substantial heaving which has the potential to break the refrigeration lines under the concrete surface which is also some 42 years old.

The City Engineer began searching for a consultant with much experience in the design and construction of ice rinks and surfaces and located Rink Specialists. Preliminary conversations have taken place with Rink Specialists pertaining to the scope of services to be provided in designing and managing the renovations to Rink 1. Attached (on file in the City Clerk's Office) is a proposal from Rink Specialists. The cost for these consultant services is not anticipated to be more than \$85,500.00. Approximately 3 ½ years ago, the City began making significant improvements to the Hyde Park Ice Pavilion and set money aside from Special Projects Fund Balance (approximately \$650,000) to fund further renovation projects at the Ice Pavilion. Although all the renovations required for Rink 1 at this time were not recognized at that time, it is clear that these renovations are needed now in order to secure the future viability of Rink 1. Funding for these consultant services is available from those dollars.

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

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

Yeas 5

Nays 0

APPROVED

#### CODE ENFORCEMENT, OVERTIME

#### Agenda Item #14

The Director of Code Enforcement advises that his budget line for overtime is being rapidly depleted as a result of after hours calls his department has been required to respond to. The Director has requested that \$6,459.00 be transferred into this budget line. This includes any FICA tax. Funding is available from A.1990.7630.0449.599 (Council Contingency).

Will the Council so approve?

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

Yeas 4

Anderson, Fruscione, Walker, Choolokian

Nays 1

Grandinetti

APPROVED

RESOLUTION: EXTENDING EXPIRY DATE OF THE NF UNDERGROUND RAILROAD  
HERITAGE COMMISSION ENABLING LEGISLATION, 2013-18  
BY: ALL COUNCIL MEMBERS

Agenda Item #15

BE IT RESOLVED by the City Council of Niagara Falls, New York supports legislation amending Chapter 372 of the laws of 2008, amending parks, recreation and historic preservation law relating to extending the expiry date of the Niagara Falls Underground Railroad Heritage Commission.

Attachment from Mayor Paul A. Dyster supporting this Resolution is on file in the City Clerk's Office.

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 6:35 P.M.

Carol A. Antonucci  
City Clerk



**APRIL 29, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the April 29, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Grandinetti moved to approve the Minutes from the City Council Meeting of April 15, 2013.

Yeas

5

Nays

0

APPROVED

In the Administrative Update, Mayor Paul Dyster reported that:

1. The Department of Code Enforcement had conducted a Code Enforcement Blitz, and the Blitz would be ongoing.
2. The Planning Board had approved the sale of six City owned properties for the Isaiah Project.
3. The paving and margin work for the Lewiston Road Project was being done, and the Project is on schedule for a June completion.
4. The utility work for the Buffalo Avenue Project is ongoing.
5. The City is involved in litigation with the contractor for the Tenth Street Project, and Deputy Corporation Counsel Thomas O'Donnell added that the City can't go in and clean up the area due to the litigation and mechanic's liens against the contractor. Council Member Walker suggested taking pictures to document the condition of the area, and then remediating the area. Chairman Choolokian asked Corporation Counsel Craig Johnson to look into the City's options for going in and cleaning up the area.

Mayor Dyster said that he had been invited by the White House to participate in a conference call announcing President Obama's nomination of Charlotte Mayor Anthony Foxx as Transportation Secretary.

Council Member Anderson asked when the residential section of Buffalo Avenue would be worked on, and the Mayor responded that that portion of Buffalo Avenue would be included when the Bridges to the 190 are replaced. Council Member Grandinetti asked if the City has any part in the decision process of whether the road projects are a full reconstruction or just a mill and overlay, and the Mayor responded that the City has not yet been included.

Council Member Walker questioned the source of funding for the clearing of vacant lots (Agenda Item #5) and City Controller Maria Brown explained that the funding for security from the surface lots was not needed since the amount of funding for security at the Ramp/Rainbow Mall was adequate to cover both. She also added that these funds are not Casino funds, but from the General Fund. Council Member Walker questioned if this was the best use for this extra funding, and the Mayor responded if the City holds property owners to a certain standard to maintain their properties, then the City must also adhere to the same standard for City owned properties.

This Session ended at 5:30 PM

Chairman Choolokian reconvened the Meeting at 6:00 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Fruscione 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:

|                     |                                                                                                                                                           |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Diane Tattersall    | Agenda Items #5, #9                                                                                                                                       |
| Nicholas D'Agostino | Agenda Items #2, #4, #5, #9, #11, #12                                                                                                                     |
| Norma Higgs         | Agenda item #5                                                                                                                                            |
| Harvey Albond       | Affect of Lewiston Rd. Project on VFW Post #54                                                                                                            |
| Lomax Barnes        | Requested more help from City for Youth Motivation Project                                                                                                |
| Paul Gromosiak      | Robert Moses Pkwy. should keep tourists on City Sts.; group of tourists he escorted impressed with Niagara Falls                                          |
| Diane Tattersall    | Compliments for Dave Kinney, John Caso & Dennis Virtuoso for work done by their Depts. & Police Chief DalPorto for securing the situation on Elmwood Ave. |
| Nicholas D'Agostino | Add Security Cameras in Niagara St. area; update On Niagara St. Business Assoc. activities                                                                |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: UNDERGROUND FUEL TANKS REMOVAL, CHANGE ORDER #1, NATIONAL VACUUM CORP.

Agenda Item #1

A contract for the above referenced project was awarded to National Vacuum Corp., 408 47<sup>th</sup> Street Niagara Falls NY 14304, on September 4, 2012, in the amount of \$93,754.85.

Subsequent to the start of the project, soils containing petroleum-based products (gasoline, diesel fuels) were encountered and required legal disposal, as mandated by NYSDEC.

Costs associated with the disposal of petroleum-containing soils were based upon competitively obtained unit prices and totaled \$25,021.25.

Additionally, a concrete slab not originally slated for removal was added to the project's scope, bringing the total dollar amount of additional work performed to \$26,671.52. However, underrung in contractual bid items not used will allow the net dollar amount for #1 and Final Change Order for this contract to equal \$2,421.67. Funding is available in an existing bond in code H0811.2008.0811.0419.006.

Will the Council vote to so approve?

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

Yeas

Nays

5

0

APPROVED

CODE ENFORCEMENT: EXPENSES FOR REPAIR/DEMOLITION/BOARD OF  
STRUCTURES

Agenda Item #2

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

Will the Council so order?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: UNITED STEELWORKERS, SEASONAL LABORERS WAGES

Agenda Item #3

Enclosed please find the Memorandum of Understanding (on file in the City Clerk's Office) between the City of Niagara Falls, New York and the United Steelworkers, Local 9434-02. This agreement amends the current Seasonal Labor Agreement between the City and Local 9434-02, by increasing the regular wages of Seasonal Laborers from \$8.00 to \$10.00 per hour, without benefits, and providing that union dues will now be deducted from all seasonal positions in Parks and Public Works that are classified within the Hourly Union.

Please be aware that this agreement will not lead to any increase in the Department of Public Works budget.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

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 11,950 tons of street millings  
generated during the 2013 paving season: \$1.26/ton

The City Purchasing Division 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. Three (3) bids were received. The above referenced Company submitted the highest price for the millings. Two other bids were received; Modern Landfill, Inc. (\$1.15/ton) and Armand Cerrone, Inc. (\$.76/ton).

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

CONTRACT: VACANT LOTS CLEARING , NIAGARA GRASS CUTTING

Agenda Item #5

At its meeting of April 2, 2012, the Council awarded the above referenced bid to Niagara Grass Cutting (on file in the City Clerk's Office).

According to the agreement, the contract may be extended for one additional year under the same terms, conditions and specifications. We have received a request from Niagara Grass Cutting to exercise this option. The City mutually agrees and recommends the extension for one additional year.

Funds for this expenditure are available by transferring \$50,000 from account code A.1620.2340.0449.004 (Special Security) to account code A.8510.0000.0449.080 (Clean Neighborhood/Grass Cutting).

Will the Council so approve?

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

PUBLIC WORKS: BANDSTAND

Agenda Item #6

It is requested that \$5,383.00 (inclusive of FICA) be made available for City DPW crews to move the City-owned bandstand to various locations during year 2013 for City events. Funding is available by transferring \$5,383.00 from Tourism Fund Balance to the Special Events line A.9550.0000.0140.000.

Will the Council so approve?

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

|                                         |          |
|-----------------------------------------|----------|
| Yeas                                    | 4        |
| Anderson, Fruscione, Walker, Choolokian |          |
| Nays                                    | 1        |
| Grandinetti                             |          |
|                                         | APPROVED |

SENIOR CITIZEN FALL EVENT, FUNDING

Agenda Item #7

Funding in the amount of \$1,500.00 was not included in the 2013 budget to fund the annual senior citizen event in the fall of 2013. It is now requested that \$1,500.00 be transferred from the Tourism Fund Balance to the General Fund to allow for this event to take place.

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: GOLF COURSE, ADVERTISING AGREEMENT ADDENDUM, CRC ENTERPRISE

Agenda Item #8

During the City Council meeting on October 1, 2012, the City Council approved an agreement with CRC Enterprise to market certain signage at the Hyde Park Golf Course for a period of three (3) years in exchange for consideration to be paid of \$4,000. CRC Enterprise has requested that an additional sign face located near the clubhouse be included in this signage advertising agreement. CRC Enterprise proposes to pay the City 25% of gross amounts received by it through the golf season ending in 2015 with a three (3) year renewal term provided the City and CRC Enterprise are able to reach agreement on terms. This proposal is acceptable to the Department of Public Works.

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

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

Yeas

3

Anderson, Walker, Choolokian

Nays

1

Grandinetti

Abstain

1

Fruscione

APPROVED

CONTRACT: POTHOLE KILLER, PATCH MANAGEMENT, INC.

Agenda Item #9

Kindly recall that Patch Management, Inc. allowed the City the opportunity during year 2012 to avail itself of two pothole killer trucks, operators, materials, services and support and also allowed the City to defer the payment due of \$70,000.00 for this until such time as the City receives its share of casino revenues due from the State of New York.

The City finds itself once again in need of the services of the pothole killers. Attached hereto On file in the City Clerk's Office) is a copy of a proposal from Patch Management, Inc. to provide trucks, operators and materials for 320 patching hours at a cost of \$70,000.00. The DPW Director will coordinate with Patch Management, Inc. for the commencement and conclusion of services.

Funds budgeted from the Capital Account A0812 can be transferred to Pothole Account H0825.2008.0825.0442.003 to pay the outstanding invoice for year 2012 in the amount of \$70,000.00, as well as the invoice to be generated for year 2013 also in the amount of \$70,000.00, for a total of \$140,000.00. I take this opportunity to once again remind the Council that Patch Management, Inc. is a sole source item.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: STANEK, KIMBERLY

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 | 4/17- 4/18/2013        | \$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 Fruscione moved that the communication be received and filed and the recommendation approved.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

RESOLUTION: ARMENIAN GENOCIDE, RECOGNIZING, 2013-19

BY: ALL COUNCIL MEMBERS

Agenda Item #11

WHEREAS, between 1915 and 1923, the government of Turkey (Ottoman Empire) and the Young Turk Party launched a premeditated campaign of extermination against the indigenous Armenian population of Asia Minor by massacres, death marches, rapes, and looting, causing the death of one and a half million men, women, and children and scattering survivors around the world in a global Diaspora; and which succeeded in the elimination of the over 2,500-year presence of Armenians in their historic homeland.

WHEREAS, the Niagara Falls N. Y City Council is on record joining Armenian-Americans, the international community and all people who care about justice, in their remembrance of the Armenian Genocide and their desire to ensure that the crime of genocide must never be legitimized or forgotten, wherever and whenever it occurs; and

WHEREAS, the Niagara Falls City Council has called upon the United States Congress and the President of the United States to recognize that the horrific crimes against humanity committed by the Ottoman government from 1915 to 1923 must accurately and unequivocally be characterized as genocide.

THEREFORE BE IT RESOLVED, that the Niagara Falls City Council, on this ninety-eighth anniversary of the Armenian Genocide, commend the Armenian community for bringing awareness to the genocide and crimes against humanity and to ask the Niagara Falls City Council to publicly endorse efforts to educate the world about the Armenian Genocide and reject efforts to deny this crime; and,

BE IT FURTHER RESOLVED that the Niagara Fall City Council shall send a copy of this resolution to:

President Barack Obama, to New York State Congressional Delegation: Brian D Higgins, Chris Collins, Louise Slaughter, Tom Reed, Daniel D. Maffei, Richard Hanna, Bill Owens, Paul D. Tonko, Chris Gibson, Sean Patrick Maloney, Nita Lowey, Eliot Engel, Jose E. Serrano, Joseph Crowley, Charles B. Rangel, Carolyn Maloney, Michael Grimm, Jerrold Nadler, Yvette D. Clarke, Hakeem Jeffries, Nydia Velazquez, Grace Meng, Gregory Meeks, Carolyn McCarthy, Steve Israel, Pete King, Timothy Bishop. United State Senators Charles Schumer and Kirsten Gillibrand. State Senate George Mazarz and State Assemblyman John Ceretto

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

ADOPTED

RESOLUTION: ARMENIAN GENOCIDE REMEMBRANCE DAY, 2013-20  
BY: ALL COUNCIL MEMBERS

Agenda Item #12

WHEREAS, one and one-half million men, women, and children of Armenian descent were victims of the brutal genocide perpetrated by the Turkish Ottoman Empire from 1915 to 1923; and

WHEREAS, Armenians worldwide annually commemorate this tragic event on April 24th, the day that 600 Armenian leaders, writers, thinkers, and professionals in Constantinople and major cities throughout Turkey were first rounded up, deported, and massacred; and

WHEREAS, the Armenian genocide and massacres of the Armenian people have been recognized as an attempt to eliminate a thriving and noble civilization more than 3000 years old; and

WHEREAS, the people and government of the United States of America extended enormous aid and relief to the survivors of this tragedy; and

WHEREAS, to this day, revisionists still inexplicably deny the existence of these horrific events; and

WHEREAS, modern Turkey continues to deny and distort the facts of this genocide and honors as national heroes the perpetrators of that crime against humanity; and

WHEREAS, recognition of the anniversary of this genocide to the Armenian population is crucial to guarding against the recurrence of genocide and provides the American people with a greater understanding of its heritage; and

WHEREAS, Armenian-Americans living in Niagara Falls N.Y have greatly enriched this city through their leadership in business, agriculture, academia, government, and the arts;

NOW, THEREFORE, BE IT RESOLVED that the City of Niagara Falls join with the Armenian community of Niagara Falls N.Y to declare April 24 as an official day of remembrance of the anniversary of the Armenian Genocide and honor those who were mercilessly sacrificed.

WHEREAS, one and one-half million men, women, and children of Armenian descent were victims of the brutal genocide perpetrated by the Turkish Ottoman Empire from 1915 to 1923; and

WHEREAS, Armenians worldwide annually commemorate this tragic event on April 24th, the day that 600 Armenian leaders, writers, thinkers, and professionals in Constantinople and major cities throughout Turkey were first rounded up, deported, and massacred; and

WHEREAS, the Armenian genocide and massacres of the Armenian people have been recognized as an attempt to eliminate a thriving and noble civilization more than 3000 years old; and

WHEREAS, the people and government of the United States of America extended enormous aid and relief to the survivors of this tragedy; and

WHEREAS, to this day, revisionists still inexplicably deny the existence of these horrific events; and

WHEREAS, modern Turkey continues to deny and distort the facts of this genocide and honors as national heroes the perpetrators of that crime against humanity; and

WHEREAS, recognition of the anniversary of this genocide to the Armenian population is crucial to guarding against the recurrence of genocide and provides the American people with a greater understanding of its heritage; and

WHEREAS, Armenian-Americans living in Niagara Falls N.Y have greatly enriched this city through their leadership in business, agriculture, academia, government, and the arts;

NOW, THEREFORE, BE IT RESOLVED that the City of Niagara Falls join with the Armenian community of Niagara Falls N.Y to declare April 24 as an official day of remembrance of the anniversary of the Armenian Genocide and honor those who were mercilessly sacrificed.

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 6:35 P.M.

Carol A. Antonucci  
City Clerk



**MAY 13, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

---

The first session of the May 13, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Meeting of April 29, 2013.

Yeas

5

Nays

0

APPROVED

Community Development Director Seth Piccirillo said that the Budget process for the 2014 Community Development Department has started with the scheduling of meetings for public input into the Department's Budget.

Mayor Paul Dyster spoke on the success of the Community Development Façade Grant Program (Agenda Item #3).

Mr. Piccirillo also spoke on the use of CD funds for Operation Crime/Blight Blitz (Agenda Item #4). Council Member Fruscione asked how those who are cited through the Blitz and cannot afford to fix up their homes are helped, and Council Member Walker asked what is being done to enforce the codes on the properties of slum lords. Mr. Piccirillo said that enforcement of the codes in neighborhoods is done on all properties, and when citations are issued, information is given regarding the Home Rehabilitation Program through the Community Development Department. Council Member Fruscione added that homeowners could also be referred to NiaCAP.

Mayor Dyster recommended approval of Agenda Item #2, relative to Consultant Services for the Storm Water Pollution Prevention Program Review, since the Project requires the services of a Professional Engineer, which the City does not have at this time.

In the Administrative Update, Mayor Dyster spoke on the following Projects:

1. On the Lewiston Road Project, paving, sidewalks and tree planting are being done, and the Project is on schedule for completion.
2. On the Buffalo Avenue Project, the 56<sup>th</sup> Street detour has been removed, and work continues. Phase I of the Project should be completed by the end of fall. Council Member Anderson noted a segment on a local TV station regarding the condition of the road on Buffalo Avenue was aired.
3. Work on the Stone House Building at the Ice Pavilion continues. The roof work is done, and the stone rehab and exterior work are in progress.

A lengthy discussion followed on the process for the ice start up for the Rink. The Council Members suggested looking at other companies and options for the process, and said that they were led to believe that the process would be completed by August. City Controller Maria Brown spoke on the expenses incurred for repairs at the Rink, and the amount of money left in the Capital Account for the Rink. Council Member Walker added that a cost assessment needs to be done on the Building; the taxpayers should not bear the burden of the Rink, and ice time should pay for the expenses incurred at the Building. Chairman Choolokian suggested that the Building could be put into the Budget as a separate line when the time comes to prepare for 2014.

Council Member Anderson commented on the number of fire hydrants that need to be painted, and the Mayor said that he would look into the matter with the Water Board and report back to the Council.

The Mayor noted that Senator Gillibrand was at Fort Niagara to announce the promotion by Brand USA, a tourism promotional agency, of the greater Niagara Region as an International Travel Destination.

Chairman Choolokian thanked Police Superintendent Bryan DalPorto and Corporation Counsel Craig Johnson for their efforts to help with issues caused by the 56<sup>th</sup> Street detour.

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

1. A communication relative to adjustment to the 2013 park/pavilion rental schedule for the spray pools.

Council Member Fruscione moved to add the communication to the Agenda.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #9.

2. A communication relative to approval of parking for construction workers and the Discovery Center.

Council Member Fruscione moved to add the communication to the Agenda.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #10.

3. A Resolution relative to an appointment to the Planning Board.

Council Member Fruscione 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.

4. A Resolution relative to appointments to the Senior Citizen Council.

Council Member Fruscione 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 #12.

This Session ended at 6 PM.

Chairman Choolokian reconvened the Meeting at 6:17 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:

|                  |                                                                                                                                    |
|------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Paul Gromosiak   | Book signing at Book Corner                                                                                                        |
| Ron Anderluh     | Praise for NFMCM; thanked those who wished him well during his illness; Gill Creek Park Concert Series & National Grid Day at Park |
| Harvey Albond    | Robert Moses Parkway issues                                                                                                        |
| Tony Gara        | Against referendum for additional Casinos                                                                                          |
| Gerald Skrlin    | Condition of properties in his area                                                                                                |
| Diane Tattersall | Work together on Ice Pavilion issues                                                                                               |

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: STORMWATER POLLUTION PREVENTION PROGRAM REVIEW, CONSULTANT SERVICES, GREENMAN-PEDERSON, INC. (GPI)

Agenda Item #2

It is the recommendation of the undersigned that the firm Greenman-Pederson, Inc. (GPI) perform, on an hourly basis, the requisite review and approvals for the above-referenced program at a not-to-exceed amount of \$7,500.00. Funding is available in code A1440.0000.0110.000.

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

Yeas

5

Nays

0

APPROVED

CONTRACT: FAÇADE ARCHITECT AGREEMENT EXTENSION, ARCHITECTURAL SERVICES, GIUSIANA ARCHITECTS & ENGINEERS

Agenda Item #3

In 2011, Community Development solicited proposals from architects to provide architectural services in connection with the CD façade grant program. The contract was awarded to Giusiana Architects and Engineers based in part on the fact that the cost was the most affordable. Giusiana Architects and Engineers has provided a high level of service to the façade grant program for the last two years.

It has been customary for the façade grant architect contract to be extended for an additional two year period. We recommend the extension in this instance based on the desire to retain a local firm which is familiar with the program and which has provided acceptable service at a reasonable cost. Giusiana Architects and Engineers will provide the same services at the same cost through May 31, 2015. The maximum aggregate amount to be paid under the contract will be \$22,000.00. Funds are available to pay this contract under budget line CD1.8603.0000.0450.500.

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

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

Yeas

5

Nays

0

APPROVED

COMMUNITY DEVELOPMENT: 2012 BLOCK GRANT FUNDS, RE-PROGRAMMING TO  
OPERATION CRIME/BLIGHT BLITZ

Agenda Item #4

Niagara Falls Community Development proposes re-programming \$20,000 in un-programmed United States Department of Housing and Urban Development Community Development Block Grant funding to the "Operation Crime/Blight Blitz" project. Movement of these funds will not upset the community services percentage cap. This proposal does not include any general fund dollars.

|          |                                                 |
|----------|-------------------------------------------------|
| \$15,000 | Police Patrol                                   |
| \$2,500  | Code Enforcement                                |
| \$2,500  | Interim Assistance (Clean Neighborhood Program) |
| \$20,000 | Total                                           |

The Community Development and Inspections Department began executing blight blitzes in April 2013. A blitz is a one-day allocation of resources using CDBG funds, focused on blight related code enforcement. This proposal will allow the addition of strategic community policing by the Niagara Falls Police Department and clean neighborhood efforts through the Department of Public Works. This strategic approach will dedicate multiple types of City forces to specific areas in need of attention.

Will the Council vote to approve reprogramming \$20,000 in CDBG funds to the CD "Operation Crime/Blight Blitz" project as set forth herein, and authorize the Mayor to execute any documents necessary? These funds are available in budget line CPS 499 CD1.8676.0000.0450.500.

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

GOVERNMENTAL BONDS, GUIDELINES

Agenda Item #5

In order to ensure that interest on tax-exempt governmental bonds of the City of Niagara Falls remains excludable from gross income under Section 103 of the Internal Revenue Code, our bond counsel has recommended that the City adopt guidelines which are intended to formally memorialize certain procedures in connection with the issuance of bonds.

Attached (on file in the City Clerk's Office) hereto is a copy of these guidelines.

Will the Council authorize the adoption of these guidelines?

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

PUBLIC WORKS: GOLF RATES, ADJUSTMENTS

Agenda Item #6

It has come to the attention of the Director of the Department of Public Works that certain changes to the State Parks Access Pass Eligibility Program, which is referenced in the City's golf rate schedule, have created a difficulty in the issuance of certain golf passes to disabled citizens who may not now qualify for an access pass. Accordingly it is recommended that the following adjustments be made to the golf rate schedule for year 2013:

1. Include the issuance of a disability pass for unlimited golf and cart from the time purchased until the end of the golf season. A normal golf pass with cart would be issued. In order to qualify for such a pass, a person so requesting such a pass must be disabled and possess a valid New York State Access Card or, in the alternative, be disabled and be a recipient of federal social security disability, supplemental security income or railroad retirement board disability and display proof of such disability from a medical doctor licensed in the State of New York or similar documentation in such form as is acceptable to the Director of the Department of Public Works. The price for this pass is \$500.00 for the entire year and would be for both residents and non-residents.
2. Include the issuance of a nine hole and eighteen hole daily pass for persons with disabilities regardless of age. In order to purchase such a nine hole daily pass or eighteen hole daily pass, a person with a disability must possess a valid New York State Access Card or, in the alternative, be disabled and be a recipient of a federal social security disability, supplemental security income or railroad retirement board disability and display proof of such disability from a medical doctor licensed in the State of New York or similar documentation in such form as is acceptable to the Director of the Department of Public Works. The price for a nine hole daily pass is \$9.00; the price for an eighteen hole daily pass is \$13.00. The price of the cart would remain the same.

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 CORPORATION COUNSEL

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 | 04/22/2013             | \$35.52       |

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

Yeas

5

Nays

0

APPROVED

RESOLUTION: SPEED LIMIT IN DOWNTOWN NIAGARA FALLS, REDUCTION, HOME RULE  
REQUEST, 2013-21  
BY: ALL COUNCIL MEMBERS

Agenda Item #8

WHEREAS, Section 1634 of the New York State Vehicle and Traffic Law, concerning speed limits on highways in cities and villages, provides that no such speed limit applicable throughout such city or village or within designated areas of such city or village shall be established at less than 30 miles per hour; and

WHEREAS, Senator George Maziarz introduced Senate Bill No. S4673 and Assemblyman John Ceretto introduced Assembly Bill A06611, as annexed hereto, which would authorize and empower the City of Niagara Falls to lower the speed limit to not less than 25 miles per hour in its downtown area in furtherance of projects to attract new investment in said downtown area; and

WHEREAS, in order for the legislative process to continue, this Council is asked to adopt the annexed Home Rule Request.

NOW THEREFORE BE IT RESOLVED, that the Council of the City of Niagara Falls, New York does hereby recognize, acknowledge and support the enactment by the New York State Legislature of Senate Bill No. S4673 and Assembly Bill A06611, entitled "An Act Relating to Authorizing the City of Niagara Falls, County of Niagara, to Reduce the Speed Limit in Downtown Niagara Falls", and this Council declares that a necessity exists for the enactment of such legislation; and

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

Yeas

5

Nays

0

ADOPTED

PUBLIC WORKS: PARK-PAVILION RENTAL FEE SCHEDULE, ADJUSTMENT FOR 2013

Agenda Item #9

The Director of the Department of Public Works advises that the 2013 fee schedule does not contain a rate for the rental of spray pools to the elementary schools (pre-k-sixth grade, public or private) during dates and times in the late spring/early summer when the schools are still in session before summer recess, which is usually on or about June 25<sup>th</sup> of any given year. The Director is recommending that the fee schedule be amended to include the ability of the elementary schools, as described, to rent a spray pool for \$25.00 per hour while school is in session and prior to the June 26, 2013 opening date of the spray pools.

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

PARKING AGREEMENT: CONSTRUCTION WORKERS & DISCOVERY CENTER

Agenda Item #10

A construction project is underway in the gorge beneath the Discovery Center. The Discovery Center parking area is not available for parking because of this project. The City has been requested to allow the unutilized DeFranco Park to be utilized for parking for construction workers employed on the gorge project.

In addition, Whirlpool Street is and for some time has been closed to the public between Walnut and Cedar. Because of the construction project, the Discovery Center parking lot is not available for parking for the public visiting the Discovery Center, nor is it available for employees. State Parks has obtained permission from the Aquarium for parking during this construction period and is requesting that the closed portion of Whirlpool Street that abuts the Aquarium be made available on a temporary basis to supplement the Aquarium parking for the use of the public visiting the Discovery Center and also for employees. This could also be made available for the construction workers employed on the gorge project. The barricades will not be removed and access will be provided through the Aquarium parking lot. Attached (on file in the City Clerk's Office) is a map showing the configuration. Parallel parking is proposed on both the east and west sides of the street with a "no parking" area designated on the northern most 50 feet of the roadway to accommodate vehicles turning around. Use of this portion of the closed roadway and DeFranco Park is expected to last no more than approximately 18 months. NFPD has no objection to this.

Will the Council so approve and authorize the Mayor to execute any agreements 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

RESOLUTION: PLANNING BOARD, APPOINTMENT, 2013-22

BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #11

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Planning Board to fill the unexpired term of Hal Faba which expires on the date which appears opposite his name:

APPOINTMENTS

TERM EXPIRES:

Todd Stopa

12/31/2014

Yeas

5

Nays

0

ADOPTED

RESOLUTION: SENIOR CITIZENS COUNCIL, APPOINTMENTS, 2013-23

BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #12

BE IT RESOLVED, that the following individuals are hereby appointed to the City of Niagara Falls Senior Citizens Council for the term expiring on the date which appears opposite their names:

APPOINTMENTS

TERM EXPIRES:

Caroline Fera

12/31/2016

Louise Morreale

12/31/2016

Richard Wroblewski

12/31/2016

Yeas

5

Nays

0

ADOPTED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 6:48 P.M.

Carol A. Antonucci  
City Clerk



**MAY 28, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

---

The first session of the May 28, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

Present: Council Chairman Glenn Choolokian, Council Members Robert Anderson, Kristen Grandinetti, Charles Walker.

Absent Council Member Samuel Fruscione.

Also present: City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell, City Controller Maria Brown.

Council Member Walker moved to approve the Minutes from the City Council Meeting of May 13, 2013.

Yeas

4

Nays

0

APPROVED

Chairman Choolokian asked those in attendance to observe a Moment of Silence for Morton Abramowitz, Counsel to the City Council, who passed away over the weekend.

Chairman Choolokian said that Paul Marinaccio, President of Accadia Site Contracting, would like to speak. Mr. Marinaccio stated that the Lewiston Road Project is in danger of cracking and forming potholes within the next year. He either needs additional monies to perform additional work or he would like the City to sign off on liability for the portion in question. He will not continue the work unless this is done. Chairman Choolokian stated that the City should pay for any work to ensure the job is finished correctly. Council Member Anderson asked if Mr. Marinaccio knows what the deficiencies are, and the response was that he wants to show the Council, in person, the conditions. Council Member Grandinetti asked Mr. Marinaccio if Wendel Duchscherer wants him to do the work, but he refuses to do it. Corporation Counsel Craig Johnson informed Chairman Choolokian that Wendel Duchscherer was contacted and they were advised on what the situation was and about the Council concerns to do the work right. An answer from Wendel Duchscherer will be forthcoming in the next few days.

City Administrator Donna Owens read a Proclamation to Breanna Leslie-Skye, a senior at NFHS. This was to acknowledge her Scholastic Achievements and all of her extra curricular activities.

Director of Community Development, Seth Piccirillo, gave an update of the sale of vacant properties. He stated that City lots are being marketed to return them to the tax rolls. Chairman Choolokian asked if there is a set price for lots and Mr. Piccirillo stated that the average price is \$500 or an offer can be made.

In the Administrative Update, Corporation Counsel Craig Johnson noted that significant progress is being made on the Balloon parcel downtown, and an agreement should be ready sometime in June. Chairman Choolokian asked Mr. Johnson if other businesses have approached the Mayor concerning that spot and Mr. Johnson stated not to his knowledge.

Mr. Johnson stated that Agenda Item #16 has been pulled.

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

1. A communication relative to overtime in Public Works for asphalt zipper machine work.

Council Member Anderson 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 #17

2. A Resolution relative to authorizing the implementation and funding to replace/reconstruct the CSX Railroad Bridges.

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

|      |   |
|------|---|
| Yeas | 4 |
| Nays | 0 |

MOTION TO ADD RESOLUTION TO AGENDA APPROVED

The Resolution was added to the Agenda as #18

This Session ended at 5:25 PM

Chairman Choolokian reconvened the Meeting at 6:00 P.M. in the Council Chambers with all Council Members present excluding Council Member Fruscione. 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 #6; use the money for Agenda Items #3 or #9                                                                                                                           |
| Nicholas D'Agostino  | Agenda Items #3, #9, #16                                                                                                                                                          |
| Jim Haid             | Agenda Item #14; grateful for the support from the City                                                                                                                           |
| Sonia Dusza          | Agenda Item #16, applaud Council;                                                                                                                                                 |
| Paul Gromosiak       | will miss Mort Abromowitz; Buffalo Billions Ad; building Niagara Experience Center                                                                                                |
| Nicholas D'Agostino  | Food Trucks to be kept downtown; flags were put up last weekend; National Grid did cleanup/landscaping work at Gill Creek Park; no cameras yet at 19 <sup>th</sup> & Niagara Sts. |
| Doug Brown           | Old Falls St. closing due to events, hinders parking & tourists; businesses not consulted about the events                                                                        |
| Sister Barbara Pfohl | Niagara Grass Cutting, monitoring grass cutting to see if its been properly done                                                                                                  |
| Sonia Dusza          | Take initiative on making neighborhoods safe; saddened by Morts passing                                                                                                           |

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1  
CITY CLERK'S REPORT FOR THE MONTH OF APRIL 2013  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: COMMUNITY DEVELOPMENT HOUSING REHAB ENVIRONMENTAL SERVICES,  
UNYSE

Agenda Item #2

The Community Development Department provides environmental services for its housing rehabilitation program, at no cost to the homeowner. The services include lead paint identification and removal monitoring and asbestos identification and monitoring. The services had been provided by a contractor paid with a state grant. The state grant expired, so it is necessary for the City to retain an environmental services contractor for the Community Development program.

CD solicited proposals from four contractors; three replied:

|                                            |              |
|--------------------------------------------|--------------|
| Upper New York State Environmental (UNYSE) | \$ 99,230.00 |
| AMD Environmental                          | 109,425.00   |
| AFI Environmental                          | 129,982.50.  |

UNYSE has provided services for this program in the past and is able to provide the services required under this contract. Funds are available to pay for the services under budget code CD1.8667.0000.0450.500. This is a pay as you go contract, so the cost will be spread over the three budget years. The contract amount is the maximum to be paid under the contract.

Will the Council vote to award the environmental services contract to UNYSE for the Community Development housing rehab program 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 |   |

ENGINEERING: OVERTIME BUDGET INCREASE

Agenda Item #3

The 2013 adopted budget included \$5,000.00 for overtime for the Engineering Department. Due to the current lack of a City Engineer on staff, additional duties have been performed by Engineering personnel and the overtime allotment is depleted.

It is the recommendation of the undersigned that the Council amend the budget to increase the Engineering Department's overtime fund an additional \$10,000.00. Funds are available in A1440.0000.0110.000 (Biweekly Payroll).

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 |   |

CONTRACT: STONE COMFORT BUILDING, ROOF REPLACEMENT, GROVE ROOFING SERVICES, CHANGE ORDER #1

Agenda Item #4

A contract for the above referenced project was awarded to Grove Roofing Services, 131 Reading Street Buffalo, N.Y., on November 1, 2012 in the amount of \$113,700.00.

During the course of work, it was discovered that the inside brick parapet wall required additional repair beyond the original scope. The total cost of the additional work is \$938.00. However, underruns in the roof decking repair items will allow payment for this additional work with no increase in the contract total.

Therefore, it is the recommendation of the undersigned that Change Order #1 in the amount of \$0.00 be approved.

Will the council vote to so approve?

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

Yeas

4

Nays

0

APPROVED

URBAN RENEWAL AGENCY: APPOINTMENT

Agenda Item #5

Jeff Paterson recently submitted his resignation from the Niagara Falls Urban Renewal Agency. Pursuant to General Municipal Law §593, the Agency shall be governed by the Mayor and Council Members, "together with four members to be appointed by the mayor with the concurring approval of the city council."

I hereby appoint Christopher Robins to the Niagara Falls Urban Renewal Agency, and I request approval of the Council for the appointment. As you know, Mr. Robins previously served on the City Council. In that capacity, he also served on the Agency. Mr. Robins is familiar with the workings of the Agency and is well qualified to perform the duties necessary to carry out this position as a public official.

Will the Council vote to approve the appointment of Christopher Robins to the Niagara Falls Urban Renewal Agency as set forth herein, and authorize the execution of 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: FIREWORKS DISPLAY, SKYLIGHTERS FIREWORKS

Agenda Item #6

We respectfully request you award a contract for fireworks display as follows:

TO: Skylighters Fireworks

PO Box 1357

Orchard Park, NY 14127

FOR: Fireworks displays on July 4<sup>th</sup> at Hyde Park: \$25,000.00

Requests for Proposals were sent to four (4) companies. Two proposals were received. After reviewing each proposal, it was determined that Skylighters Fireworks would be the best one to fit the City's needs. A proposal was also received from Zambelli Fireworks Mfg. Co.

Funds are available in the Tourism Fund account code T6410.0000.0449.599.

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

PUBLIC WORKS: DOWNTOWN AREA, SUMMER SEASON FUNDING

Agenda Item #7

The Director of DPW advises that in order to prepare the "Downtown" area for the summer season, his Department will need \$5153.00. Three Thousand Dollars is needed for materials, \$2000.00 is for the cost of personnel and \$153.00 is for FICA, for a total of \$5153.00.

Funding is available in Tourism Fund Balance.

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

CONTRACT: 224 GROUP, PILOT MORTGAGE SUBORDINATION

Agenda Item #8

224 Group, LLC is refinancing its Haeberle Plaza property in the City with Wells Fargo Bank. There is presently a PILOT Mortgage encumbering the property made by 224 Group, LLC and the Niagara County Industrial Development Agency to Niagara County, New York, the City of Niagara Falls, New York and the Niagara Falls School District which is dated August 1, 2009 and recorded September 1, 2009. Wells Fargo will not close its loan with 224 Group, LLC unless the PILOT Mortgage is subordinated to the new mortgage.

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

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

Yeas

4

Nays

0

APPROVED

GRANT ADMINISTRATOR: RETAIN SERVICE

Agenda Item #9

The City presently has in excess of \$6 million in grants of various sizes that it has been awarded for various projects. Attached hereto (on file in the City Clerk's Office) is a list of those projects, grant amounts and the corresponding agency that provided the grant dollars.

During 2012 the City contracted with a part -time consultant to administer these grants and monitor them for City compliance with their terms and apply for grant payments/reimbursements at appropriate times. This consultant also made certain that the City was in compliance with the various reporting requirements. The dollars to retain this consultant for year 2013 were removed from the budget that was adopted for year 2013. Since January 2013, this staff reduction has made it very difficult to manage these grants, move them along and make certain the City receives the dollars it should be receiving.

It is therefore requested that the sum of \$15,000.00 be made available from the City Council contingency fund (Code #A.1990.7630.0449.599) to retain the services of a Grant Administrator from June 1, 2013 thru December 31, 2013.

Will the Council so approve?

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

|                                                 |   |
|-------------------------------------------------|---|
| Yeas                                            | 2 |
| Council Members Grandinetti and Walker          |   |
| Nays                                            | 2 |
| Council Member Anderson and Chairman Choolokian |   |
| Absent                                          | 0 |
| Council Member Fruscione                        |   |

DEFEATED

Council Member Grandinetti said that the grants have already been awarded & if not administered properly, we can lose them now & in the future

Council Member Walker said that the most important part is that we can lose the funding

Chairman Choolokian said that this was cut at Budget time & was discussed that the Department Heads can do the work

#### LEGENDS PARK: EXERCISE EQUIPMENT, DONATION

##### Agenda Item #10

For a period of time in excess of one year, the Legends Park Committee has been planning to install exercise equipment primarily for use by adults at Legends Park. In these difficult economic times, funding for this project has not been available. At this time, however, the YMCA has arranged a donation of \$10,000 to be used for the acquisition and installation of this exercise equipment; the Mayor's Task Group for a Healthier Niagara Falls has also assembled \$10,000 in donations to be used for this purpose. These dollars will be used for the acquisition of the exercise equipment as well as the cost of installation of this equipment by City crews.

There is no City match required.

Will the Council so approve and authorize the Mayor to execute any documents that are required to be executed in form acceptable to the Corporation Counsel?

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

|      |   |
|------|---|
| Yeas | 4 |
| Nays | 0 |

APPROVED

#### THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

##### 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 check:

|                        |                        |               |
|------------------------|------------------------|---------------|
| <u>Provider</u>        | <u>Date of Service</u> | <u>Amount</u> |
| Cardamone Chiropractic | 05/09/2013             | \$35.52       |

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

Yeas

4

Nays

0

APPROVED

CLAIM: MIKULA, JOHN A.

Agenda Item #12

|                        |                                                                 |
|------------------------|-----------------------------------------------------------------|
| Date Claim Filed:      | April 12, 2013                                                  |
| Date Action Commenced: | N/A                                                             |
| Date of Occurrence:    | February 3, 2013                                                |
| Location:              | In front of 8723 Point Avenue,<br>Niagara Falls, New York       |
| Nature of Claim:       | Automobile damage sustained in<br>an accident with City vehicle |
| City Driver:           | Richard Williams                                                |
| Status of Action:      | Claim stage.                                                    |
| Recommendation/Reason: | Best interests of City to pay<br>claim.                         |
| Amount to be Paid:     | \$1,614.14                                                      |
| Make Check Payable to: | John A. Mikula                                                  |
| Conditions:            | General Release to City,<br>approved by Corporation<br>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

4

Nays

0

APPROVED

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 July 1, 2013 to June 30, 2015.

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

|                    |                                       |
|--------------------|---------------------------------------|
| Michael Drake      | NFPD                                  |
| Patricia McCune    | NFPD                                  |
| William Thomson    | NFPD                                  |
| Michael Trane      | NFPD                                  |
| Victoria Gemuend   | Engineering                           |
| Patrick Ciccarella | Inspections                           |
| Ralph Aversa       | 851 College Ave., NF, NY 14305        |
| Gerald Aderhold    | 2481 Michigan Ave., NF NY 14305       |
| Leo Benevento      | 1406 Hyde Park Blvd., NF NY 14305     |
| Daniel Ciszek      | 8956 Champlain Ave., NF NY 14304      |
| Kim Congi          | 8416 Carol Ct., NF NY 14304           |
| Gerald Frazier     | 2442 Woodlawn, NF NY 14301            |
| Ryan Garrow        | 750 Seymour Ave., NF NY 14305         |
| Barbara Gonzalez   | 2412 North Ave., NF NY 14305          |
| Douglas Goodnick   | 241 84 <sup>th</sup> St., NF NY 14304 |
| Shirley Hamilton   | 1155 Ontario Ave., NF NY 14305        |
| Erin Jankowiak     | 1390 102 <sup>nd</sup> , NF NY 14304  |
| Cindy-Lou Joyce    | 2744 Thornwood Dr., NF NY 14304       |
| Renea Kimble       | 3302 Hyde Park Blvd., NF NY 14305     |
| David Kudela       | 149 78 <sup>th</sup> St., NF NY 14304 |

|                   |                                         |
|-------------------|-----------------------------------------|
| Justin LaMacchia  | 1021 Pasadena NF, NY 14304              |
| Jeffrey Meacham   | 352 70 <sup>th</sup> St., NF NY 14304   |
| Eugene Ochal      | 6117 Stephenson Ave., NF NY 14304       |
| John O'Malley     | 2013 LaSalle Ave., NF NY 14301          |
| Cara Pierini      | 4215 N.Ridge Rd., Lockport NY 14094     |
| Frederick Pucci   | 2991 McKoon Ave., NF NY 14305           |
| Lawrence Quarcini | 9344 Rivershore Dr., NF NY 14304        |
| Denise Salada     | 621 71 <sup>st</sup> St., NF NY 14304   |
| Risky Sanabria    | 927 90 <sup>th</sup> St., NF NY 14304   |
| Kathleen Steinman | 2242 Grand Ave., NF NY 14301            |
| Candra Thomason   | 2470 LaSalle Ave., NF NY 14301          |
| Charles Walker    | 1821 16 <sup>th</sup> St., NF, NY 14301 |
| Jason Zona        | 431 Vanderbilt Ave., NF NY 14305        |

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

Yeas

4

Nays

0

APPROVED

RESOLUTION: ISAIAH 61 PROJECT, SUPPORT FOR APPLICATION TO THE WNY POWER PROCEEDS ALLOCATION BOARD, 2013-24  
BY: COUNCIL MEMBER GRANDINETTI

#### Agenda Item #14

WHEREAS, the Isaiah 61 Project is dedicated to rebuilding Niagara Falls neighborhoods one house at a time by renovating vacant homes and providing on-the-job trades training; and

WHEREAS, the Isaiah 61 Project has created strong partnerships with the City of Niagara Falls, MIKELLY Construction, Orleans/Niagara BOCES, the John R. Oishei Foundation, and First Niagara Bank to create this project; and

WHEREAS, the Isaiah 61 Project has already bought one city owned home and started renovations, executed its first semester of job training and had the transfer of six additional houses approved by the Niagara Falls Planning Board; and

WHEREAS, the Isaiah 61 Project recently submitted a competitive funding application to the Western New York Power Proceeds Allocation Board Economic Development Fund to help fund the capital and job training components of its project; and

WHEREAS, the Economic Development Fund was established to aid the economic development projects of businesses and not-for profit corporations in a 30 mile radius of the New York Power Authority Niagara Project; and

WHEREAS, there is no greater economic development impact in that 30 mile radius than job training and cost effective rehabilitation of Niagara housing stock as a way to rebuild our community's families and homes.

NOW, THEREFORE, BE IT RESOLVED, that this City Council strongly encourages the Western New York Power Proceeds Board to support the Isaiah 61 Project's application in the next available round of funding.

Yeas

4

Nays

0

ADOPTED

Council Member Grandinetti said that the 1<sup>st</sup> house has been bought & taxes have been paid on it. Project is in the process of securing grants & students have been placed in jobs.

RESOLUTION: AUTHORIZING THE IMPLEMENTATION AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL AID AND STATE "MARCHISELLI" PROGRAM AND ELIGIBLE COST, OF A TRANSPORTATION FEDERAL AID PROJECT AND APPROPRIATING FUNDS THEREFOR, 2013-25  
BY: ALL COUNCIL MEMBERS

Agenda Item #15

WHEREAS, a Project, the Niagara Falls Signals Project; Signalization Improvements at Three (3) Isolated Intersections in the City of Niagara Falls, Niagara County, PIN 5755.42 (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 (Scoping & Design I-VI) and Construction & Construction Inspection phases of the Project, PIN 5755.42 .

NOW, THEREFORE, the City Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby 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 (Scoping & Design I-VI) and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 190,000 has been appropriated (\$ 92,000 for the project's Preliminary Engineering phase via City Resolution Nos. 2001-36, 2004-17 and 2006-80 adopted March 26<sup>th</sup>, 2001, February 17<sup>th</sup>, 2004 and July 17<sup>th</sup>, 2006, respectively and \$ 98,000 for the project's Preliminary Engineering and Construction & Construction Inspection phases via City Resolution Nos. 2008-51 adopted May 19<sup>th</sup>, 2008) and made available to cover the cost of participation in the above phases of the Project; and it is 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 (Scoping & Design I-VI) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 190,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Scoping & Design I-VI) and Construction & Construction Inspection phases exceeds \$ 672,426, 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 it is further

RESOLVED, that the Mayor of the City of Niagara Falls is hereby authorized to execute all necessary Agreements, certifications or reimbursement 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 it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

Yeas

4

Nays

0

ADOPTED

RESOLUTION: ADOPTING CHAPTER 737 OF THE CODIFIED ORDINANCES ENTITLED  
"PROPERTY AND BUILDING NUISANCE REFORM"  
BY: COUNCIL MEMBERS ANDERSON & FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #16

THIS ITEM WAS PULLED FROM THE AGENDA

PUBLIC WORKS: ZIPPER MACHINE, OVERTIME FOR USE

Agenda Item #17

The Director of the Department of Public Works is requesting that the sum of \$21,530.00 (inclusive of FICA) be made available in the DPW overtime line in order for City crews to perform asphalt zipper machine work in various locations throughout the City. This is consistent with the City's attempt to improve as many streets in the City this season as possible. Funding is available from Tourism Fund balance.

Will the Council so approve?

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

Yeas

4

Nays

0

APPROVED

RESOLUTION: AUTHORIZING THE IMPLEMENTATION AND FUNDING TO  
REPLACE/RECONSTRUCT THE CSX RAILROAD BRIDGES, 2013-26  
BY: ALL COUNCIL MEMBERS

Agenda Item #18

WHEREAS, a Project to Replace the CSX Railroad Bridges over NY Route 104, Main Street BINS 7036261 & 7036262 and to Reconstruct NY Route 104, Main Street beneath the CSX Bridges from Bath Avenue to Ontario Avenue including Intersection Improvements, in the City of Niagara Falls, Niagara County, PIN 5757.92, (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 Construction & Construction Inspection phase of the project, PIN 5757.92.

NOW, THEREFORE, the City Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby 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 Construction & Construction Inspection phase of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 36,000.00 is hereby appropriated in addition to 1,194,000 previously appropriated for this project's Construction & Construction Inspection phase via a City Resolution No. 2010-49 adopted on June 1, 2010, and made available to cover the cost of participation in the above phase of the Project; and it is 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 Construction & Construction Inspection phase exceeds the amount appropriated \$1,230,000 and/or 100% of the full Federal and Non-Federal shares for the cost of the project's Construction & Construction Inspection phase exceeds \$6,147,000, 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 it is 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 it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

Yeas

4

Nays

0

ADOPTED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 6:40 P.M.

Carol A. Antonucci  
City Clerk



**JUNE 10, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

---

The first session of the June 10, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

In the Administrative Update:

1. Mayor Paul Dyster said that, with the Council approval of the Consultant for the Stormwater Project, the immediate needs for a Professional Engineer to sign off on City Projects is addressed. The Administration is looking into both short term and long term options; presentations from other companies interested in consulting on City Projects on a short term basis have been given; and the City Engineer's salary for 2014 should be addressed before advertising for the position. Chairman Choolokian asked if the funds budgeted for the City Engineer's salary are being used to pay the consultant fees, and the Mayor said he would look into this. The Chairman wants to avoid spending more than has been budgeted. Council Member Fruscione asked if any of the streets on the list of unimproved streets the Council submitted was added to the list of streets scheduled for paving, and the Mayor responded that if the Casino funds are received, additional work can be done. Council Member Fruscione also asked that 94<sup>th</sup> Street road conditions be addressed, and Public Works Director David Kinney replied that if the Council will allocate the needed funding, the Zipper machine can be used on that street.

2. Council Member Fruscione asked when Caravelle Drive Park would be completed, and the Mayor responded that, at the present time, residents of the area are being asked for their input. Council Member Fruscione added that the Park needs repairs and maintenance.

3. Council Member Fruscione also questioned the shortage in funding that was given to the City by the Underground Railroad Commission, and City Controller Maria Brown said that the Commission, as well as others who received Casino funds, have not submitted their financial reports to the City, as is required. There may be some confusion as to the reports, since the funds have not been disbursed.

4. Mayor Dyster reported that Memos were circulated to schedule Budget Meetings with Department Heads, and Council Member Fruscione asked if the Council Members would be included in these Meetings. The Mayor said that the Meetings would not include the Council at this time.

5. Chairman Choolokian asked for an update on the Casino Funds, and the Mayor replied that negotiations are continuing.

6. Council Member Fruscione asked if an expense report had been received by the Administration from NTCC regarding the use of Casino funds received, and, if so, asked that it be forwarded to the Council. The Mayor said that he would look into this.

Corporation Counsel Craig Johnson spoke on amendments to two Agenda Items, and distributed copies of Items to be added to the Agenda:

1. An amendment to Agenda Item #8, relative to Federal Budget Finalization for Community Development.

Council Member Grandinetti moved to amend the Item by adjusting the figures for the reimbursement of administrative costs.

Yeas 5  
Nays 0

AMENDMENT APPROVED

2. An amendment to Agenda Item #3, relative to an encroachment on City Property by the Culinary Institute.

Council member Grandinetti moved to amend the Item by changing the diagram attached to the Item.

Yeas 5  
Nays 0

AMENDMENT APPROVED

3. A communication relative to funding for overtime in the Police Department.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas 5  
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #13.

4. A communication relative to acceptance of a Grant from the New York Power Authority for the lighting system at the Veterans Memorial at Hyde Park.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas 5  
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #14.

5. A communication relative to awarding the contract for window and door replacement and stone repointing and cleaning at the Hyde Park Ice Rink.

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 #15.

6. A communication relative to awarding the Royal Avenue repaving and resurfacing Project.

Council member Fruscione moved to add the communication to the Agenda.

Yeas 5  
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #16.

7. A communication relative to approval of a Change Order in the contract for the construction inspection and related consultant services for the Bridge Maintenance Project.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas 5  
Nays 0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #17.

Director of Community Development Seth Piccirillo spoke on Agenda Item #9, relative to award of the demolition contract. He said that this is the first demolition contract to be awarded; this is a "pay as you go" contract; the contract is for demolitions in the downtown area; this contract will take down 14 structures at a cost below the estimated cost. Council Member Walker noted the lower amounts for the demolitions. Council Member Fruscione added that he will not vote for change orders to increase the demolition amounts. Mr. Piccirillo responded that his Department will closely monitor the demolitions.

Mayor Dyster thanked Lou Paonessa for his work on getting the NYPA Grant for the lighting at the Veterans Memorial.

Council Member Fruscione asked about the vandalism over the weekend at the LaSalle Waterfront Park, and Director of Public Works David Kinney said that approximately \$7,000 worth of damage was done.

This Session ended at 5:30 PM

Chairman Choolokian reconvened the Meeting at 6:02 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:

|                                |                                    |
|--------------------------------|------------------------------------|
| Paul Gromosiak                 | Porter Park/Old Stone Chimney      |
| Angela DeMunda/Wendy Magaddino | Caravelle Park updates             |
| Charles Gugino                 | Caravelle Park update              |
| Rev. Jimmie Seright            | New Jerusalem Project Funding      |
| Christopher Puchalski          | Promote Heritage Tourism           |
| Ron Anderluh                   | Budget for dedicated Police patrol |
|                                | At Parks                           |
| Joseph Kissel                  | Old Stone Chimney                  |

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CITY PROPERTY: CANTILEVER/CANOPY ENCROACHMENT, FOURTH ST/RAINBOW BLVD, PLATI NIAGARA, INC.

Agenda Item #2

Plati Niagara, Inc. is planning to construct a four story hotel at the corner of Fourth Street and Rainbow Boulevard. It is proposing to construct a cantilever/canopy which will encroach onto the Fourth Street City right-of-way by approximately ten feet. It will measure up to 14 feet high and be 25 feet wide. There will be no posts or anything constructed in the City right-of-way. It will be located approximately 100 feet south of Rainbow Boulevard on Fourth Street. Attached (on file in the City Clerk's Office) is a rendering of this proposed encroachment.

Any approval will be subject to the following conditions:

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 for liability related to this encroachment.
3. The City can revoke the license for the encroachment on 60 days written notice.
4. The owner will receive all applicable permits and inspections.

In addition, any approval will be subject to a favorable recommendation by the Planning Board. This is on the agenda for the Planning Board's meeting on June 12, 2013.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CITY PROPERTY: OLD FALLS ST., ENCROACHMENT, CULINARY SCHOOL

#### Agenda Item #3

Niagara Falls Culinary Institute is requesting that it be permitted to utilize a portion of the City owned right-of-way at 28 Old Falls Street for the purpose of an outdoor dining patio encroachment. Attached (on file in the City Clerk's Office) hereto is a copy of the plan submitted by the Niagara Falls Culinary Institute. This proposal is in the process of being reviewed by appropriate City Departments and will be reviewed by the Planning Board.

Any approval will be subject to the following conditions for this encroachment:

1. The owner will add the City of Niagara Falls as the additional insured in its liability policy.
2. The owner will defend and indemnify the City from liability related to the encroachment.
3. The City can revoke the license for the encroachment on sixty (60) days written notice.
4. The owner will receive all applicable permits and inspections.
5. 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, this approval is subject to a positive recommendation being granted by the Planning Board. This matter is on the agenda for the Planning Board's meeting June 12, 2013.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

PUBLIC WORKS, TEMPORARY HELP

#### Agenda Item #4

The Director of Code Enforcement and the Director of the Department of Public Works (DPW) each report that their departments are receiving numerous phone calls from residents complaining about high grass, etc. on privately owned lots in various areas of the City. The Director of DPW reports that because of current ongoing projects and manpower commitments, he lacks personnel to engage in grass cutting, etc. after the property owner has been duly notified by the Department of Code Enforcement to cut the grass, etc. In the event that the owner refuses to cut the grass, etc. after having been notified and directed by the Department of Code Enforcement, the City will cut the grass, etc. itself. Therefore, the Director of DPW requests that he be permitted to hire ten (10) temporary employees for the months of June, July, August and September 2013 to be assigned this task. The rate of pay for these temporary employees will be \$10.00 per hour and they will work 40 hours per week. It is anticipated that a portion of this expense will be recovered by the City as these property owners are billed by the City. The Director of DPW requests the sum of \$70,000.00 (\$65,025.00 for wages and \$4,975.00 for FICA) in order to accomplish this task. It is requested that funding be made available from the Tourism Fund Balance and transferred to the DPW Clean Neighborhood budget line.

Will the Council so approve?

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

|                                          |   |
|------------------------------------------|---|
| Yeas                                     | 3 |
| Anderson, Fruscione, Chairman Choolokian |   |
| Nays                                     | 2 |
| Grandinetti, Walker                      |   |

APPROVED

CONTRACT: POLICE DEPT., PSYCHOLOGICAL TESTING, PSYCHOLOGICAL RESOURCES SUPPORT SYSTEMS, INC.

#### Agenda Item #5

The Director of Personnel is requesting that the City enter into an agreement with Psychological Resources Support Systems, Inc. to provide psychological testing and evaluation services for candidates who have applied to become members of the City of Niagara Falls Police Department.

This is but one tool to be used in the selection process. Psychological Resources Support Systems, Inc. will charge a \$50.00 fee to enroll the City in its system and will charge \$110.00 per applicant tested. This is the same service utilized by the Niagara County Sheriff's Department. The utilization of Psychological Resources Support Systems, Inc. has been approved by the Municipal Civil Service Commission. Funding is available in the Personnel Department budget.

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

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

CODE ENFORCEMENT: CHIEF ELECTRICAL INSPECTOR TRAINEE

#### Agenda Item #6

The Director of Code Enforcement advises that the person who serves as Chief Electrical Inspector will be retiring from City service within the next month or so. A replacement has been located and is prepared to come to work for the City after giving appropriate notice to his present employer and successfully completing City pre-employment requirements. It is desirable that the incumbent remain in place for two weeks after the replacement begins in order to facilitate and accomplish training in the responsibilities of the position. It is likely that this training will commence in June of 2013 and will not be for more than a two week period of time. The salary and benefits for the incumbent will continue as budgeted until he retires. It is anticipated that the cost for the replacement for the two week training period will not exceed \$1,900.80 plus FICA, pension contribution and other related benefits. Funding for this is available from the bi-weekly salary line in the Department of Code Enforcement.

Will the Council so approve?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

SAL MAGLIE STADIUM, SCHOOL DISTRICT USE PERMIT

Agenda Item #7

The School District has a Use Permit to utilize Sal Maglie Stadium for its purposes which expires June 30, 2013. The School District has an option to renew this permit for a five (5) year period of time. The School District has commenced a project which will result in the construction of new athletic fields. The School District projects its project to be complete in the spring of 2014.

Because the School District will not need Sal Maglie Stadium after its project is complete, the District is requesting a modification of the existing Use Permit to substitute an option to renew for one (1) year with two optional six (6) month extensions in the event that delays are encountered during construction. This presents an opportunity for the City to begin a search for a new user of Sal Maglie Stadium.

Will the Council so approve and authorize the Mayor to execute an amendment to the Use Permit in form and content satisfactory to the Corporation Counsel?

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

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

APPROVED

COMMUNITY DEVELOPMENT: FEDERAL BUDGET FINALIZATION FOR 2013, DEPT. OF HOUSING & URBAN DEVELOPMENT, CDBG, HOME, ESG PROGRAMS

Agenda Item #8

The City Council approved the Fiscal Year 2013 Community Development Consolidated Annual Plan in November 2012. The Consolidated Annual Plan included the Community Development Block Grant (CDBG) Program, HOME, and Emergency Solutions Grant 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 2013 allocations were released on May 27, 2013. The City's final CDBG, HOME and ESG Budget is cumulatively higher than the estimated 2013 budget previously approved by the City Council.

| Funding Source | 2012 FINAL ALLOCATION | 2013 Estimate - Approved by City Council | 2013 FINAL Allocation Announced 5/30/13 | 1212 Niagara Street Repayment Approved by City Council | FINAL CDBG TOTAL |
|----------------|-----------------------|------------------------------------------|-----------------------------------------|--------------------------------------------------------|------------------|
| CDBG           | \$2,121,101           | \$2,161,700                              | \$2,202,197                             | -\$27,300                                              | \$2,174,897      |
| HOME           | \$347,028             | \$315,000                                | \$357,405                               |                                                        |                  |
| ESG            | \$198,000             | \$156,000                                | \$154,741                               |                                                        |                  |
| TOTAL          | \$2,666,129           | \$2,632,700                              | \$2,714,343                             |                                                        |                  |

The Administration proposes the following budget revisions to align the 2013 Community Development Consolidated Action Plan with the HUD final allocation. 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.

CDBG

\$432,340: Estimated Administrative Budget (After 1212 Niagara Repayment)  
\$440,439: FINAL Administrative Budget  
\$8,099: *Change*

\$50,000: Estimated Commercial Façade Rehabilitation Budget  
\$116,917: FINAL Commercial Façade Rehabilitation Budget  
\$66,917: *Change*

HOME Investment Partnership Program

City of Niagara Falls  
\$100,000: Estimated Budget  
\$114,135: FINAL Budget  
\$14,135: *Change*

Niagara Falls Neighborhood Housing Services Inc.  
\$107,500: Estimated Budget  
\$121,635: FINAL Budget  
\$14,135: *Change*

Center City Neighborhood Development Corporation  
\$107,500: Estimated Budget  
\$121,635: FINAL Budget  
\$14,135: *Change*

ESG

\$93,600: Estimated Emergency Shelter and Street Outreach Budget  
\$92,845: FINAL Emergency Shelter and Street Outreach Budget  
-\$755: *Change*

\$50,700: Estimated Rapid Re-Housing Assistance Budget  
\$50,291: FINAL Rapid Re-Housing Assistance Budget  
-\$409: *Change*

\$11,700: Estimated ESG Program Administrative Budget (City of Niagara Falls)  
\$11,606: FINAL ESG Program Administrative Budget (City of Niagara Falls)  
-\$94: *Change*

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

CONTRACT: DEMOLITIONS, REGIONAL ENVIRONMENTAL DEMOLITIONS, INC.

Agenda Item #9

The following bids were received by the Department of Community Development on June 4, 2013 for the demolition of fourteen (14) structures identified on the attached list.

| <u>CONTRACTOR</u>                        | <u>BID AMOUNT</u> |
|------------------------------------------|-------------------|
| Regional Environmental Demolitions, Inc. | \$245,222.00      |
| Mark Cerrone, Inc.                       | 438,880.00        |
| C & R Housing, Inc.                      | 469,625.00        |
| Metro Contracting, Inc.                  | 580,725.00        |

It is our recommendation that a contract be awarded to the low bidder, Regional Environmental Demolitions, at their base bid amount of \$245,222.00. Funding is available in the following budget codes:

|                                               |              |
|-----------------------------------------------|--------------|
| CD1.8666.0000.0450.500 (CDR399)               | \$44,622.00  |
| H.0910.2009.0910.0449.599 (Code Enforcement)  | 40,600.00    |
| CD1.6920.0000.0450.500 (MRV099 Misc. Revenue) | 160,000.00   |
| Total                                         | \$245,222.00 |

The miscellaneous revenue will be reimbursed with an Empire State Development Corporation grant.

Will the Council vote to award contract CD2013-1 to Regional Environmental Demolitions, Inc. 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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CITY PROPERTY: 2612 TENTH STREET, SALE TO LINDA BENSON

Agenda Item #10

At your December 10, 2012 meeting you approved the sale of the above referenced premises.

Due to an error, the wrong bidder was identified as the successful bidder and, therefore, it is recommended that the Council approve the sale of the property to Linda Benson, 1517 James Avenue, Niagara Falls, NY 14305 for the bid price of \$250.00, together with an auction fee of \$25.00 and related expenses, and authorize the Mayor to execute a deed to her.

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 #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 check:

| Provider               | Date of Service | Amount  |
|------------------------|-----------------|---------|
| Cardamone Chiropractic | 05/16/2013      | \$35.52 |
|                        | 05/23/2013      | \$35.52 |

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

5

Nays

0

APPROVED

RESOLUTION: PROPERTY & BUILDING NUISANCE REFORM, ADOPTING CHAPTER 737,  
2013-27

BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #12

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 737 of the Codified Ordinances entitled "Property and Building Nuisance Reform" is hereby adopted to read as follows:

CHAPTER 737 PROPERTY AND BUILDING NUISANCE REFORM

ARTICLE I, GENERAL PROVISIONS

§737-1 FINDINGS.

The City Council of the City of Niagara Falls finds that public nuisances exist in the City of Niagara Falls in the operation of certain establishments and the use of property in flagrant violation of certain Penal Law and City Ordinance provisions, which nuisances substantially and seriously interfere with the interest of the public in the quality of life and total community environment, commerce in the City, property values and the public health, safety and welfare. The City Council further finds that the continued occurrence of such activities and violations is detrimental to the health, safety and welfare of the people of the City of Niagara Falls and of the businesses thereof and the visitors thereto.

§737-2 TITLE.

This chapter shall be known as the "Property and Building Nuisance Reform Law."

§737-3 DEFINITIONS.

As used in this chapter, the following terms shall have the meaning indicated:

ADVERSE IMPACT - Includes, but is not limited to, the following: any search warrants served on the property where controlled substances and/or weapons were seized; investigative purchases of controlled substances on or near the property by law enforcement agencies or their agents; arrests for violations of controlled substance law and or possession of weapons; loitering for the purposes of engaging in illegal activity; an increase in the volume of traffic associated with property; complaints made to law enforcement officials of illegal activity associated with the property, finding of illegal weapons, as defined in §265 of the penal Law, or controlled substances, as defined in Articles 220 and 221 of the penal Law, on or near property by law enforcement officials and their agents.

BUILDING - A structure where space is covered or enclosed for the use, shelter, storage or protection of persons, animals, chattel or property of any kind, and which is permanently affixed to the land.

BUILDING ACCESSORY - A building subordinate to the principal building on the lot and used for purposes which are clearly related but incidental to that of said principal building.

BUSINESS - An activity, occupation, employment or enterprise which requires time, attention, labor and material and wherein merchandise is exhibited or sold, or services offered.

BUSINESS OFFICE - A building or portion thereof utilized to accommodate the activities of a business.

CONVICTION - A conviction for an offense in a court of competent jurisdiction or an administrative bureau shall not be required. Instead, the City shall prove by a preponderance of the evidence that the violations have occurred. However, a conviction as defined and applied in accordance with the provisions of §1.20 of the Criminal Procedure Law, in any court of competent jurisdiction, or a plea of guilty shall constitute conclusive proof of a violation. Conviction of an attempt to commit a violation of any of the specified provisions shall be considered a conviction for a violation of the specified provision.

DISTURBANCE - Actions, behavior, or conduct by person or persons at a particular location that disturbs the peace.

KNOWLEDGE OF PUBLIC NUISANCE - The presumption of knowledge provided by Subdivision 1 of §235.10 of the Penal Law shall be applicable to this chapter. Notice, by first class, certified and/or registered mail or by personal service, of activities detailing a public nuisance, to the property owner of record shall be evidence of knowledge of the public nuisance.

LOT - A parcel of land, with or without buildings or structures, delineated by lot line and having access to a street as defined in this chapter.

PENAL LAW - New York State Penal Law

PUBLIC NUISANCE - For the purposes of Article III, a public nuisance shall be deemed to exist whenever, through violations of any of the following provisions resulting from separate incidents at a building, erection or place, or immediately adjacent to the building, erection or place as a result of the operation of the business, 12 or more points are accumulated within a period of six (6) months, or 18 or more points within a period of twelve (12) months, in accordance with the following points system. Where more than one violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation.

(1) The following violations shall be assigned a point value of two (2) points:

(a) Section 240.36 and 240.37 of the Penal Law - Loitering in the First Degree

(b) Suffering or permitting the premises to become disorderly, including suffering or permitting fighting or lewdness.

(c) City noise

(d) City littering

(e) Dogs - regarding howling dogs, and/or repetitive barking, number of dogs, unlicensed dogs and dangerous or nuisance dogs.

(2) The following violations shall be assigned a point value of four (4) points:

(a) Disorderly conduct by individual or individuals

(b) Housing and Property Maintenance, including any garbage collection violation. Each repeat offense is an additional four (4) points.

(c) General disturbances at a particular location.

(d) Article 225 of the Penal Law - Gambling Offenses

(e) The Alcoholic Beverage Control Law

(f) Section 415-a of the Vehicle and Traffic Law - Vehicle

Dismantlers

(g) Sections 170.65 and 170.70 of the Penal Law - Forgery or illegal possession of a Vehicle Identification Number.

(h) Possession, use, sale or offer for sale of any alcoholic beverage in violation of Article 18 of the Tax Law, or of any cigarette or tobacco products in violation of Article 20 of the Tax Law.

(i) The Agriculture and Markets Law.

(3) The following violations shall be assigned a point value of six (6) points:

(a) Article 178 of the Penal Law - Criminal Diversion of Prescription Medication and Prescriptions.

(b) Article 220 of the Penal Law - Controlled Substances Offenses

(c) Article 221 of the Penal Law - Offenses involving Marijuana.

(d) Sections 165.15, (6), (7), and (8), 165.40, 165.45, 165.50, 165.52, 165.54, 165.71, 165.72 and 165.73 of the Penal Law - Criminal Possession of Stolen Property.

(e) Article 158 of the Penal Law - Welfare Fraud.

(f) Section 147 of the Social Services Law - Food stamp program fraud.

(g) Section 2024 of Title 7 of the United States Code - illegal Use of Food Stamps.

(h) Any commercial violations of the Codified Ordinances of the City of Niagara Falls.

(i) Allowing persons on the premises in excess of occupancy limits.

(j) Section 3383 of the Public Health Law - Imitation controlled substances.

(k) Operating a premises without the requisite certificate of use in violation of the Codified Ordinances of the City of Niagara Falls.

(4) The following violations shall be assigned a point value of ten (10) points:

(a) Article 230 of the Penal Law - Prostitution Offenses.

(b) Article 265 of the Penal law - Firearms and other dangerous weapons.

(c) Sections 260.20 and 260.21 of the Penal Law - Unlawfully Dealing with a Child.

(d) Article 263 of the Penal Law - Sexual Performance by a Child.

(e) Loitering for the purpose of engaging in a prostitution offense.

(5) The following violations shall be a point value of twelve (12) points: penal law violations, including but not limited to murder, attempted murder, assault, attempted assault, sex offenses, etc.

TESTIMONY - Oral, written or other documented evidence tending to show or prove the truth of the matter asserted.

VIOLATIONS - Conduct, or evidence of conduct, prohibited under this chapter. A violation does not require criminal prosecution and conviction but only a preponderance of evidence that the prohibited conduct is occurring or has occurred. Evidence of prohibited conduct may include, but is not limited to, police reports, investigative reports, execution of search warrants, results of police surveillance, arrest and/or conviction of local and state and federal laws, activities associated with trafficking of controlled substances, finding of weapons and/or controlled substances on or near the property, increased volume of traffic associated with the property.

YARD - An open area on a lot which is open to the sky and that is unoccupied by any land use or activity.

#### §737-4 EVIDENCE AND PRESUMPTIONS

**A.** Evidence. In any action under this chapter, evidence of the common fame and general reputation of the building, structure or place, of the inhabitants or occupants thereof, or of those resorting thereto, shall be competent evidence to prove the existence of a property or building nuisance.

**B.** Scierter. If evidence of the general reputation of the building, structure or place, or of the inhabitants or occupants thereof, is sufficient to establish the existence of the nuisance it shall be prima facie evidence of knowledge thereof and acquiescence and participation therein and responsibility for the nuisance, on the part of the owners, lessors, lessees, and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form in the property, real or personal, used in conducting or maintaining the property or building nuisance.

**C.** Presumptions for the purposes of this section.

**(1)** Any building, accessory building, business office, lot, or yard wherein, within the period of one year prior to the commencement of an action under this chapter, where there have occurred two or more convictions, as defined in §737-3, on the part of the lessees, owners, operators, or occupants, of the provisions of this chapter as defined in §737-3 of this chapter, shall be prima facie evidence that a public nuisance exists at said location.

**(2)** Any building, accessory building, business office, lot or yard wherein, within a one-year period prior to the commencement of an action under this chapter, where there have occurred four or more violations on the part of the lessees, owners, operators, or occupants, of the provisions of this chapter as defined in §737-3 of this article, shall be prima facie evidence that a public nuisance exists at said location.

- (3) Any building, accessory building, business office, lot, or yard wherein, within the period of one year prior to the commencement of an action under this chapter, there has been presented a preponderance of evidence of repeated criminal activity which has an adverse impact, as defined in §737-3 of this chapter, on such property or neighborhood, shall be prima facie evidence that a public nuisance exists at said location.

ARTICLE II, CIVIL REMEDIES FOR PROPERTY AND BUILDING NUISANCES

§737-5 APPLICABILITY.

This article shall be applicable to the public nuisances defined in Article I of this chapter.

§737-6 CIVIL REMEDIES

- A. The Corporation Counsel may bring and maintain a civil proceeding in the name of the City for the following types of relief:

- (1) Permanent injunction
- (2) Temporary closing order
- (3) Temporary restraining order
- (4) Temporary injunction
- (5) Civil penalties

- B. The summons. The Corporation Counsel shall name as defendants the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, by describing it by Tax Map number and/or street address, and at least one of the owners of some part of or interest in the property.

- C. The complaint.

(1) The Corporation Counsel shall bring and maintain a civil proceeding in the name of the City of Niagara Falls in the Supreme Court of Niagara County, or any other court of competent jurisdiction, to permanently enjoin the public nuisance and the persons conducting, maintaining or permitting the public nuisance, as defined in Article I of this chapter, from further conducting, maintaining, or permitting the public nuisance in the manner provided in Article II of this chapter. The owners, operator, and/or lessee of a building, structure or place wherein the public nuisance is being conducted, maintained or permitted may be made defendants in the action.

(2) The venue of said action shall be Niagara County.

(3) The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this chapter.

(4) The civil action shall be commenced by the filing of a summons and complaint alleging the facts constituting the nuisance.

(5) The complaint shall name as defendants the building, structure or place wherein the nuisance is being conducted, maintained or permitted, by describing it by Tax map number and/or street address, and at least one of the owners who possesses some part of or an interest in the property.

(6) Any complaint filed under this chapter shall be verified or accompanied by an affidavit(s) for purposes of showing that the owner or his or her agent has notice of the nuisance and has had an opportunity to abate the nuisance. The Corporation Counsel will give the owner, and any designated property manager, written notice of the nuisance and ten (10) business days to personally meet with and provide to Corporation Counsel a written plan to abate the nuisance within thirty days. If part of the plan to abate the nuisance is to evict a tenant, then the owner will commence the eviction proceeding within ten (10) business days from the meeting with Corporation Counsel.

(7) The complaint or affidavit shall contain a description of the attempts by the applicant to notify and locate the owner of the property and/or the owner's agent.

(8) The complaint or affidavit shall describe the adverse impact associated with the property on the surrounding neighborhood.

- D. In rem jurisdiction over building, structure, or place. In rem jurisdiction shall be complete over the building, structure or place wherein the public nuisance is being conducted, maintained or permitted by affixing the summons to the door of the building, structure or place and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners who possesses some part of or an interest in the property. Proof of service shall be filled within two days thereafter with the Clerk of the court designated in the summons. Service shall be complete upon filing.
- E. Service of summons on other defendants. Defendant(s), other than the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, shall be served with the summons as provided in the Civil Practice Law and Rules.
- F. Notice of pendency. With respect to any action commenced or to be commenced pursuant to this chapter, the Corporation Counsel may file a notice of pendency pursuant to the provisions of Article 65 of the Civil Practice Law and Rules.
- G. Presumption of ownership. The owner of the real estate affected by the action shall be presumed to be the person in whose name the real estate is recorded in the office of the City of Niagara Falls Assessor and/or the office of the Clerk of the County of Niagara.
- H. Presumption of employment or agency. Whenever there is testimony that a person was the manager, operator, supervisor, or in any other way in charge of the premises at the time a public nuisance was being conducted, maintained or permitted, such evidence shall be presumptive that he or she was an agent or employee of the owner or lessee of the building, structure or place considered to be a nuisance.
- I. Penalty. If, upon the trial of an action under this chapter, or upon a motion for summary judgment in an action under this chapter, a finding is made that the defendant has conducted, maintained or permitted a public nuisance defined in this chapter, a penalty maybe awarded in an amount not to exceed \$1,000 for each day it is found that the defendant conducted, maintained or permitted the public nuisance after notice to abate has been given by the City. Upon recovery, such penalty shall be paid into the general fund of the City.
- J. Enforcement. A judgment pursuant to this chapter shall be enforced by City of Niagara Falls Corporation Counsel or his designee.

#### §737-7 JUDGEMENT AWARDING PERMANENT INJUNCTION

- A. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the City of Niagara Falls Police Department to seize and remove from the building, structure or place all material, equipment and instrumentalities used in the creation and maintenance of the public nuisance and shall direct the sale by the City of Niagara Falls Corporation Counsel, or his designee of such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the Civil Practice Law and Rules. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid into the general fund of the City.
- B. A judgment awarding a permanent injunction pursuant to this chapter may authorize agents of the City to forthwith remove and correct construction and structural alterations in violation of the City Ordinances. Any and all costs associated with these repairs or alterations shall become a lien against said property and shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens and any nuisance abatement lien.
- C. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the closing of the building, structure or place by the City of Niagara Falls Department of Code Enforcement, to the extent necessary to abate the nuisance, and shall direct the City of Niagara Falls Department of Code Enforcement to post a copy of the judgment and a printed notice of such closing conforming to the requirements of §737-8H of this chapter.

Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable on conviction by a fine of not more than \$500 or by imprisonment not exceeding 15 days, or by both, provided such judgment contains therein a notice of such penalty.

- D.** The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this section.
- E.** If the owner shall file a bond in the amount of the assessed value of the property ordered to be closed and submits proof to the court that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the building, structure or place has been directed to be closed in the judgment, the court may vacate the provisions of the judgment that direct the closing of the building, structure or place.
- F.** A closing by the City of Niagara Falls Department of Code Enforcement pursuant to this section shall not constitute an act of possession, ownership or control by the City of Niagara Falls nor does the City of Niagara Falls assume any liability related to the possession, ownership or control of the closed premises.
- G.** Intentional disobedience or resistance to any provision of a judgment awarding a permanent injunction pursuant to this chapter, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both.
- H.** Upon the request of the Corporation Counsel, or his designee, the City of Niagara Falls Police Department shall assist in the enforcement of a judgment awarding a permanent injunction entered in an action brought pursuant to this chapter.
- I.** A judgment rendered awarding a permanent injunction pursuant to this chapter shall be and become a lien upon the building, structure or place named in the complaint in such action, such lien to date from the time of filing a notice of liens pending in the office of the clerk of the county wherein the building, structure or place is located. Every such nuisance abatement lien shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens.
- J.** A judgment awarding a permanent injunction pursuant to this chapter shall provide, in addition to the costs and disbursement allowed by the Civil Practice Law and Rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses, and disbursements of the City in investigating, bringing and maintaining the action.

#### §737-8 PRELIMINARY INJUNCTION

**A.** Generally.

**(1)** Pending an action for a permanent injunction as provided for in this article, the court may grant a preliminary injunction enjoining a public nuisance within the scope of this chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. An order granting the preliminary injunction shall direct a trial of the issues at the earliest possible time.

Where a preliminary injunction has been granted, the court shall render a decision with respect to a permanent injunction at its earliest convenience after the conclusion of the trial. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted.

**(2)** Enforcement of preliminary injunction. A preliminary injunction shall be enforced by the Corporation Counsel and the City of Niagara Falls Police Department.

- (3) Preliminary injunctions, inventory, closing of premises, posting of order and notices, offenses. If the court grants a preliminary injunction, the provisions of this article shall be applicable.
- B. Motion papers for preliminary injunction. The Corporation Counsel shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action for a permanent injunction abating a nuisance within the scope of this chapter.
- C. Temporary closing order.
- (1) If, on a motion for a preliminary injunction pursuant to this section, the Corporation Counsel shall show by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building, structure or place wherein the nuisance is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order by the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time; a decision on the motion for a preliminary injunction shall be rendered by the court at the earliest possible time.
- (2) Service of temporary closing order. Unless the court orders otherwise, a temporary closing order, together with the papers upon which it was based and a notice of hearing for the preliminary injunction, shall be personally served, in the same manner as a summons as provided in the Civil Practice Law and Rules.
- D. Temporary restraining order.
- (1) A temporary restraining order may be granted pending a hearing for preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this chapter is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires the granting of a temporary restraining order. This order shall restrain the defendants and all persons from removing or transferring off the property or in any manner interfering with the fixtures and movable property used in conducting, maintaining or permitting the public nuisance and from further conducting, maintaining or permitting the public nuisance. A temporary restraining order may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction.
- (2) Service of temporary restraining order. Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served in the same manner as a summons as provided in the Civil Practice Law and Rules.
- E. Temporary closing order; temporary restraining order.
- (1) If, on motion for a preliminary injunction, the Corporation Counsel submits evidence warranting both a temporary closing order and a temporary restraining order, the court shall grant both orders.
- (2) Enforcement of temporary closing orders and temporary restraining orders. Temporary closing orders and temporary restraining orders shall be enforced by the Corporation Counsel and the City of Niagara Falls Police Department.

- F.** Inventory upon service of temporary closing orders and temporary restraining orders. The officers serving a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining or permitting a public nuisance within the scope of this chapter and shall enter upon the building, structure or place for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory, including, but not limited to, photographing such personal property.
- G.** Closing of premises pursuant to temporary closing orders and temporary restraining orders. The officers serving a temporary order shall, upon service of the order, command all persons present in the building, structure or place to vacate the premises forthwith. Upon the building, structure or place being vacated, the premises shall be securely locked and all keys delivered to the officers serving the order who thereafter shall deliver the keys to the fee owner, lessor or lessee of the building, structure or place involved. If the fee owner, lessor or lessee is not at the building, structure or place when the order is being executed, the officers shall securely padlock the premises and retain the keys until the fee owner, lessor or lessee of the building is ascertained, at which time, the officers shall deliver the keys to such owner, lessor or lessee, if such individual resides within Niagara County.
- H.** Posting of temporary closing orders and temporary restraining orders. Upon service of a temporary restraining order, the officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the public nuisance is being conducted, maintained or permitted. In addition, where a temporary restraining order has been granted, the officers shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that shall state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. If the temporary restraining order directs that the premises are to be closed by court order, the notice shall contain the legend "Closed by Court Order" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, The date of the order, the court from which issued and the name of the office or agency posting the notice. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$1,000 or by imprisonment not exceeding 90 days, or by both, provided such order or notice contains therein a notice of such penalty. The City of Niagara Falls Police Department, or the City of Niagara Falls Department of Code Enforcement shall, upon the request of the Office of Corporation Counsel, assist in the enforcement of this subsection.
- I.** Intentional disobedience of or resistance to temporary restraining order and permanent injunction. Intentional disobedience of, or resistance to, a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both.
- J.** Temporary restraining order or preliminary injunction bond required. A temporary restraining order or preliminary injunction shall not issue under this chapter, except upon the giving of a bond or security by the applicant, in the amount of \$1,000, for the payment of such costs and damages as may be incurred or suffered by any party who is found to be wrongfully restrained or enjoined. A bond or security shall not be required of the State of New York, Municipal Corporation, or political subdivision of the State of New York.

§737-9 TEMPORARY RESTRAINING ORDER; DEFENDANT'S REMEDIES.

A. Temporary restraining order to be vacated; inspection provision.

(1) A temporary restraining order may be vacated by the court, upon notice to the Corporation Counsel, when the defendant gives an undertaking and the court is satisfied that public health, safety or welfare will be protected adequately during the pendency of the action. The undertaking shall be in an amount equal to the assessed valuation of the building, structure or place where the public nuisance is being conducted, maintained or permitted or in such other amount as may be fixed by the court. The defendant shall pay to the City, in the event a judgment of permanent injunction is obtained, its actual costs, expenses and disbursements, including attorney's fees in investigating, bringing and maintaining the action.

(2) An order vacating a temporary closing order, or a temporary restraining order, shall include a provision authorizing agencies of the City to inspect the building, structure or place, which is the subject of an action pursuant to this chapter, periodically without notice, during the pendency of the action, for the purpose of ascertaining whether or not the public nuisance has been resumed. Intentional disobedience of, or resistance to, an inspection provision of an order vacating a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$5,000, or by imprisonment not exceeding six months, or by both. The City of Niagara Falls Police Department or the City of Niagara Falls Department of Code Enforcement shall, upon the request of the Office of Corporation Counsel, assist in the enforcement of an inspection provision of an order vacating a temporary restraining order.

B. Vacating a temporary injunction or a temporary restraining order.

When the defendant gives an undertaking in the amount of the civil penalty demanded in the complaint, together with costs, disbursements and the projected annual costs of the prosecution of the action to be determined by the court, upon a motion on notice to the Corporation Counsel, a temporary injunction or a temporary restraining order shall be vacated by the court. The provisions of the Civil Practice Law and Rules governing undertakings shall be applicable to this chapter.

§737-10 PRELIMINARY INJUNCTION OF BULK TRANSFER.

A. Generally, pending an action pursuant this chapter, the court may grant a preliminary injunction enjoining a defendant from making a bulk transfer, as defined in this section.

B. If, on a motion for a preliminary injunction of a bulk transfer, the Corporation Counsel shall show by clear and convincing evidence that a public nuisance within the scope of this chapter is being conducted, maintained, or permitted, a temporary restraining order may be granted, without notice, restraining the defendants and all persons from making or permitting a "bulk transfer," as defined in this article, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Application for a temporary restraining order shall be made pursuant to §737-9 of this article.

C. "Bulk Transfer" defined. A "bulk transfer" is any transfer of a major part of the materials, supplies, merchandise or other inventory or equipment of the transferor in the building, structure or place where the public nuisance is being conducted, maintained or permitted that is not in the ordinary course of the transferor's business.

D. Enforcement of preliminary injunction. A preliminary injunction shall be enforced by the Office of Corporation Counsel and by the City of Niagara Falls Police Department.

E. Preliminary injunction; inventory. If the court grants a preliminary injunction, the provisions of the §737-8 of this article shall be applicable.

§737-11 TEMPORARY RECEIVER.

- A.** Appointment, duration and removal. In any action wherein the complaint alleges that the nuisance is being conducted or maintained in the residential portions of any building or structure or portion thereof, which are occupied in whole, or in part, as the home, residence or sleeping place of one or more human beings, the court may, upon motion on notice by the plaintiff, appoint a temporary receiver to manage and operate the property during the pendency of the action, in lieu of a temporary closing order. A temporary receivership shall not continue after final judgment unless otherwise directed by the court. Upon the motion of any party, including the temporary receiver, or on its own initiative, the appointing court may remove a temporary receiver at any time.
- B.** Powers and duties. The temporary receiver shall have such powers and duties as the court shall direct, including, but not limited to, collecting and holding all rents due from all tenants, leasing or renting portions of the building or structure, making or authorizing other persons to make necessary repairs or to maintain the property, hiring security or other personnel necessary for the safe and proper operation of a dwelling, prosecuting or defending suits flowing from his or her management of the property and retaining counsel therefor, and expending funds from the collected rents in furtherance of the foregoing powers.
- C.** Oath. A temporary receiver, before entering upon his or her duties, shall be sworn or shall affirm faithfully and fairly to discharge the trust committed to such receiver. The oath or affirmation may be waived upon consent of all parties.
- D.** Undertaking. A temporary receiver shall give an undertaking, in an amount to be fixed by the court making the appointment that such receiver will faithfully discharge his or her duties.
- E.** Accounts. A temporary receiver shall keep written accounts itemizing receipts and expenditures, and describing the property and naming the depository of receivership funds, which shall be open to inspection by any person having an apparent interest in the property. Upon motion of the temporary receiver, or of any person having an apparent interest in the property, the court may require the keeping of particular records, or direct or limit inspection, or require presentation of a temporary receiver's accounts. Notice of motion for the presentation of a temporary receiver's accounts shall be served upon the sureties on the temporary receiver's undertaking as well as upon each party.

§737-12 CHAPTER NOT EXCLUSIVE REMEDY

This chapter shall not be construed to exclude any other remedy provided by law for the protection of the health, safety and welfare of the people of the City of Niagara Falls.

§737-15 PENALTIES FOR OFFENSES.

- A.** Any owner who, having been served with a notice or order to remove any violation of this chapter or any nuisance, fails to comply therewith within the time fixed by law shall be deemed guilty of a violation and upon conviction thereof shall be fined in an amount not exceeding \$250.00, or be imprisoned for a period not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as an offense and shall be punishable as such hereunder.

**B.** The term "owner" as used in this section shall include any person or persons deemed to be an owner or owners of property as set forth in Subsection G of Section 737-6 herein.

Violations of this chapter may also be referred to the Department of Code Enforcement or any other appropriate municipal department and be prosecuted pursuant to Codified Ordinances of the City of Niagara Falls.

Bold and Underlining indicate Additions.

Bold and Brackets indicate [Deletions].

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

ADOPTED

POLICE DEPT., OVERTIME

#### Agenda Item #13

The Superintendent of Police advises that he is concerned that he may not have sufficient dollars in his overtime budget line to address the many issues currently faced by the City that the NFPD must address and respond to. He is requesting that the sum of \$150,000.00 be made available to his department in order to be able to deploy the resources required to address these issues. Funding in the amount of \$100,000.00 is available from account number A.1990.7650.0449.000 and \$50,000.00 is available from account number A.1990.7630.0449.599. \$139,340.00 will be allocated to overtime wages and \$10,660.00 will be allocated to FICA.

Will the Council so approve?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

VETERANS MEMORIAL, NYPA GRANT FOR LIGHTING SYSTEM

#### Agenda Item #14

The City and the Niagara Falls Veterans Memorial Commission have been in discussions with NYPA regarding the lighting proposed at the Niagara Falls Veterans Memorial in Hyde Park. The result of those discussions is that NYPA, through its Statewide Energy Services Program, has offered the City a grant in the amount of \$188,100.00 to furnish and install an innovative and highly efficient LED lighting system at the Niagara Falls Veterans Memorial in Hyde Park. A total project summary is attached (on file in the City Clerk's Office). This was pursuant to a design supplied to NYPA by the Niagara Falls Veterans Memorial Commission. NYPA has arranged for a contractor to furnish and install the lighting system through its procurement process. NYPA and its contractor must be able to access the Niagara Falls Veterans Memorial in Hyde Park in order to accomplish the installation of the lighting system.

The cost of utilities to illuminate the Memorial will be the responsibility of the City. NYPA advises that this LED system is more efficient than a conventional Quartz and Metal Halide system. It is projected that the City will save \$1,921.53 (\$1,232.64 allocated to energy cost savings and \$688.89 allocated to maintenance savings) annually by installing this LED system rather than a conventional system.

Will the Council accept the NYPA grant, authorize access to the Niagara Falls Veterans Memorial at Hyde Park and authorize the Mayor to execute a Customer Installation Commitment provided by NYPA 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: ICE RINK, WINDOW/DOOR REPLACEMENT, STONE REPOINTING/CLEANING,  
BIG L WINDOWS & DOORS

Agenda Item #15

The following was the result of bids received on June 7, 2013 for  
the above referenced project:

| <u>CONTRACTOR</u>                                                 | <u>BASE BID</u> |
|-------------------------------------------------------------------|-----------------|
| Big L Windows & Doors<br>2727 William St.<br>Cheektowaga NY 14227 | \$ 160,000.00   |
| Sicoli Construction, Inc.                                         | \$ 169,800.00   |
| Rand & Jones Enterprises, Inc.                                    | \$ 440,000.00   |

It is the recommendation of the undersigned that this project be  
awarded to the low bidder Big L Windows & Doors at their base bid of  
\$160,000,000. Funding is available in H1214.2012.1214.0449.599.

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

|          |   |
|----------|---|
| Yeas     | 5 |
| Nays     | 0 |
| APPROVED |   |

CONTRACT: ROYAL AVE. REPAVING/RESURFACING PROJECT, L.J. QUIGLIANO, INC.

Agenda Item #16

The following is the result of bids received on May 28, 2013, for  
the above referenced project:

| <u>CONTRACTOR</u>                                              | <u>BASE BID</u> |
|----------------------------------------------------------------|-----------------|
| L.J. Quigliano, Inc.<br>2395 Lockport Road<br>Sanborn NY 14132 | \$777,320.83    |
| Yarussi Construction, Inc.                                     | \$865,920.00    |

It is the recommendation of the undersigned that this contract be  
awarded to the low bidder, L.J. Quigliano, Inc. in the amount of  
\$777,320.83. Funding is available in H1118.2011.1118.0449.599.

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

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

|          |   |
|----------|---|
| Yeas     | 5 |
| Nays     | 0 |
| APPROVED |   |

CONTRACT: BRIDGE MAINTENANCE PROJECT, CONSULTANT SERVICES, GREENMAN-  
PEDERSON, INC. CHANGE ORDER #1

Agenda Item #17

A contract for the above referenced project was awarded to  
Greenman-Pederson, Inc. on  
November 26, 2012 in the amount of \$ 25,000.00.

Following the receipt of supplemental funds from the New York State  
Department of Transportation for the construction portion of this  
project, the City is now able to amend the professional services portion  
of this project - administration and inspection - to the above referenced  
firm. Costs associated with the construction related professional  
services total \$29,951.00 and are available in H1113.2011.1113.0449.599.

Please note that existing agreements already in effect between the City and NYSDOT allow for a maximum 80% reimbursement of all contract administration and inspection funds expended.

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

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

Yeas

5

Nays

0

APPROVED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 6:50 P.M.

Carol A. Antonucci  
City Clerk



**JUNE 24, 2013**

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the June 24, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson, Deputy Corporation Counsel Thomas O'Donnell and City Controller Maria Brown.

Council Member Fruscione moved to approve the Minutes from the City Council Meetings of May 28 and June 10, 2013.

Yeas

5

Nays

0

APPROVED

Mayor Paul Dyster noted that there was an Item on the Agenda (Agenda Item #13) to fund corrective action on work done by the previous contractor for the Lewiston Road Project, and the City will seek to recover this amount from the previous contractor. Council Member Grandinetti said that some residents were told that tree replanting would not be done on Lewiston Road, and the Mayor responded that this would be looked into after the road repair work was completed.

The Mayor added that Governor Cuomo was in Western New York for an overview of the accomplishments of his Administration and to talk about his Start UP NY Program, which will foster job creation and entrepreneurship by utilizing private partnerships with the higher education system.

Corporation Counsel Craig Johnson distributed copies of a communication to be added to the Agenda relative to approval of a letter of award for the roof replacement and masonry repairs at the Walnut Avenue Fire Hall.

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.

Community Development Director Seth Piccirillo spoke on two events being held for public input on the Housing Vision Project and the development of the former South Junior High School site. He also noted the donation of \$5,000 to the Isaiah 61 Project by First Niagara Bank.

This Session ended at 5:17 PM.

Chairman Choolokian reconvened the Meeting at 6:02 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:

|                    |                                                                                                                                                                            |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Roger Spurbach     | Congratulated DPW & Mayor on additional streets to be repaired; add alley behind Macklem Ave. & 24 <sup>th</sup> St. from Buffalo Ave. to Pine Ave. to list                |
| William Williamson | Add Vanderbilt Ave. to paving list                                                                                                                                         |
| Paul Gromosiak     | Promote tourism during lunar bows; Gill Creek Park is a jewel; promote Porter Park & access to Old Stone Chimney                                                           |
| Roger Spurbach     | Uncut grass on City property in Gluck Park Neighborhood; fund in house demo team with Casino money                                                                         |
| Donald Supon       | Contractors should meet standards of Contracts or give funding back                                                                                                        |
| Katherine Johnson  | NACC History; bed tax funds that were formerly given to Niagara Arts Council should be given to NACC                                                                       |
| Doug Brown         | Closing Old Falls St. during concerts hurts local businesses; reschedule Blues Festival; use Casino funds to build up reserves and keep cuts that were already made        |
| April Chandler     | Conditions at Caravelle Park                                                                                                                                               |
| Dorothy West       | Conditions at Caravelle Park                                                                                                                                               |
| Ton Wiatr          | Issues at Hyde Park Golf Course                                                                                                                                            |
| Charles Knoll      | Conditions at Caravelle Park; Buffalo Ave. work progressing but businesses are losing walk in traffic; Administration & Council should work together to spend Casino funds |
| Gary Arico         | Issues at Hyde Park Golf Course; compliments to Dave James, worker at the Golf Course                                                                                      |
| Robert Ventry      | spend more money for road & sidewalk repairs & tree trimming                                                                                                               |

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #1  
CITY CLERK'S REPORT FOR THE MONTH OF MAY 2013  
THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

PUBLIC WORKS: TEMPORARY EQUIPMENT OPERATOR, FUNDING

Agenda Item #2

The Director of the Department of Public Works (DPW) advises that one of the City's Motor Equipment Operators is off work due to injury and that because of this individual being absent from work, it is difficult for needed tasks to be performed. The Director of DPW is requesting that a temporary Equipment Operator be brought on board to help facilitate the accomplishment of the various tasks that must be done. He is requesting the sum of \$9904.00, inclusive of FICA, for this purpose. Funding is available from A.1990.7630.0449.599 (City Council contingency).

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

PUBLIC WORKS: FORESTRY CREW, OVERTIME FUNDING

Agenda Item #3

The Director of DPW has become aware of trees in areas of the City that are badly in need of trimming/removal. This is in addition to trees in this condition that he is already aware of. The Director is recommending that the sum of \$4,166.00 inclusive of FICA, be made available for the DPW overtime line in order to accomplish trimming/removal as needed. Funding is available from A.1990.7630.0449.599 (City Council Contingency).

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

PUBLIC WORKS: ZIPPER MACHINE, OVERTIME, AMENDING

Agenda Item #4

During the City Council meeting held on May 28, 2013 the City Council approved the request of the Director of the Department of Public Works (DPW) to make the sum of \$21,530.00 (inclusive of FICA) available in the DPW overtime line in order for City crews to perform asphalt zipper machine work in various locations throughout the City. While this zipper machine work is important and ongoing, it has become apparent to the Director of DPW that other types of street improvements are necessary as well. Therefore, it is requested that the City Council amend its previous Resolution to reallocate the previously approved sum of \$21,530.00 (inclusive of FICA) as follows:

- \$10,765.00 (inclusive of FICA), less any amounts expended between May 29, 2013 and June 24, 2013 to the DPW overtime line for City crews to perform asphalt zipper machine work in various locations throughout the City.
- \$10,765.00 (inclusive of FICA) to the DPW overtime line in order for City crews to perform other street repair work as directed by the Director.

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 DEPARTMENT: POLICE ACADEMY AT NIAGARA UNIVERSITY

Agenda Item #5

The NFPD and the Niagara County Sheriff's Office have collaborated on the operation of a police academy for newly hired Sheriff's Deputies and Niagara Falls Police Officers as well as others. The academy has recently relocated to Niagara University. It is desirable to enter into an agreement with the University and the Sherriff's Office that governs the terms and conditions of the Academy's operation at Niagara University. This will be at no cost to the City.

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

CONTRACT: SCHOOL DISTRICT, LEASING OF CERTAIN VACANT LOTS

Agenda Item #6

The School District is the record owner of the above referenced vacant lots. My understanding is that these vacant lots have been maintained by the City and utilized for park/playground purposes. The School District is now desirous of memorializing the City's utilization of these lots in writing and transferring these lots to the City if a voter referendum is successful. The District is proposing to lease these vacant lots to the City for nominal consideration and then including them in a proposition at an upcoming referendum to transfer these lots to the City for no consideration. Attached is an aerial photograph of these lots. The Planning Board has reviewed this matter and recommends this proposal to the City Council. Attached hereto (on file in the City Clerk's Office) is a copy of that recommendation.

Will the Council so approve and authorize the Mayor to execute a lease agreement in form satisfactory to the Corporation Counsel and also authorize the City to accept this conveyance from the School District?

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

|                                                            |   |
|------------------------------------------------------------|---|
| Yeas                                                       | 4 |
| Anderson, Grandinetti, Walker, Council Chairman Choolokian |   |
| Nays                                                       | 0 |
| Abstain                                                    | 1 |
| Fruscione                                                  |   |

APPROVED

CITY PROPERTY: 8351 NIAGARA FALLS BLVD., PATIO ENCROACHMENT

Agenda Item #7

The City has received a communication from the owner of a business at 8351 Niagara Falls Boulevard to use a portion of the City right-of-way for a patio for outdoor dining. The Planning Board has reviewed this and has made a positive recommendation to the City Council, a copy of which is attached hereto (on file in the City Clerk's Office). The Planning Board will be finalizing the site plan with the owner. The owner must comply with the following conditions:

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 the patio encroachment
3. The City can revoke the license for the encroachment on sixty (60) days' written notice
4. The owner must apply for and be issued 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 in the right-of-way and to ensure that no damage occurs to the City's right-of-way.

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/PROFESSIONAL ASSOCIATION: APPLE CRATE PLANTER  
BOXES AT VARIOUS LOCATIONS

Agenda Item #8

Attached hereto (on file in the City Clerk's Office) is a copy of a request from the Main Street Business and Professional Association for permission to place apple crate planter boxes at various locations in the Main Street right-of-way. Attached is a map showing the various locations. The Planning Board has reviewed this matter and has made a positive recommendation to the City Council, a copy of which is attached hereto. Any approval will be subject to the following conditions:

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 these encroachments.
3. The City can revoke the license for the encroachments on sixty (60) days' written notice.
4. The owner must apply for and be issued all applicable permits and inspections.
5. The owner will in all respects maintain these apple crate planter boxes.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: LEGENDS PARK, LEASE AGREEMENT WITH SCHOOL DISTRICT FOR PARCEL  
WITH BUILDING

Agenda Item #9

The City recently engaged in a real estate exchange with the School District. At that time, the School District excluded from its conveyance a parcel of real estate 56.56 feet by 58.24 feet upon which is constructed a small brick building. Attached is a copy of a portion of a survey showing this parcel. The District now wishes to make this parcel with the building available to the City. The City has a use for this parcel to support Legends Park with comfort stations and a concession stand. The School District proposes to lease this parcel to the City for nominal consideration and then include the parcel on an upcoming referendum to convey the parcel to the City for no consideration. The Planning Board has reviewed this matter and recommends this proposal to the City Council. Attached hereto (on file in the City Clerk's Office) is a copy of that recommendation.

Will the Council so approve and authorize the Mayor to execute a lease agreement in form satisfactory to the Corporation Counsel and also authorize the City to accept this conveyance from the School District?

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

Yeas

4

Anderson, Grandinetti, Walker, Chairman Choolokian

Nays

0

Abstain

1

Fruscione

APPROVED

PURCHASE: OILS & LUBRICANTS, NOCO ENERGY CORPORATION & SUPERIOR LUBRICANTS CO., INC.

Agenda Item #10

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

TO: NOCO Energy Corporation  
2440 Sheridan Drive  
Tonawanda, NY 14150

FOR: Items: 1, 2, 3, 11 and 12 per the attached tally sheet.

TO: Superior Lubricants Co., Inc.  
32 Ward Road

North Tonawanda, NY 14120

FOR: Items: 4, 5, 6, 7, 8, 9 and 10 per the attached tally sheet.

The City Purchasing Division 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. Two (2) 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 these expenditures are available in the Central Garage code: MV0055.0000.0414.000.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: BOARDING UP VARIOUS DILAPIDATED/FIRE DAMAGED BLDG., SANTO CANDELLA CONST. CO., INC.

Agenda Item #11

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

TO: Santo Candella Const. Co., Inc.  
118 74<sup>th</sup> 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: \$1.43/sq. ft.

The City Purchasing Division 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 (\$1.46/sq. ft.).

Funds for this expenditure are available in the Department of Code Enforcement code: H0910.2009.0910.0449.599.

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

Yeas

5

Nays

0

APPROVED

PUBLIC WORKS: CITY PAVING PLAN, TRANSFER OF FUNDS

Agenda Item #12

In an effort to continue the City paving plan it is requested that the sum of \$760,000.00 be transferred into the DPW milling and overlay budget line. The purpose of this is to facilitate the second round of City street paving during the paving season. The source of funds is the 2009 local share of Casino revenue pursuant to the 2010 spending plan. The total spending plan is \$1.5 million. There is presently \$740,000.00 remaining in the milling and overlay budget line. The only amount needed at this time is \$760,000.00.

This request is contingent upon the City's receipt of Casino revenues pursuant to the recently announced resolution of the dispute between the State of New York and the Seneca Nation of Indians.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: LEWISTON RD. RECONSTRUCTION, ADDITIONAL CORRECTIVE ACTION MEASURES, ACCADIA SITE CONTRACTING, INC., CHANGE ORDER #2

Agenda Item #13

A contract for the above-referenced project was awarded to Accadia Site Contracting, Inc. on October 1, 2012 in the amount of \$4,359,854.00.

As the Council has been informed, by both the Administration and the Contractor, the need for additional remedial tasks has manifested itself throughout the reconstruction of Lewiston Road. These existing deficiencies have been investigated by consultants and testing agencies retained on behalf of, and by, the City and the Contractor, and a corrective action plan has been developed that has also involved the State's Department of Transportation. The plan developed addresses, to the satisfaction of all parties, the improper slopes, pavement joints and material failures. The cost associated with these remedial tasks is \$204,340.00, bringing the new construction contract total to \$4,694,194.00 and is available from H0421.2001.0421.0449.599.

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

Chairman Choolokian said he's happy to make the road conditions right & he hopes this is the last Change Order for Lewiston Road

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

Agenda Item #14

Notice of Mayor's Approval of Resolution 2013-27, relative to Adopting Chapter 737 of the Codified Ordinances entitled "Property and Building Nuisance Reform"

THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY ASSESSOR

HOMESTEAD/NON HOMESTEAD ASSESSMENT ROLL

Agenda Item #15

Listed below are the taxable totals of the General Assessment Roll for the City of Niagara Falls, New York, as now constituted and completed by the Board of Assessment Review for the year 2013 and will be filed with the City Clerk on July 1, 2013.

Also, attached (on file in the City Clerk's Office), please find the exemption summary for the 2013 roll.

|                              |                 |
|------------------------------|-----------------|
| Total Taxable Assessed Value | \$1,292,390,466 |
|------------------------------|-----------------|

|               |                    |
|---------------|--------------------|
| Homestead     | \$874,120,819      |
| Non-Homestead | <u>418,269,647</u> |

|       |                 |
|-------|-----------------|
| Total | \$1,292,390,466 |
|-------|-----------------|

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: RECREATION AND YOUTH SERVICES, AUTHORIZATION FOR PROJECT APPLICATION FOR STATE AID, 2013-28

BY: ALL COUNCIL MEMBERS

Agenda Item 16

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

CONTRACT: WALNUT AVE. FIREHALL, ROOF REPLACEMENT/MASONRY REPAIRS, JOSEPH A. SANDERS & SONS, INC.

Agenda Item #17

The following was the result of bids received on June 17, 2013, for the above referenced project:

| <u>CONTRACTOR</u>              | <u>BASE BID</u> |
|--------------------------------|-----------------|
| Joseph A. Sanders & Sons, Inc. | \$ 185,181.67   |
| 107 Lathrop St.                |                 |
| Buffalo, NY 14240              |                 |

|                                    |               |
|------------------------------------|---------------|
| Sicoli Construction Services, Inc. | \$ 219,552.00 |
|------------------------------------|---------------|

|                          |               |
|--------------------------|---------------|
| Rand & Jones Enterprises | \$ 260,391.50 |
|--------------------------|---------------|

It is the recommendation of the undersigned that this project be awarded to the low bidder Joseph A. Sanders & Sons, Inc., at their Base Bid of \$185,181.67. Funding will be achieved through a combination of codes H0827.2008.0827.0449.599 and H0912.2009.0912.0449.599.

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

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 7:05 P.M.

Carol A. Antonucci  
City Clerk  
06/24/2013



JULY 8, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

---

The first session of the July 8, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:03 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, City Administrator Donna D. Owens, Corporation Counsel Craig H. Johnson and City Controller Maria Brown.

Council Member Grandinetti moved to approve the Minutes from the City Council Meeting of June 24, 2013.

Yeas

5

Nays

0

APPROVED

Randy Shepard of the Bonadio Group spoke on the Audit of the City's Financials for 2012, and said that the Audit went very well and thanked City Controller Maria Brown and her staff for their help.

Representatives of Wireless Controls gave a presentation on their company's products to control energy costs. Chairman Choolokian asked about up-front costs for the City, and guaranteed cost savings; Council Member Grandinetti inquired about available National Grid incentives; and Mrs. Brown inquired about working within the City's agreement with the New York Power Authority.

In the Administrative Update:

1. Public Works Director David Kinney spoke on the work to be done at Legends Park on the existing track and the installation of a water fountain. He also added that Caravelle Park would be a new park with all the work that was scheduled to be done, and he hoped to have the work completed this summer. He also added these Projects are being done in-house by three Departments, in addition to doing their regular work.

2. Mr. Kinney said that the medians on John Daly Boulevard and Niagara Street are being cleaned up by City workers on overtime since he has no extra help for the downtown area, and the Community Development Department has given \$2,500 toward this effort. Council Member Walker asked Mr. Kinney to include a line in the 2014 Budget for this work for the Council's consideration.

3. Civil Engineer Robert Buzzelli said that there is a 28 day time frame for the concrete to "cure" for the Pine Avenue/Como traffic light, and then the other side of the street will need the same.

Corporation Counsel Craig Johnson explained amendments to two Agenda Items and distributed copies of an Item to be added to the Agenda:

1. An amendment to Agenda Item #10 relative to funding for improvements to Caravelle Park by adjusting the figure for FICA.

Council Member Fruscione moved to amend the Item.

Yeas

5

Nays

0

MOTION TO AMEND APPROVED

2. An amendment to Agenda Item #11 relative to funding for Phase 2 Improvements to Legends Park.

Council Member Fruscione moved to amend the Item.

Yeas

5

Nays

0

MOTION TO AMEND APPROVED

3. A communication relative to approval of a Letter of Award for lighting and interior renovations at the Stone Comfort Building at the Hyde Park Ice Rink.

Council Member Fruscione moved to add the communication to the Agenda.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #27.

Chairman Choolokian had a prepared list of questions on Agenda Item #12 regarding the proposed development agreement with Hamister Development, and Chris Schoepflin of USA Niagara responded to the questions. Council Member Grandinetti said that the parcel represents the City's cash contribution to the Project, and Chairman Choolokian added that the property is worth more than \$100,000, so the City is making a significant contribution to the Project.

Council Member Walker questioned Agenda Item #25 relative to the Veterans Memorial Site, and Council Member Anderson responded that this is a military project with no civilian involvement, so Council action would protect the City's interests in the Project.

This Session ended at 6:07 PM

Chairman Choolokian reconvened the Meeting at 6:28 P.M. in the Council Chambers with all Council Members present. The Prayer was said by Council Member Fruscione 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 #12                              |
| Rick Crogan          | Agenda Item #12                              |
| April Chandler       | Agenda Item #10                              |
| Andy Touma           | Agenda Item #12                              |
| Henry Krawczyk       | Against out of town developers               |
| Paul Gromosiak       | Devil's Hole Massacre/History of Seneca's    |
| Ron Anderluh         | Compliments for Music & Arts Festival at no  |
|                      | Cost to City; great to see people using Gill |
|                      | Creek Park                                   |
| Rick Crogan          | Has received many compliments on Music/Arts  |
|                      | Festival                                     |
| Doug Brown           | Against closing down Falls St. for events    |
| Sister Barbara Pfohl | Compliments to Council Members; Mayor &      |
|                      | Administrator should be present at Council   |
|                      | meetings                                     |
| Amy Witryol          | Incentives for Incinerator Project vs Hotel  |

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

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

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: BUFFALO AVE. RECONSTRUCTION, CATCO, CHANGE ORDER #3

Agenda Item #2

A contract for the above referenced project was awarded to CATCO on May 29, 2012 in the amount of \$9,979,999.00.

As the project continues, additional groundwater handling and disposal costs continue to amass, and are typically paid for on a quarterly basis. The cost associated with groundwater disposal this quarter (ending June 30, 2013) is \$225,000.00.

Additionally, as we transition away from sub-surface construction-utilities and related deeper excavation installation-and toward roadbed and paving preparations, ancillary costs by the contractor during the utility phases of the project can be processed and compensated. Those ancillary costs result primarily from extra-depth excavations required during sewer installations, additional traffic control measures requested by both the New York State Department of Transportation and the City, and encountering underground piping, conduit and structures pre-dating municipal records. The total for the incidental work to date is \$75,200.00, bringing the total extra work to be paid for via this change order to \$300,200.00.

However, sufficient funding currently exists in 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 Walker moved that the communication be received and filed and the recommendation approved.

Yeas

5

Nays

0

APPROVED

CONTRACT: LEWISTON RD. RECONSTRUCTION, ACCADIA SITE CONTRACTING, INC., CHANGE ORDER #3

Agenda Item #3

A contract for the above-referenced project was awarded to Accadia Site Contracting, Inc. on October 1, 2012 in the amount of \$4,359,854.00.

Subsequent to the start of the project, the contractor has encountered several instances of extra work/installation of extra materials as a result of existing underground conditions. These extra tasks, consisting primarily of poor subbase removal and granular fill installation, are outside or above the contractor's original scope of work. However, existing contractual quantity underruns on item's like decorative concrete and curb margin restoration will allow the quantity overruns at approximately \$337,300.00, to be paid with no increase to the contract total.

Please note that this quantity adjustment will allow the City to maximize the funding available at this time and will help minimize the size of Supplemental Agreements we will need to pursue upon project completion.

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: 555 39<sup>TH</sup> ST. (FORMER 39<sup>TH</sup> ST. SCHOOL), REMEDIATION/DEMOLITION, REGIONAL ENVIRONMENTAL DEMOLITION, INC.

Agenda Item #4

In December of 2011, the Niagara County Brownfield Development Corporation (NCBD) awarded funding, with no City funds required, to the City of Niagara Falls for asbestos abatement, remediation, and as necessary, demolition of the former 39<sup>th</sup> Street school (555 39<sup>th</sup> St). The City Council approved acceptance of the grant on January 9, 2012.

The following is the result of bids received on June 28, 2013 for the above referenced project:

| <u>CONTRACTOR</u>                                                               | <u>BASE BID</u> | <u>ALTERNATE 1</u> | <u>ALTERNATE 2</u> |
|---------------------------------------------------------------------------------|-----------------|--------------------|--------------------|
| Regional Environmental Demo. Inc<br>3695 Pine Avenue<br>Niagara Falls, NY 14301 | \$94,222.00     | \$114,222.00       | \$18,000.00        |
| Mark Cerrone, Inc                                                               | \$166,000.00    | \$258,900.00       | \$28,000.00        |
| Apollo Dismantling Services, LLC                                                | \$216,024.00    | \$282,000.00       | \$12,000.00        |
| Empire Dismantlement Corp                                                       | \$226,000.00    | \$187,000.00       | \$17,000.00        |
| Niagara Environmental/Wrecking, Inc                                             | \$230,000.00    | \$130,000.00       | \$9,950.00         |
| Metro Contracting/Environmental, Inc                                            | \$519,000.00    | \$645,000.00       | \$33,000.00        |

It is the recommendation of the undersigned that this contract be awarded to the low bidder, Regional Environmental Demolition, Inc. in the amount of \$226,444.00 (total of base bid plus alternate tasks) to bring the site to shovel-ready status. Funds for the base bid and Alternate 2 are available directly from the NCBD, with no funds required from the City. Alternate task 1 is awarded contingent upon receipt of additional funds from USEPA through the NCBD.

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

FIRE DEPARTMENT: TURN OUT GEAR, FUNDING

Agenda Item #5

The Fire Chief has advised that he has very little money left in his budget line to purchase turn out gear and related equipment. He advises that it is necessary to purchase turn out gear for new recruits as well as replace some gear for existing fire fighters. The Fire Chief advises that the sum of \$30,000.00 is needed for this purpose. Funding is authorized from budget transfer expense TR.9901.0000.0900.A.

Will the Council so approve?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

DPW: OPERATING ENGINEER, TEMPORARY

Agenda Item #6

During the City Council meeting held on June 24, 2013 the Council approved a request from the Director of the Department of Public Work (DPW) to hire a Temporary Equipment Operator to help facilitate the accomplishment of various tasks. The request to hire a Temporary Equipment Operator was erroneous. This should have been a request to hire a Temporary Operating Engineer. There is no change in dollars.

Will the Council amend its action to allow the hiring of a Temporary Operating Engineer rather than a Temporary Equipment Operator?

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

|      |   |
|------|---|
| Yeas | 5 |
|------|---|

Nays

0  
APPROVED

DPW: STREET OPENINGS, FUNDING

Agenda Item #7

The Director of the Department of Public Works (DPW) is requesting that the sum of \$30,000.00 be transferred into the Department's street opening line. The purpose for this is to pay for zipper machine paving materials and patching materials. Funding for this is available from account code A.1990.7630.0449.599 and should be transferred into the DPW street opening budget line A.5110.0200.0419.013.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: NTCC, EXTENSION OF AGREEMENT

Agenda Item #8

The New York State Tax Law authorizes the City to adopt a local law to impose a per diem tax on each hotel room rented in the City. On December 12, 1991 the City did in fact adopt such a local law implementing this "bed tax," and pursuant to law, the tax was established at the rate of four percent (4%) per day. The State Law was subsequently amended to allow the City to enact a local law imposing the bed tax to be five percent (5%) per day on each room rented in the City. The City subsequently amended its local law on August 15, 2006 to increase the bed tax to five percent (5%) per day.

Section 1202-1 of the New York State Tax Law, as amended, reads "from the first four percent (4%), eighty percent (80%) of such revenue from this tax shall be allocated and paid to a not-for-profit corporation under contract with the County for the promotion of tourism in the County." The NTCC entered into a contract with Niagara County for the promotion of tourism in the County. On or about June 1, 2003, an agreement was entered into between the City and the NTCC which was for a ten year (10) term and described the services that NTCC would perform in exchange for its receipt from the City of these bed tax dollars. That agreement, a copy of which is attached, expired on May 31, 2013. The Agreement NTCC had with Niagara County also expired.

On or about June 18, 2013 the Niagara County Legislature voted to extend its Agreement with NTCC for a one (1) year period of time. That extended Agreement will expire on June 18, 2014. The NTCC is now requesting that its expired Agreement with the City be extended through June 18, 2014. Attached (on file in the City Clerk's Office) hereto is a copy of the proposed Extension Agreement.

Will the Council so approve and authorize the Mayor to execute the Extension Agreement?

Council Member Fruscione moved to table the communication.

Yeas

3

Anderson, Fruscione, Chairman Choolokian

Nays

2

Grandinetti, Walker

TABLED

POLICE DEPT.: OPERATION IMPACT, GRANT

Agenda Item #9

The Niagara Falls Police Department has received an award from the State of New York for \$317,800 for Operation IMPACT during July 1, 2013 through June 30, 2014.

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

5

Nays

0

APPROVED

DPW: CARAVELLE DRIVE PARK/PLAYGROUND IMPROVEMENTS, FUNDING

Agenda Item #10

The Director of the Department of Public Works advises that it is necessary and desirable to make improvements to the park/playground located on Caravelle Drive, pursuant to the attached (on file in the City Clerk's Office) "Caravelle Park Playground Build Proposal." The materials and equipment needed for these improvements are anticipated to cost approximately \$54,245.00. There is \$64,776.00 available from a Parks Improvement Bond to pay for these materials and equipment, (funding code H0622.) The labor (on an overtime basis) to make these improvements is estimated to cost \$24,162.00 plus FICA in the amount of \$1,848.00 for a total of \$26,010.00. Funding for this is available from account number A.1990.7630.0449.599.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

DPW: LEGENDS PARK, PHASE 2 IMPROVEMENTS, FUNDING

Agenda Item #11

The Director of the Department of Public Works is recommending that Phase 2 improvements be made to Legends Park. These improvements will include the installation of a new asphalt running/walking track as well as the installation of an ADA compliant drinking fountain and four (4) benches. The materials and equipment needed for these improvements are anticipated to cost approximately \$28,407.00. \$10,531.00 is available to fund this from code H0622 and the balance of \$17,876.00 is available from account number A.1990.7630.0449.599. The labor (on an overtime basis) to make these improvements is estimated to cost \$28,140.00 plus FICA in the amount of \$2,152.00 for a total of \$30,292.00. Funding for this is available from account number A.1990.7630.0449.599.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

Agenda Item #12

The City owns certain real property located in the City of Niagara Falls, New York consisting of a parcel approximately 0.88 acre in size commonly known as 310 Rainbow Boulevard, Tax Parcel No. 158.12-1-4.111, more particularly described in Exhibit "A" attached hereto (on file in the City Clerk's Office) (the "Property").

The Property is located within the Downtown Development District established by USA Niagara Development Corporation, a subsidiary of New York State Urban Development Corporation (UDC"), d/b/a Empire State Development ("ESD"), a New York public benefit corporation ("USAN").

By the terms of a Development Agreement dated November 30, 2011 by and among Niagara County Community College, USAN, and the City (the "2011 Development Agreement"), the City granted USAN exclusive development rights with respect to the Property on the terms and conditions specified in the 2011 Development Agreement.

In accordance with the 2011 Development Agreement, USAN issued a Request for Proposal dated October 5<sup>th</sup>, 2011 (the "Request for Proposal") seeking proposals for development of the Property.

In response to USAN's Request for Proposal, Hamister Development Company, LLC, a Delaware limited liability company (the "Developer") submitted to USAN its proposal dated December 9, 2011 (as thereafter amended, the "Response to Request for Proposal") to serve as designated developer of the Property.

In its Response to Request for Proposal, the Developer proposed developing the Property with a mixed-use project that would include, among other things, a 100-room hotel, 24 apartment units, and street-level space.

USAN selected the Developer as its designated developer for the Property, subject to certain terms and conditions.

On or about December 21, 2012, ESD, through its subsidiary, USAN, notified the City of Niagara Falls City Council and Planning Board and numerous additional involved and interested agencies of USAN's intent to serve as lead agency for the environmental review process to be carried out under the New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations (6 NYCRR Part 617) in connection with a private development of an approximately 119,00 square-foot mixed-use complex at the Property including a 100-room upscale grade hotel; 24 market-rate apartments, 5,000 square feet of street level retail/food-and-beverage uses; and a 10,000 square foot ball room facility (the "General Development Plan").

USAN received no objections to its proposal to serve as SEQRA lead agency and therefore was so designated, and has classified the General Development Plan as a Type 1 action under the implementing regulations for SEQRA.

The City and USAN are currently negotiating a development agreement (the "Proposed Development Agreement") with the Developer pursuant to which the City would sell the Property to the Developer (or its subsidiary or affiliate) for purposes of the General Development Plan, as modified to increase the street level retail/food-and-beverage space from 5,000 square feet to a maximum of 8,000 square feet (such proposal, as may be amended from time to time, hereinafter referred to as the "Project"); and USAN would provide development incentives, on the terms and conditions outlined in the term sheet attached (on file in the City Clerk's Office) as Exhibit "B" (the "Term Sheet").

USAN has undertaken a detailed review of the potential environmental impacts of the Project through the preparation of a full Environmental Assessment Form and consideration of other relevant facts and circumstances.

USAN has concluded that the minimal impacts identified in connection with the Project are not significant in magnitude or effect, consisting primarily of short-term effects related to the proposed construction activities, and that the impacts that are likely to occur as a result of the Project appear, on the whole, to be beneficial and not significant in magnitude or effect, and will not, either individually or collectively, have a significant impact on the environment.

On or about July 8, 2013, USAN therefore determined that the undertaking of the Project will not constitute an action significantly adversely affecting the quality of the environment and duly adopted a SEQRA Negative Declaration for the Project. USAN's full Environmental Assessment Form and Negative Declaration are incorporated herein by reference in their entirety.

Article IV, #59 of the City Charter authorizes direct sales of City-owned real property when the City Council determines, by majority vote, that the best interests of the City will be subserved by such sale.

The best interests of the City will be subserved by this Project because the Project: (a) is a significant multimillion dollar mixed use building that will be constructed on City-owned real estate that is now used primarily as a parking lot, (b) will increase the City's tax base, (c) will provide hotel rooms for use by visitors to the City, (d) will provide apartments for people to live, (e) will provide space for retail businesses to occupy, and (f) will provide numerous jobs during construction as well as permanent jobs after the Project has been completed.

Article XVIII, #504 (6) of the City Charter requires proposed dispositions of City-owned real property to be referred to the City Planning Board for a report and recommendation to the City Council.

The City Planning Board reviewed the proposed sale of the Property at a meeting held on June 26, 2013, and issued its report and recommendation to the City Council, a copy of which is attached (on file in the City Clerk's Office) hereto as Exhibit "C" pursuant to which the Planning Board recommended that the proposed sale of the Property to the Developer be approved by the City Council.

Based on the foregoing, it is requested that the City Council adopt the following resolutions, and that the statements set forth above be incorporated in their entirety as findings of fact upon which the resolutions are adopted by the City Council:

RESOLVED, that the City Council hereby adopts USAN's Negative Declaration for the Project; and it is further  
RESOLVED, that the City of Niagara Falls Planning Board and the City Council have concluded that the Project at issue in the attached (on file in the City Clerk's Office) Time Sheet is consistent with the scope and intent of the General Project Plan; and it is further  
RESOLVED, that the Mayor and/or Corporation Counsel be and they each hereby are authorized and directed to negotiate the Proposed Development Agreement providing for the sale of the Property to the Developer for development and construction of the Project, at a purchase price of \$100,000, pursuant to the terms, covenants, Conditions and provisions outlined in the attached (on file in the City Clerk's Office); and it is further  
RESOLVED, and that the Proposed Development Agreement may contain such other terms and conditions as the Mayor and Corporation Counsel deem appropriate, and may thereafter be amended from time to time; provided, however, that the purchase price of the Property specified in such Proposed Development Agreement and in any such amendments shall not be less than \$100,000 payable in cash to the City at closing, and provided that the Proposed Development Agreement and any such amendments include a right of reverter in favor of the City (as described in the Term Sheet) in the event the Developer fails to complete the Project; and it is further

RESOLVED, that, upon the completion of such negotiations, the Mayor is authorized and directed to execute, in the name of and on behalf of the City, the Development Agreement for the sale of the Property to the Developer (or its subsidiary or affiliate) containing terms and conditions consistent with these Resolutions, and to exercise all rights and perform all obligations of the City thereunder, including, without limitation, the execution of a proper deed of conveyance and all other documentation required for consummation of the proposed sale of the Property to the Developer (or its subsidiary or affiliate) at the price and on the other terms and conditions described in these resolutions, and it is further

RESOLVED, that, in addition to and without limiting the generality of the foregoing resolutions concerning the negotiation of the Proposed Development Agreement and the proposed sale of the Property and matters related thereto, the Mayor and Corporation Counsel of the City be, and each of them hereby is, authorized and directed to take such further action in connection with said transactions and to execute and deliver such instruments and documents as either of them deems appropriate to carry out the foregoing resolutions, and it is further

RESOLVED, that the adoption of these resolutions shall satisfy any conditions or requirement contained in the City Charter or elsewhere for approval of the Proposed Development Agreement and/or the proposed sale of the Property to the Developer (or its subsidiary or affiliate), and that no further approval by the City Council of the fully signed Development Agreement shall be required to authorize the Mayor and/or Corporation Counsel for the City to consummate the transactions contemplated by these resolutions; and it is further

RESOLVED, that notwithstanding anything to the contrary contained in these resolutions, these resolutions shall not constitute a binding offer, agreement, contract, or commitment of any kind whatsoever, and the City shall not be contractually obligated to enter into the Proposed Development Agreement or to sell the Property to the Developer (or its subsidiary or affiliate) unless and until the terms of the Proposed Development Agreement have been fully negotiated and the Proposed Development Agreement has been executed on behalf of the City by the Mayor.

Council Member Fruscione moved to table the communication

Yeas 3

Anderson, Fruscione, Council Chairman Choolokian

Nays 2

Grandinetti, Walker

TABLED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CLAIM: MILLER, SHAWN P.

Agenda Item #13

|                        |                                                           |
|------------------------|-----------------------------------------------------------|
| Date Claim Filed:      | January 4, 2013                                           |
| Date Action Commenced: | N/A                                                       |
| Date of Occurrence:    | December 29, 2012                                         |
| Location:              | Niagara Falls Blvd and 98 <sup>th</sup> Street            |
| Nature of Claim:       | Property damage to vehicle from accident with City plows  |
| City Driver:           | N/A                                                       |
| Status of Action:      | Claim stage.                                              |
| Recommendation/Reason: | Best interests of City to pay claim.                      |
| Amount to be Paid:     | \$1042.12                                                 |
| Make Check Payable to: | Shawn P. Miller                                           |
| 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 Fruscione moved that the communication be received and filed and the recommendation approved.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

CLAIM: EVANS, MICHAEL W.

Agenda Item #14

|                        |                                                           |
|------------------------|-----------------------------------------------------------|
| Date Claim Filed:      | April 12, 2013                                            |
| Date Action Commenced: | N/A                                                       |
| Date of Occurrence:    | January 20, 2013                                          |
| Location:              | 702 Vanderbilt Avenue                                     |
| Nature of Claim:       | Portion of City-owned tree fell onto house.               |
| Status of Action:      | Claim stage.                                              |
| Recommendation/Reason: | Best interests of City to pay.                            |
| Amount to be Paid:     | \$1,125.00                                                |
| Make Check Payable to: | Michael W. Evans                                          |
| 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 Fruscione 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

CALUMET AVENUE & DIAMOND PARK LANE, INSTALL ALL WAY STOP SIGNS

Agenda Item #15

At the Traffic Advisory Commission meeting held on June 26, 2013 the Commission recommended APPROVAL of the following item as amended:

INSTALL ALL WAY STOP SIGNS AT THE INTERSECTION OF CALUMET AVENUE AND DIAMOND PARK LANE

Although this intersection falls far short of MUTCD warrants for the placement of All Way Stop Signs, Calumet Avenue runs just over ¼ of a mile from end to end of the new Hope VI Housing Project without a Stop Sign. This will establish a safer traffic pattern by stopping traffic once at the mid point (Diamond Park Lane) of this uncontrolled stretch.

A similar request for All Way Stop Signs at the intersection of Greenview Terrace and Calumet Avenue was denied as this intersection also falls far short of the MUTCD warrants for the placement of All Way Stop Signs and is very close (within 150') of the previously approved intersection.

Submitted By: Kim Kuebler, Property Manager, Center Court Homes,  
1710 Calumet Avenue

It is requested that City Council approve this recommendation.

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

Yeas

5

Nays

0

APPROVED

THORNDALE AVENUE, RESCIND ALTERNATE OVERNIGHT PARKING BETWEEN LEWISTON ROAD AND TERRACE DRIVE

Agenda Item #16

At a Traffic Advisory Commission meeting held on June 26, 2013 the Commission recommended APPROVAL of the following item:

RESCIND ALTERNATE OVERNIGHT PARKING ON THORNDALE AVENUE BETWEEN LEWISTON ROAD AND TERRACE DRIVE

A Petition from the residents of this block was received with 100% signatures.

Submitted By: Gerald Grose, 1318 Thorndale Avenue and  
Petition/Residents of Block

It is requested that City Council approve this recommendation.

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

Yeas

5

Nays

0

APPROVED

27<sup>TH</sup> STREET, INSTALL ALTERNATE OVERNIGHT PARKING BETWEEN LASALLE AVENUE  
& WOODLAWN AVENUE

Agenda Item #17

At a Traffic Advisory Commission meeting held on June 26, 2013 the  
Commission recommended APPROVAL of the following item:

INSTALL ALTERNATE OVERNIGHT PARKING ON 27<sup>TH</sup> STREET BETWEEN  
LASALLE AVENUE & WOODLAWN AVENUE

A Petition from the residents of this block was received with 75%  
signatures.

Submitted By: Maryann Taibi, 2498 Woodlawn Avenue and  
Petition/Residents of Block

It is requested that City Council approve this recommendation.

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

1825 PINE AVENUE, INSTALL A 30' LOADING ZONE

Agenda Item #18

At the Traffic Advisory Commission meeting held on June 26, 2013 the  
Commission recommended APPROVAL of the following item:

INSTALL A 30' LOADING ZONE (9A.M. - 9P.M.) ON THE 19<sup>TH</sup> STREET  
SIDE OF 1825 PINE AVENUE

Request was made to facilitate a place for clientele to have in and out  
service and delivery vehicles to load/unload on the 19<sup>th</sup> Street side of  
1825 Pine Avenue.

Submitted By: Yousef Omar, Owner, NYC Apparel & Wireless, 1825 Pine  
Avenue

It is requested that City Council approve this recommendation.

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

2215 LASALLE AVENUE, INSTALL 5' HANDICAPPED ACCESS SPACE

Agenda Item #19

At the Traffic Advisory Commission meeting held on June 26, 2013 the  
Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE  
IN FRONT OF 2215 LASALLE AVENUE

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

Submitted By: Shirlee Snyder, 2215 LaSalle Avenue

It is requested that City Council approve this recommendation.

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

|      |          |
|------|----------|
| Yeas | 5        |
| Nays | 0        |
|      | APPROVED |

2023 LASALLE AVENUE, INSTALL 5' HANDICAPPED ACCESS SPACE

Agenda Item #20

At the Traffic Advisory Commission meeting held on June 26, 2013 the Commission recommended APPROVAL of the following item:

INSTALL A 5' HANDICAPPED ACCESS SPACE  
IN FRONT OF 2023 LASALLE AVENUE

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

Submitted By: Frederick Fields, 2023 LaSalle 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

1522 MAIN STREET, INSTALL 30' LOADING ZONE

Agenda Item #21

At the Traffic Advisory Commission meeting held on June 26, 2013 the Commission recommended APPROVAL of the following item:

INSTALL A 30' LOADING ZONE (8A.M. - 5P.M.) IN FRONT OF 1522 MAIN  
STREET

Request was made to facilitate a place for clientele and handicapped  
individuals to have in and out service in front of 1522 Main Street.

Submitted By: Vickie Shank, Family & Children's Service of Niagara,  
1522 Main Street

It is requested that City Council approve this recommendation.

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

Yeas

5

Nays

0

APPROVED

2001 MAIN STREET, REMOVE "NO STANDING ANYTIME" RESTRICTION AND ALLOW AN  
ADDITIONAL 72' OF TWO HOUR PARKING

Agenda Item #22

At the Traffic Advisory Commission meeting held on June 26, 2013 the Commission recommended APPROVAL of the following item:

REMOVE "NO STANDING ANYTIME" RESTRICTION AND ALLOW AN  
ADDITIONAL 72' OF TWO HOUR (8A.M. - 6P.M.) PARKING IN FRONT OF  
2001 MAIN STREET (FORMER ARBY'S BUILDING JUST NORTH OF CLEVELAND  
AVENUE)

Request was made to allow additional needed parking spaces in the 2000  
block of Main Street.

Submitted By: Laurie Davis, Main Street Business & Professional  
Association, 1824 Main Street

It is requested that City Council approve this recommendation.

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

Yeas  
Nays

5  
0  
APPROVED

1925 MAIN STREET, STRIPE A CROSSWALK

Agenda Item #23

At the Traffic Advisory Commission meeting held on June 26, 2013, the Commission:

DENIED:

1) Request submitted by Laurie Davis, Main Street Business & Professional Association, 1824 Main Street to STRIPE A CROSSWALK, ACROSS MAIN STREET, AT LINCOLN PLACE IN FRONT OF 1925 MAIN STREET (CITY OF NIAGARA FALLS MUNICIPAL BUILDING). This would be a mid block crossing, with no handicapped sidewalks currently present and no funding available to hire a contractor to install them. In addition, per Niagara Falls Police Department Superintendent Dalporto, no problems have been encountered with pedestrians crossing here, with the main parking lot located in the rear of the building. Therefore, the Commission denied this request.

THIS ITEM WAS RECEIVED AND FILED

RESOLUTION: UNIFORM NOTICE OF CLAIM ACT, 2013-29  
BY: ALL COUNCIL MEMBERS

Agenda Item #24

WHEREAS, Governor Andrew Cuomo has recently signed the "Uniform Notice of Claim Act" into law, amending New York State's General Municipal Law to allow Notices of Claim against Cities and Villages to be served on the New York Secretary of State as Agent for New York's Public Corporations; and

WHEREAS, to effectuate this new method of service of Notice of Claims, the New York State Legislature has added General Municipal Law Section 53 which requires each City to file with the New York State Department of State a certificate that designates the New York Secretary of State as the local government's agent for service of Notices of Claims, provides the name and address of an officer, person or designee, nominee or other agent in fact to which the Secretary of State will forward any Notices of Claim, and provides the applicable time limit for filing a Notice of Claim on the City; and

WHEREAS, in order to comply with the requirements of General Municipal Law Section 53, this Council is asked to adopt a Resolution approving the designation and appointing the individual to whom the Secretary of State must mail Notices of Claim.

NOW THEREFORE BE IT RESOLVED, that the Council of the City of Niagara Falls, New York does hereby designate the New York Secretary of State as the City's Agent for service of Notices of Claim and provides that the Niagara Falls City Clerk, whose office is located at City Hall, 745 Main Street, Niagara Falls, New York 14302, as the City's Officer to which the Secretary of State will forward any Notices of Claim and further provides that the applicable time limit for filing a Notice of Claim on the City of Niagara Falls is the ninety (90) day limit provided for in General Municipal Law Section 50-e; and

BE IT FURTHER RESOLVED, that the Clerk of this Council is directed to file the Certificates of Designation of Notice of Claim as provided for and required by the New York Secretary of State.

Yeas  
Nays

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0  
ADOPTED

RESOLUTION: VETERANS MEMORIAL COMMISSION, INC., 2013-30  
BY: ALL COUNCIL MEMBERS

Agenda Item #25

WHEREAS, The Niagara Falls Veterans Memorial Commission, Inc. not-for-profit 501 c (3) organization was established to create and develop a Memorial in the City of Niagara Falls, New York to honor the memory of those brave men and women from the City of Niagara Falls, New York who gave their lives in defense of this great Country. And to honor all veterans who served honorably in the United States Military; and

WHEREAS, in keeping with the Niagara Falls City Council Resolution previously adopted and the responsibility associated with the development of the Memorial, The Commission has been appointed the entity responsible for all veterans events, parades, and special services in the City of Niagara Falls, New York to include but not limited to all other matters which involve the Memorial; and

WHEREAS, all civic activities not related to a military or veteran event, and in keeping with dignity and respect of the fallen warriors in whose honor this Monument was built, such civic organization prior to commencement of any activity in and around the Veterans Memorial as outlined in that tract of land (map on file in the City Clerk's Office) so designated in City Council Resolution 2009-54 and 2008-21, said organization will submit a written request to the Niagara Falls Veterans Memorial Commission, Inc. and obtain approval prior to commencement of the event; and

WHEREAS, the City of Niagara Falls, New York, Department of Public Works, and Parks Division will provide maintenance of grounds, and operational support to the Commission in the execution of their duties and responsibilities.

NOW, THEREFORE, BE IT RESOLVED, that the Niagara Falls City Council hereby designates the Niagara Falls Veterans Memorial Commission, Inc. not-for-profit, 501 c (3) organization as the administrator for the tract of land situated in Hyde Park and as outlined in previous Resolutions of the City of Niagara Falls, New York.

Yeas

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Nays

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ADOPTED

RESOLUTION: CSX RAILROAD, PROJECT TO PAINT THE PORTER AVENUE BRIDGE, 2013-31  
BY: ALL COUNCIL MEMBERS

Agenda Item #26

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 .

NOW, THEREFORE, the Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further

RESOLVED, that the 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 it is further

RESOLVED, that the sum of \$ 46,000 is hereby appropriated from H0912.9901.0000.0900 (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 2<sup>nd</sup>, 2011 and \$ 67,000 previously appropriated for the project's Construction & Construction Inspection phase, via City Resolution No. 2012-91 adopted on November 13<sup>th</sup>, 2012) and made available to cover the cost of participation in the above phases of the Project; and it is 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, \$ 128,000 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 \$ 577,000, 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 it is 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 it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

Yeas

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Nays

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ADOPTED

CONTRACT: HYDE PARK ICE RINK, STONE COMFORT BUILDING, LIGHTING/INTERIOR RENOVATIONS, WALTER S. JOHNSON BLDG. CO. INC.

Agenda Item #27

The following was the result of bids received on July 8, 2013 for the above referenced project:

| CONTRACTOR                                                                         | BASE BID     |
|------------------------------------------------------------------------------------|--------------|
| Walter S. Johnson Bldg. Co. Inc.<br>6638 Mooradian Drive<br>Niagara Falls NY 14304 | \$ 32,770.00 |
| Sicoli Construction, Inc.                                                          | \$ 43,700.00 |
| Spicer Croup                                                                       | \$ 58,132.00 |

It is the recommendation of the undersigned that this project be awarded to the low bidder Walter S. Johnson Building Co. Inc. at their base bid of \$27,770.00. Additionally the City has accepted an alternate for \$5,000.00 bringing the total to \$ 32,770.00. Funding is available in H1214.2012.1214.0449.599.

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

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

Yeas

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Nays

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APPROVED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 7:15 P.M.

Carol A. Antonucci  
City Clerk

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SEPTEMBER 3, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the September 3, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:03 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, 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 July 24, 2013.

Yeas

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Nays

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APPROVED

Corporation Counsel Craig Johnson gave an update on the Hamister Project. He said that he had met with Council Member Fruscione to discuss the Council Member's concerns on the Project, and he would follow up and brief the Council Chairman and other Council Members. Mr. Johnson also said that the City, USA Niagara and Hamister are all working diligently together on an agreement for the Project. Council Member Grandinetti asked what the time frame was for the agreement, and Mr. Johnson responded that he had hoped to bring the agreement to the Council for a vote at this Meeting, but was not able to do so. Council Member Anderson added that this was not an extraordinary amount of time to negotiate an agreement on a project, and asked about also including a Performance Bond in the agreement.

Chairman Choolokian said that he had received inquiries about fracking taking place at the BFI landfill, and noted the Ordinance adopted by Council against fracking. He asked that Mr. Johnson look into enforcement of this Ordinance.

Chairman Choolokian also said he had received complaints that the new water meters could be a source of radiation and health problems. He also asked that Mr. Johnson look into this.

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

1. A communication relative to hiring a contractor to cut brush and grass on the Old Railroad Bed between Frontier and Stephenson Avenues.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas

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Nays

0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #16.

2. A communication relative to funding to continue services of a Seasonal Clerical Aide in the DPW Administration Division.

Council Member Fruscione moved to add the communication to the Agenda.

Yeas

5

Nays

0

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #17.

3. A communication relative to funding to keep the Golf Course open later in the season

Council Member Fruscione moved to add the communication to the Agenda.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO ADD COMMUNICATION TO AGENDA APPROVED

The communication was added to the Agenda as #18.

Mayor Dyster said that Community Development Director Seth Piccirillo was available to speak on Agenda Item #8, and Susan Sherwood was available to speak on Agenda Item #15.

This Session ended at 5:18 PM

Chairman Choolokian reconvened the Meeting at 6:03 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:

|                     |                                                                                                                                                    |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Nicholas D'Agostino | Agenda Items #4, #8, #13, #15                                                                                                                      |
| Diane Tattersall    | Agenda Item #8                                                                                                                                     |
| Paul Gromosiak      | Loss of Delores Marino; lectures at Library & display at Library                                                                                   |
| Ron Anderluh        | Gill Creek Park partners; thanks to DPW; Cameras in Park; raise rental rates & charge deposit for rentals; downtown Hotels height                  |
| Nicholas D'Agostino | Make good use of Casino funds; Council Members doing a good job; Gill Creek Park                                                                   |
| Doug Brown          | Loss of business when Old Falls St. is closed for concerts; issues with Global Spectrum contract                                                   |
| Rick Crogan         | Thanked candidates for participating in Forum; encouraged citizens to come out and vote                                                            |
| Ram Patel           | Concerned about fair market price for 310 Rainbow Blvd. parcel                                                                                     |
| Ricky Patel         | Concerned about fair market price for 310 Rainbow Blvd. parcel                                                                                     |
| Ronda Grose         | Thanked Council Members who attended Neighborhood meeting regarding rats; housing demos & rehab; Water Board issues; truck traffic in neighborhood |
| Diane Tattersall    | More dog owners are cleaning up                                                                                                                    |

City Clerk read a statement from Owen Steed Sr. in support of the Niagara Falls Housing Authority's Summer Enrichment Program for Youth.

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

CLAIM REPORT FOR THE MONTH OF JULY 2013

Agenda Item #1

THIS ITEM WAS RECEIVED AND FILED

CITY CLERK'S REPORT FOR THE MONTH OF JULY 2013

Agenda Item #2

THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

TRACT I AND TRACT II, EXTENSION OF REMEDIATION/DEVELOPMENT DATES,  
BRIGHTFIELDS CORP.

Agenda Item #3

On February 6, 2012, City Council approved the transfer of Tract I and Tract II, consisting of 23± acres for \$1.00. The Brightfields Corprations received the land and have undertaken to remediate and develop the real property. The sites are being remediated in accordance with DEC-approved Remedial Measure Work Plans. The original plans called for completion of the work and a final engineering report to be submitted by October 31, 2013. Due to additional remedial work that is necessary on the sites, the new date for completion of the work on both sites is March 17, 2014.

Within 18 months of completion of remediation, Brightfields will construct playground improvements costing a minimum of \$250,000.00 on five acres of the Tract II property. That land will be conveyed back to the City to become a City Park. This park will replace the Center Court playground which became part of the HOPE VI housing development. Within 24 months of completion of the remediation, Brightfields will complete on Tract I or Tract II at least one aspect of the proposed development at a cost, exclusive of remediation, of at least \$1.5 Million.

Due to the new completion date in the DEC-approved Work Plans, will the Council vote to approve the extended remediation completion date, which will also extend the park completion and development completion dates, and to authorize the Mayor to execute any documents, with Corporation Counsel approval, necessary to effectuate the same?

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

Yeas

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Nays

0

APPROVED

CONTROLLER: VARIOUS FEES

Agenda Item #4

The City Controller is recommending the following fees be implemented immediately:

First, that the "All in One Search" tax search fee be increased from \$25.00 to \$35.00 to more accurately reflect the cost to the City in obtaining the information and providing the tax search.

Second, the creation of a fee of \$20.00 for checks returned to the City for insufficient funds to offset the City's cost for same.

Third, the creation of a fee of \$10.00 for a parking violation records check. This fee will offset the cost of conducting the check and providing the information when it is requested and is the same fee New York State charges for their check.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

NIAGARA COUNTY OFFICE FOR THE AGING: USE OF LASALLE FACILITY

Agenda Item #5

For more than 35 years the NCOFA has provided senior citizen residents of the City of Niagara Falls with a nutrition program, including providing high-quality meals, as well as the organization of programs such as bingo, exercise programs and many more. Approximately 30 to 40 seniors benefit from these programs, including the daily lunch program, on a regular basis.

The NCOFA has previously paid the City \$2,431.00 on an annual basis for the use of the LaSalle Facility for this purpose. The NCOFA has requested that this annual fee be eliminated due to adverse budget issues facing the NCOFA. The NCOFA advises that most of their other nutrition sites in other communities have allowed NCOFA to use available space with no payment. NCOFA has advised that it will re-locate to an alternate site outside of the City if this issue is not resolved, which would be detrimental to resident City seniors.

Given the benefit to City seniors by NCOFA every day with no payment from the City, it would appear that sufficient consideration exists to the City and its residents to justify allowing the NCOFA to use the LaSalle Facility during year 2013 for no charge. Attached (on file in the City Clerk's Office) is a copy of a communication from NCOFA in this regard together with a memo of support from the City's Senior Services Program Coordinator.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: FAMILY & CHILDREN'S SERVICE OF NIAGARA FALLS (FACS), EMPLOYEE ASSISTANCE PROGRAM (EAP)

Agenda Item #6

The City has agreements in place with FACS to provide an Employee Assistance Program (EAP). In order to comply with the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") FACS has requested that the City enter into a Business Associate Agreement that complies with the new HIPAA privacy regulations and protects the privacy of protected health information of individuals for whom FACS provides services. The agreement defines the responsibility of both parties. Attached (on file in the City Clerk's Office) is a communication from FACS in this regard.

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

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

Yeas

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Nays

0

APPROVED

PURCHASE: PURCHASING DEPT., MICROFILM READER-PRINTER

Agenda Item #7

The Principle Purchasing Clerk is requesting that the City purchase a Microfilm Reader-Printer to replace the existing reader-printer which is 14 years old and breaks down frequently. Repairs for this item are expensive. This item is necessary in order for the records center to fulfill departmental requests that are stored on microfilm.

The cost of this item is \$11,494. Funding is available from casino interest.

Will the Council so approve?

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

Yeas

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Nays

0

APPROVED

## Agenda Item #8

A copy of the proposed 2013 Niagara Falls Community Development Department (CD) Action Plan is attached. All Council Members received the DRAFT Action Plan via memo and email on July 26, 2013 to allow ample time for review, as well as an invitation from Community Development Director Seth Piccirillo to review the plan in person. The proposed budget is the key component of the City's 2014 Annual Plan and Strategy, a United States Department of Housing and Urban Development (HUD) mandated planning document that assesses community needs and identifies how the City will address those needs.

The 2014 Annual Plan is the end result of a lengthy, detailed, and well advertised, citizen participation process that included four neighborhood based meetings in May/June 2013 and a new paper and online citizen survey designed to encourage comments, suggestions, and ideas from various community groups, residents, business persons, and other interested parties. The Community Development Department successfully followed the transparent schedule (attached) presented to the City Council in May 2013. The DRAFT Action Plan was made available for public review on July 24, 2013, a public hearing was held on July 25, 2013, and a month long public comment period concluded on August 26, 2013. The public hearing reviewed the plan specifics, and a copy of the public hearing minutes is included with this agenda item (on file in the City Clerk's Office).

CD will directly administer the federal grant programs listed below. The funding levels indicated are projected revenues for 2013 that may change once U.S. Congressional funding appropriations are announced at a date to be determined.

|                                              |                    |
|----------------------------------------------|--------------------|
| Community Development Block Grant (CDBG)     | \$2,202,000        |
| HOME Investment Participation Program (HOME) | \$ 357,000         |
| HOME Program Income                          | \$ 75,000          |
| Emergency Shelter Grant (ESG)                | \$ 155,000         |
| Section 8 Leased Housing Program             | \$3,100,000        |
| <b>PROJECTED FEDERAL REVENUE</b>             | <b>\$5,889,000</b> |

The Consolidated Plan, including the proposed budgets, must be adopted by the City Council and submitted to HUD by November 15, 2013. HUD must review and approve the Consolidated Plan in order to establish our letter of credit with the United States Treasury. There is value in early submittal, as HUD must receive and approve plans from around the Country. Therefore, Council's approval at this time will represent the officially adopted CDBG, HOME, and ESG budgets for FY 2014. The Section 8 Leased Housing is renewed automatically by HUD but must still be adopted at this time by the City Council.

Will the City Council vote to so approve the 2014 Annual Plan and Budget and authorize the Mayor to implement all activities specifically identified in the plan? Any activity not specifically identified in the plan will be returned to Council for approval.

|                                                           |   |
|-----------------------------------------------------------|---|
| Council Member Fruscione moved to Table the communication |   |
| Yeas                                                      | 4 |
| Anderson, Fruscione, Walker, Chairman Choolokian          |   |
| Nays                                                      | 1 |
| Grandinetti                                               |   |

TABLED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CORPORATION COUNSEL

CITY PROPERTY: 1307 SOUTH AVE., SALE

Agenda Item #9

The City has received a request from the adjoining property owner to purchase the above referenced City-owned property for the sum of \$50.00. This property was approved for sale by the Planning Board.

Will the Council approve the sale of this premises for this price in an "as is" condition and with the requirement to combine the property, with the closing to be performed within 30 days, and with the standard pre-condition that the purchaser is not delinquent with any tax or water bill, and further authorize the Mayor to execute any deeds or other documents necessary to effectuate this transaction?

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

Yeas

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Nays

0

APPROVED

CLAIM: STANEK, KIMBERLY

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    | 07/29/2013             | \$ 35.52          |
| Cardamone Chiropractic    | 08/01/2013             | \$ 35.52          |
| ProScan Radiology Buffalo | 08/02/2013             | \$1,100.00        |
| Cardamone Chiropractic    | 08/05/2013             | \$ 35.52          |
| Cardamone Chiropractic    | 08/08/2013             | \$ 35.52          |
| Cardamone Chiropractic    | 08/12/2013             | \$ 35.52          |
|                           |                        | <u>\$1,277.60</u> |

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

Yeas

5

Nays

0

APPROVED

CLAIM: HARRIS, TESSIA C.

Agenda Item #11

RE: Request for Approval to Settle and Pay Claim of GEICO a/s/o  
Tessia C Harris P.O. Box 88, Woodbury, NY 11797

Council Members:

|                        |                                                                 |
|------------------------|-----------------------------------------------------------------|
| Date Claim Filed:      | 2/15/13                                                         |
| Date Action Commenced: | N/A                                                             |
| Date of Occurrence:    | 1/18/13                                                         |
| Location:              | Intersection of 11 <sup>th</sup> Street<br>and Niagara Ave.     |
| Nature of Claim:       | Automobile damage sustained in<br>an accident with City vehicle |
| City Driver:           | John Rosino                                                     |
| Status of Action:      | Claim stage.                                                    |
| Recommendation/Reason: | Best interests of City to pay<br>claim.                         |
| Amount to be Paid:     | \$703.39                                                        |
| Make Check Payable to: | GEICO a/s/o Tessia C. Harris                                    |
| Conditions:            | General Release to City,<br>approved by Corporation<br>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 Fruscione 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

COMMISSIONER OF DEEDS: APPOINTMENTS

Agenda Item #12

The following have requested City Council approval for  
Commissioner of Deeds for a term from October 1, 2013 to September 30,  
2015.

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

|                   |                    |
|-------------------|--------------------|
| Herbert, Latricia | City Clerks Office |
| Carter, Kimberly  | Engineering        |
| Cain, Carlton     | NFPD               |
| Jones, Daniel     | NFPD               |
| Reynolds, James   | NFPD               |

|                     |                                       |
|---------------------|---------------------------------------|
| Cannello, Leonard M | 9141 Rivershore Dr., NF NY 14304      |
| Conti, Irene        | 603 38 <sup>th</sup> St., NF NY 14301 |
| Erias, David        | 2422 Forest Ave. NF NY 14301          |
| Fasciano, Louisa    | 8321 Laughlin Dr., NF NY 14304        |
| Genova, Jerauld     | 757 Seymour Ave., NF NY 14305         |
| Mayes, William      | 243 77 <sup>th</sup> St., NF NY 14301 |
| Shank, Victoria     | 1839 Niagara Ave., NF NY 14305        |
| Thomas, Duane       | 419 12 <sup>th</sup> St., NF NY 14303 |
| Trimmer, Maureen    | 3611 Chapin Ave., NF NY 14301         |

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

SECOND HAND DEALERS: APPROVALS

Agenda Item #13

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 licenses. These applications have been approved by the Niagara Falls Police Department.

Niagara Coins & Collectables  
509 Third St  
Niagara Falls, NY 14301  
Louis Muzzillo

Niagara Metals LLC  
4861 Packard Rd.  
Niagara Falls, NY 14304  
Jamie Hypnarowski

Rubens Buy & Sell Shop  
Mikes Buy & Sell Shop  
2101 Pine Ave  
Niagara Falls, NY  
Michael Giangreco

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

PAWNBROKERS: APPROVAL

Agenda Item #14

Chapter 337 of the Codified Ordinances states: "337.03...City Council may grant a license to carry on the business of Pawnbrokers within the City..."

The following have submitted applications for Pawnbroker Dealer license. This application has been approved by the Niagara Falls Police Department.

Niagara Collateral  
509 Third St  
Niagara Falls, NY 14301  
Louis Muzzillo

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

RESOLUTION: RELATIVE TO AUTHORIZING FUNDING FOR NF INTERMODAL  
TRANSPORTATION CENTER PROJECT, PRELIMINARY ENGINEERING (SCHEMATIC &  
DETAILED DESIGN). RIGHT OF WAY INCIDENTALS (ROW MAPPING) AND  
CONSTRUCTION & CONSTRUCTION INSPECTION PHASES OF THE PROJECT  
BY: COUNCIL MEMBERS GRANDINETTI AND WALKER

Agenda Item #15

WHEREAS, a Project, The Niagara Falls Intermodal Transportation Center Project, in the City 01 Niagara Falls, Niagara County, PIN 5756.28 (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 or 100% Federal funds, depending on the Source of Federal funding; and

WHEREAS, the City of Niagara Falls desires to advance the above project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project, PIN 5756.28.

NOW, THEREFORE, the Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further RESOLVED, that the 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 share of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 726,000.00 is hereby appropriated from funds previously received and allocated for this project (in addition to \$ 816,000.00 previously appropriated for the project's Preliminary Engineering and Right-of-Way Incidentals Phases via City Resolution Nos. 2001-81 and 200980, adopted July 16, 2001 and October 5, 2009, respectively) and made available to cover the cost of participation in the above phases of the Project; and it is 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 (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 1,542,000.00 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds \$ 9,101,680.14, 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 it is 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 it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

Council Member Fruscione moved to Table the communication

Yeas

3

Anderson, Fruscione, Chairman Choolokian

Nays

2

Grandinetti, Walker

TABLED

PUBLIC WORKS: BRUSH/GRASS CUTTING

Agenda Item #16

The Director of Department of Public Works has requested that a contractor be hired to accomplish the cutting of high brush and grass on the old railroad bed between Frontier Avenue and Stephenson Avenue from 56<sup>th</sup> Street to the NYS Thruway. The NYS DOT must consent to the City engaging in this activity on its real estate.

This area will first be baited for rats and then the high brush and grass will be cut.

The amount estimated to cut this high brush and grass is \$1,800.00 as per the attached (on file in the City Clerk's Office) quote from Niagara Grass Cutting. Funding is available from the City Council Contingency Fund. This amount will be transferred into account A.8510.0000.0449.080 - Grass Cutting/Cleanup. In the event the NYS DOT proceeds to cut this high brush and grass, it will be unnecessary for the City to engage this contractor to do so.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

PUBLIC WORKS: SEASONAL CLERICAL AIDE, CONTINUED FUNDING

Agenda Item #17

The Director of DPW is requesting funding to continue the services of a Seasonal Clerical Aide in the DPW Administration division thru December 31, 2013. The cost is estimated to be \$6,000.00 (inclusive of FICA). Funding is available from the City Council Contingency Budget Line and is to be transferred to account number A.1490.0001.0130.000.

Will the Council so approve?

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

Yeas

4

Anderson, Fruscione, Walker, Chairman Choolokian

Nays

1

Grandinetti

APPROVED

PUBLIC WORKS: PARKS/GOLF DIVISION FUNDING

Agenda Item #18

The Director of DPW is requesting the sum of \$4000.00 (inclusive of FICA) be made available to the DPW /Parks, Golf Division for the purpose of allowing the City to keep the golf course open later in the season. The funding will provide staffing at the golf course to allow the season to be extended. The Director reports that keeping the course open later will result in additional revenues for the City.

Funding is available from the City Council Contingency budget line and is to be transferred to the following account numbers:

|                      |                       |      |          |
|----------------------|-----------------------|------|----------|
| Golf Operations Temp | GC.7250.0100.0130.000 | - \$ | 929.00   |
| Golf MTC Overtime    | GC.7250.0200.0140.000 | - \$ | 2,787.00 |
| Golf Operations FICA | GC.7250.0100.0810.000 | - \$ | 71.00    |
| Golf MTC FICA        | GC.7250.0200.0810.000 | - \$ | 213.00   |

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

There being no further business to come before the Council,  
Chairman Choolokian adjourned the Meeting at 6:50 P.M.

Carol A. Antonucci  
City Clerk

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SEPTEMBER 16, 2013

**REGULAR COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

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The first session of the September 16, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:03 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, 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 September 3, 2013.

Yeas

5

Nays

0

APPROVED

In the Administrative Update:

1. Susan Sherwood of Wendel Duchscherer reported that the Lewiston Road Project is substantially complete. The Project was done within the Engineer's cost estimate, and corrective work, such as miscellaneous landscaping, still needs to be done.

2. City Administrator Donna Owens said that she, along with Department Heads, has met with haulers and recycling companies, and an RFP will be prepared to go out within the next two weeks. An Ordinance amendment will be needed to address containerizing trash. Council Member Walker asked if the process would be completed by budget time, and the Administrator responded that it would.

Chairman Choolokian asked Mayor Paul Dyster about the rat problem in the 56<sup>th</sup> Street area, and the Mayor replied that an exterminator has been selected, baiting the area would begin soon, and then the grass could be cut.

Chairman Choolokian also asked the Mayor if the budget process was on time to be presented to the Council on October 1<sup>st</sup>, and the Mayor replied that it should be.

Sam Hoyt, Senior VP for Regional Economic Development at Empire State Development Corp., gave the Council Members an update on the Hamister Project. He said that he had met with Council Members to address their concerns, the top three of which were:

1. Local hiring - hiring for the Project would be done from this City, this County and this region whenever possible.

2. Performance bond - the Developer would be required to provide a Performance bond for the completion of the Project.

3. Reverter Clause - If the property does revert back to the City, it will do so debt free.

Also, if the property is used as a surface parking lot, all revenue will go to the City. Chairman Choolokian asked if a new contract would be prepared with all the changes, and Mayor Dyster responded that is the Mayor's responsibility to make sure that all the changes are in the contract, and, once the Council approves the contract, a new contract will be prepared.

Corporation Counsel Craig Johnson distributed copies of amendments to Agenda Items and Items to be added to the Agenda:

1. A communication relative to a proposed Development Agreement for 310 Rainbow Boulevard that was tabled at the July 8, 2013 Council Meeting.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

The communication was added to the Agenda as #13.

2. A communication relative to extension of the agreement with Niagara Tourism and Convention Corporation that was tabled at the July 8, 2013 Council Meeting.

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

The communication was added to the Agenda as #14.

Council Member Grandinetti moved to amend the communication by adding certain terms and conditions.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO AMEND COMMUNICATION APPROVED

3. A communication relative to retaining the services of Millier, Dickenson and Blais to analyze reports generated by the NTCC.

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 #15.

4. A communication relative to pesticide applications on the golf course.

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.

5. A communication relative to funding for materials for the in-house sidewalk program.

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 #16.

6. A communication relative to a change order in the contract for renovations at the Walnut Avenue Fire Administration Building.

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.

This Session ended at 5:30 PM

Chairman Choolokian reconvened the Meeting at 6:02 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:

|                      |                                                                                          |
|----------------------|------------------------------------------------------------------------------------------|
| Nicholas D'Agostino  | Agenda Items #4, #9, #10, #11, #12, #18                                                  |
| Merrell Lane         | Agenda Item #4                                                                           |
| John Cooper          | Agenda Item #4                                                                           |
| Ken Hamilton         | Agenda Item #4                                                                           |
| John Ceretto         | Agenda Item #13                                                                          |
| Matt Cole            | Agenda Item #13                                                                          |
| Paul Gromosiak       | Niagara Beautification Commission does fine work; focus on good of the City              |
| Marlon Moore         | Code Enforcement Dept. issues                                                            |
| Nicholas D'Agostino  | Slow down traffic at entrance to Hospital; Cameras in South End                          |
| Donald Supon         | Excited about Hamister Project                                                           |
| Doug Brown           | Closing of Old Falls St-meeting to discuss not yet scheduled                             |
| Jim Perez            | NU students disrupting neighborhood                                                      |
| Dominick Cristelli   | NU students disrupting neighborhood                                                      |
| Mary Searcy          | NU students disrupting neighborhood                                                      |
| Carmen Hamilton      | Closing of Old Falls St.; 25 <sup>th</sup> anniversary of Word of Life Ministries Church |
| Pastor Timothy Brown | Restore funding cut in Budget for Programs                                               |
| Charletta Tyson      | CD Budget                                                                                |
| Jennifer Abbott      | Hamister Project; Federal reimbursement for CSX Project                                  |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE CITY CLERK

CLAIM REPORT FOR THE MONTH OF AUGUST 2013

Agenda Item #1

THIS ITEM WAS RECEIVED AND FILED

CITY CLERK'S REPORT FOR THE MONTH OF AUGUST 2013

Agenda Item #2

THIS ITEM WAS RECEIVED AND FILED

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

CONTRACT: DEMOLITION, VARIOUS PROPERTIES, REGIONAL ENVIRONMENTAL DEMOLITIONS, INC.

Agenda Item #3

The following bids were opened by the Department of Community Development on September 5, 2013 for the demolition of twenty (20) structures identified on the attached list (on file in the City Clerk's Office).

| CONTRACTOR                               | BID AMOUNT   |
|------------------------------------------|--------------|
| Regional Environmental Demolitions, Inc. | \$578,222.00 |
| Apollo Dismantling, Inc.                 | 649,880.00   |
| Mark Cerrone, Inc.                       | 756,000.00   |
| Empire Dismantling, Inc.                 | 934,000.00   |
| Metro Contracting, Inc.                  | 994,036.00   |

It is our recommendation that a contract be awarded to the low bidder, Regional Environmental Demolitions, at their base bid amount of \$578,222.00. Funding is available in the Community Development budget code CD1.8666.0000.0450.500 (CDR399).

Will the Council vote to award contract CD2013-2 to Regional Environmental Demolitions, Inc. 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

#### NIAGARA MILITARY AFFAIRS COUNCIL (NIMAC), FUNDING

##### Agenda Item #4

The NIMAC has been involved in various activities that it deems necessary in order to help secure the future of the Niagara Falls Air Reserve Station, Niagara County's largest employer. Attached hereto (on file in the City Clerk's Office) is a copy of a letter from John A. Cooper Sr., Chairman of NIMAC and Merrell A. Lane, Vice Chairman of NIMAC addressing concerns about future attempts to close this Air Base.

In the past, the City has made Casino Revenues available to NIMAC in order to help support NIMAC's efforts. NIMAC is requesting the City to contribute the sum of \$40,000.00 toward these activities, which include administrative items such as website development, community mailings and community education. Funding is available from Casino Revenues.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

#### CONTRACT: 2715 HIGHLAND AVE., COMMUNITY HEALTH CENTER OF BUFFALO, PHASE II ENVIRONMENTAL INVESTIGATION

##### Agenda Item #5

The City and Community Health Center of Buffalo, Inc. ("CHC") entered into a contract wherein the City agreed to sell and CHC agreed to purchase 2715 Highland Avenue, Niagara Falls, New York (the "Premises").

As is customary, a phase I environmental investigation of the Premises was performed. The results of that phase I investigation recommended a limited phase II environmental investigation which will involve certain soil borings on the Premises. The reason for this recommendation is that there was a school located on the Premises that was demolished and there is a concern that certain debris may have been buried at the Premises.

Any Agreement to allow site access to CHC for this purpose will require indemnification, insurance and a restoration of the Premises to its condition prior to access by CHC.

Will the Council so approve and authorize the Mayor to execute an Agreement 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

CONTRACT: BUFFALO AVE RECONSTRUCTION, CHANGE ORDER #3, CLOUGH HARBOUR & ASSOCIATES

Agenda Item #6

The existing Professional Services Contract between the City and Clough Harbour & Associates currently totals \$4,868,900.00 and encompasses all facets of Design, Construction Inspection and Contract Administration for the above-referenced project, including the very involved environmental monitoring tasks involved with work in this area.

In order to advance this project through to completion without undue interruption, it is the designers request at this time to reallocate a not-to-exceed amount of \$200,000.00 from General

Construction Inspection Services not yet encumbered to the requisite direct reimbursement categories necessary to maintain continued environmental monitoring resulting in a net \$0.00 change to the contract total at this time. Therefore, it is the recommendation that Change Order # 3 be approved in the amount of \$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

CONTRACT: YOUTH BUREAU & FAMILY & CHILDREN'S SERVICE OF NIAGARA, INC. (FACS)

Agenda Item #7

The City, through the Niagara Falls Youth Bureau (NFYB), has been requested by FACS to enter into an Agreement which establishes protocols to be followed with respect to referrals, inclusive of mutual releases and adherence to HIPAA requirements. This Agreement may be cancelled by either party on 60 days prior written notice.

Will the Council so approve and authorize the Mayor to execute an Agreement 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: 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 | 08/28/2013             | \$ 5.52       |

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

5

Nays

0

APPROVED

RESOLUTION: CIVIL SERVICE COMMISSION APPOINTMENT, 2013-34  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #9

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Civil Service Commission to fill the unexpired term of John Fiori, Sr. which expires on the date which appears opposite his name:

|      | <u>APPOINTMENT</u> | <u>TERM EXPIRES:</u> |         |
|------|--------------------|----------------------|---------|
|      | Ronald Mang        | 05/31/2017           |         |
| Yeas |                    |                      | 5       |
| Nays |                    |                      | 0       |
|      |                    |                      | ADOPTED |

RESOLUTION: ZONING BOARD OF APPEALS APPOINTMENT, 2013-35  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #10

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 Zachary R. Casale which expires on the date which appears opposite his name:

|      | <u>APPOINTMENT</u> | <u>TERM EXPIRES:</u> |         |
|------|--------------------|----------------------|---------|
|      | Robert Ventry      | 12/31/2013           |         |
| Yeas |                    |                      | 5       |
| Nays |                    |                      | 0       |
|      |                    |                      | ADOPTED |

RESOLUTION: ZONING BOARD OF APPEALS APPOINTMENT, 2013-36  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #11

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 Anthony Scricco, Sr. which expires on the date which appears opposite his name:

|      | <u>APPOINTMENT</u> | <u>TERM EXPIRES:</u> |         |
|------|--------------------|----------------------|---------|
|      | Samuel Archie      | 12/31/2013           |         |
| Yeas |                    |                      | 5       |
| Nays |                    |                      | 0       |
|      |                    |                      | ADOPTED |

RESOLUTION: HISTORIC PRESERVATION COMMISSION APPOINTMENT, 2013-37  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #12

BE IT RESOLVED, that the following individual is hereby appointed to the City of Niagara Falls Historic Preservation Commission to fill the expired term of Andrea M. Galey which expires on the date which appears opposite his name:

|      | <u>APPOINTMENT</u> | <u>TERM EXPIRES:</u> |         |
|------|--------------------|----------------------|---------|
|      | Alan Nusbaum       | 12/31/2016           |         |
| Yeas |                    |                      | 5       |
| Nays |                    |                      | 0       |
|      |                    |                      | ADOPTED |

Agenda Item #13

The City owns certain real property located in the City of Niagara Falls, New York consisting of a parcel approximately 0.88 acre in size commonly known as 310 Rainbow Boulevard, Tax Parcel No. 158.12-1-4.111, more particularly described in Exhibit "A" attached hereto (on file in the City Clerk's Office) (the "Property").

The Property is located within the Downtown Development District established by USA Niagara Development Corporation, a subsidiary of New York State Urban Development Corporation (UDC"), d/b/a Empire State Development ("ESD"), a New York public benefit corporation ("USAN").

By the terms of a Development Agreement dated November 30, 2011 by and among Niagara County Community College, USAN, and the City (the "2011 Development Agreement"), the City granted USAN exclusive development rights with respect to the Property on the terms and conditions specified in the 2011 Development Agreement.

In accordance with the 2011 Development Agreement, USAN issued a Request for Proposal dated October 5<sup>th</sup>, 2011 (the "Request for Proposal") seeking proposals for development of the Property.

In response to USAN's Request for Proposal, Hamister Development Company, LLC, a Delaware limited liability company (the "Developer") submitted to USAN its proposal dated December 9, 2011 (as thereafter amended, the "Response to Request for Proposal") to serve as designated developer of the Property.

In its Response to Request for Proposal, the Developer proposed developing the Property with a mixed-use project that would include, among other things, a 100-room hotel, 24 apartment units, and street-level space.

USAN selected the Developer as its designated developer for the Property, subject to certain terms and conditions.

On or about December 21, 2012, ESD, through its subsidiary, USAN, notified the City of Niagara Falls City Council and Planning Board and numerous additional involved and interested agencies of USAN's intent to serve as lead agency for the environmental review process to be carried out under the New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations (6 NYCRR Park 617) in connection with a private development of an approximately 119,00 square-foot mixed-use complex at the Property including a 100-room upscale grade hotel; 24 market-rate apartments, 5,000 square feet of street level retail/food-and-beverage uses; and a 10,000 square foot ball room facility (the "General Development Plan").

USAN received no objections to its proposal to serve as SEQRA lead agency and therefore was so designated, and has classified the General Development Plan as a Type 1 action under the implementing regulations for SEQRA.

The City and USAN are currently negotiating a development agreement (the "Proposed Development Agreement") with the Developer pursuant to which the City would sell the Property to the Developer (or its subsidiary or affiliate) for purposes of the General Development Plan, as modified to increase the street level retail/food-and-beverage space from 5,000 square feet to a maximum of 8,000 square feet (such proposal, as may be amended from time to time, hereinafter referred to as the "Project"); and USAN would provide development incentives, on the terms and conditions outlined in the term sheet attached (on file in the City Clerk's Office) as Exhibit "B" (the "Term Sheet").

USAN has undertaken a detailed review of the potential environmental impacts of the Project through the preparation of a full Environmental Assessment Form and consideration of other relevant facts and circumstances.

USAN has concluded that the minimal impacts identified in connection with the Project are not significant in magnitude or effect, consisting primarily of short-term affects related to the proposed construction activities, and that the impacts that are likely to occur as a result of the Project appear, on the whole, to be beneficial and not significant in magnitude or effect, and will not, either individually or collectively, have a significant impact on the environment.

On or about July 8, 2013, USAN therefore determined that the undertaking of the Project will not constitute an action significantly adversely affecting the quality of the environment and duly adopted a SEQRA Negative Declaration for the Project. USAN's full Environmental Assessment Form and Negative Declaration are incorporated herein by reference in their entirety.

Article IV, #59 of the City Charter authorizes direct sales of City-owned real property when the City Council determines, by majority vote, that the best interests of the City will be subserved by such sale.

The best interests of the City will be subserved by this Project because the Project: (a) is a significant multimillion dollar mixed use building that will be constructed on City-owned real estate that is now used primarily as a parking lot, (b) will increase the City's tax base, (c) will provide hotel rooms for use by visitors to the City, (d) will provide apartments for people to live, (e) will provide space for retail businesses to occupy, and (f) will provide numerous jobs during construction as well as permanent jobs after the Project has been completed.

Article XVIII, #504 (6) of the City Charter requires proposed dispositions of City-owned real property to be referred to the City Planning Board for a report and recommendation to the City Council.

The City Planning Board reviewed the proposed sale of the Property at a meeting held on June 26, 2013, and issued its report and recommendation to the City Council, a copy of which is attached (on file in the City Clerk's Office) hereto as Exhibit "C" pursuant to which the Planning Board recommended that the proposed sale of the Property to the Developer be approved by the City Council.

Based on the foregoing, it is requested that the City Council adopt the following resolutions, and that the statements set forth above be incorporated in their entirety as findings of fact upon which the resolutions are adopted by the City Council:

RESOLVED, that the City Council hereby adopts USAN's Negative Declaration for the Project; and it is further

RESOLVED, that the City of Niagara Falls Planning Board and the City Council have concluded that the Project at issue in the attached (on file in the City Clerk's Office). Time Sheet is consistent with the scope and intent of the General Project Plan; and it is further

RESOLVED, that the Mayor and/or Corporation Counsel be and they each hereby are authorized and directed to negotiate the Proposed Development Agreement providing for the sale of the Property to the Developer for development and construction of the Project, at a purchase price of \$100,000, pursuant to the terms, covenants, Conditions and provisions outlined in the attached (on file in the City Clerk's Office); and it is further

RESOLVED, and that the Proposed Development Agreement may contain such other terms and conditions as the Mayor and Corporation Counsel deem appropriate, and may thereafter be amended from time to time; provided, however, that the purchase price of the Property specified in such Proposed Development Agreement and in any such amendments shall not be less than \$100,000 payable in cash to the City at closing, and provided that the Proposed Development Agreement and any such amendments include a right of reverter in favor of the City (as described in the Term Sheet) in the event the Developer fails to complete the Project; and it is further

RESOLVED, that, upon the completion of such negotiations, the Mayor is authorized and directed to execute, in the name of and on behalf of the City, the Development Agreement for the sale of the Property to the Developer (or its subsidiary or affiliate) containing terms and conditions consistent with these Resolutions, and to exercise all rights and perform all obligations of the City thereunder, including, without limitation, the execution of a proper deed of conveyance and all other documentation required for consummation of the proposed sale of the Property to the Developer (or its subsidiary or affiliate) at the price and on the other terms and conditions described in these resolutions, and it is further

RESOLVED, that, in addition to and without limiting the generality of the foregoing resolutions concerning the negotiation of the Proposed Development Agreement and the proposed sale of the Property and matters related thereto, the Mayor and Corporation Counsel of the City be, and each of them hereby is, authorized and directed to take such further action in connection with said transactions and to execute and deliver such instruments and documents as either of them deems appropriate to carry out the foregoing resolutions, and it is further

RESOLVED, that the adoption of these resolutions shall satisfy any conditions or requirement contained in the City Charter or elsewhere for approval of the Proposed Development Agreement and/or the proposed sale of the Property to the Developer (or its subsidiary or affiliate), and that no further approval by the City Council of the fully signed Development Agreement shall be required to authorize the Mayor and/or Corporation Counsel for the City to consummate the transactions contemplated by these resolutions; and it is further

RESOLVED, that notwithstanding anything to the contrary contained in these resolutions, these resolutions shall not constitute a binding offer, agreement, contract, or commitment of any kind whatsoever, and the City shall not be contractually obligated to enter into the Proposed Development Agreement or to sell the Property to the Developer (or its subsidiary or affiliate) unless and until the terms of the Proposed Development Agreement have been fully negotiated and the Proposed Development Agreement has been executed on behalf of the City by the Mayor.

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

|                                |   |
|--------------------------------|---|
| Yeas                           | 3 |
| Anderson, Grandinetti, Walker  |   |
| Nays                           | 2 |
| Fruscione, Chairman Choolokian |   |

APPROVED

CONTRACT: NTCC, EXTENSION OF AGREEMENT

#### Agenda Item #14

As you know, subsequent to the City Council tabling the request to extend the City's Agreement with the NTCC, the NTCC commenced an Article 78 proceeding against the City to compel payment of dollars allegedly owed the NTCC pursuant to the New York State tax law. A settlement has now been reached with the NTCC which calls for the following:

1. The City agrees to extend its expired Agreement with the NTCC from June 1, 2013 thru June 18, 2014.
2. The City agrees to pay NTCC all dollars it is due pursuant to this extension agreement.
3. The City will retain the firm of Miller, Dickenson and Blais ("MDB") as an independent team to analyze the reports generated by the NTCC for a one (1) year period of time.
4. The NTCC agrees to pay for the services of MDB up to the amount of \$20,000.00, such sums to be withheld from amounts due NTCC.
5. NTCC agrees to discontinue its Article 78 proceeding against the City.

Attached hereto (on file in the City Clerk's Office) is a copy of the amended Extension Agreement containing these terms and conditions.

Will the Council so approve and authorize the Mayor to execute an amended Extension Agreement.

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

Yeas

5

Nays

0

APPROVED

CONTRACT: MILLIER, DICKENSON AND BLAIS, RETAINING SERVICES FOR NTCC

Agenda Item #15

As part of the settlement of litigation commenced by NTCC, it is recommended that the City retain the services of Millier, Dickenson and Blais ("MDB") for the purpose of analyzing the reports generated by the NTCC. MDB has extensive experience in this regard. A copy of the MDB proposal is available for inspection. It is estimated that the cost will not exceed \$18,750.00. This cost will be paid by NTCC.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: HYDE PARK GOLF COURSE, PESTICIDE APPLICATIONS, TURF USA LAWN CARE

Agenda Item #16

Attached hereto (on file in the City Clerk's Office) is a quote from Turf USA Lawn Care to apply pesticide applications at the Hyde Park Golf Course. The amount is \$12,250.00. Funding is available from the City Council Contingency 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

PUBLIC WORKS: IN-HOUSE SIDEWALK PROGRAM, CASINO REVENUE

Agenda Item #17

The Director of DPW is requesting that \$15,000.00 be made available from casino revenues for the In-House Sidewalk Program. These dollars will be used for materials. The account code is Street Construction-Construction/Repair A.5110.0200.0419.006.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: WALNUT AVE. FIRE ADMINISTRATION BLDG., REPLACING WINDOW TRIM/CAULK, CHANGE ORDER

Agenda Item #18

The contractor doing the renovation work at the Walnut Avenue Fire Administration building is requesting a change order to replace window trim and caulk that was removed pursuant to the asbestos abatement part of the project. This was not in the original scope of work and involves thirty-seven windows. The cost is estimated to be \$10,500.00. Funding is available from casino revenues.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

RESOLUTION: RELATIVE TO AUTHORIZING FUNDING FOR NF INTERMODAL TRANSPORTATION CENTER PROJECT, PRELIMINARY ENGINEERING (SCHEMATIC & DETAILED DESIGN). RIGHT OF WAY INCIDENTALS (ROW MAPPING) AND CONSTRUCTION & CONSTRUCTION INSPECTION PHASES OF THE PROJECT, 2013-38  
BY: COUNCIL MEMBERS GRANDINETTI AND WALKER

Agenda Item #19

WHEREAS, a Project, The Niagara Falls Intermodal Transportation Center Project, in the City 01 Niagara Falls, Niagara County, PIN 5756.28 (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 or 100% Federal funds, depending on the Source of Federal funding; and

WHEREAS, the City of Niagara Falls desires to advance the above project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project, PIN 5756.28.

NOW, THEREFORE, the Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further RESOLVED, that the 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 share of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$ 726,000.00 is hereby appropriated from funds previously received and allocated for this project (in addition to \$ 816,000.00 previously appropriated for the project's Preliminary Engineering and Right-of-Way Incidentals Phases via City Resolution Nos. 2001-81 and 200980, adopted July 16, 2001 and October 5, 2009, respectively) and made available to cover the cost of participation in the above phases of the Project; and it is 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 (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 1,542,000.00 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering (Schematic & Detailed Design), Right-of-Way Incidentals (ROW Mapping) and Construction & Construction Inspection phases exceeds \$ 9,101,680.14, 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 it is 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 it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

Council Member Grandinetti moved to remove the Resolution from the Table.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO REMOVE RESOLUTION FROM TABLE APPROVED

The Resolution was added to the Agenda as #19

Council Member Walker moved to adopt the Resolution

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

ADOPTED

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 7:10 P.M.

Carol A. Antonucci  
City Clerk



**SEPTEMBER 30, 2013**  
**REGULAR COUNCIL MEETING** **NIAGARA FALLS, NEW YORK**

---

The first session of the September 30, 2013 Niagara Falls City Council Meeting was called to order by Council Chairman Glenn Choolokian at 5:05 P.M. in the Council Chambers.

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

Also present: Mayor Paul A. Dyster, 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 September 16, 2013.

|          |   |
|----------|---|
| Yeas     | 5 |
| Nays     | 0 |
| APPROVED |   |

Mayor Paul Dyster said that he would present his Proposed 2014 Budget at 4:30 PM on October 1, 2013.

Susan Sherwood of Wendel Duchscherer said that the Train Station Project was not awarded to the low bidder because of the high costs for soil remediation, among other things, so the Project would have to be re-bid. She also said that the change order in the contract for the Historic Customhouse Restoration Project (Agenda Item #7) was for work that was done a year ago, and the Project has still not been closed out due to pending litigation.

Corporation Counsel Craig Johnson distributed copies of an amendment to Agenda Item #7 and Items to be added to the Agenda.

1. Approval of an amendment to Agenda Item #7, relative to a change order in the contract for the Historic Customhouse Restoration Project, to identify the source of funding.

Council Member Grandinetti moved to amend the Item.

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

MOTION TO AMEND APPROVED

2. A communication relative to use of the LaSalle Facility by Cayuga Gamblers Travel Softball League.

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 communication relative to award of bid for Bridge Painting Project - Porter Road over CSX Railroad.

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 #19.

4. A Resolution relative to Alternate Overnight Parking on 104<sup>th</sup> Street.

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 #20.

5. A communication relative to a change order in the contract for the reconstruction of the CSX Bridge over Rt. 104 that was tabled at the July 24, 2013 Council Meeting.

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

Yeas 5  
Nays 0

MOTION TO REMOVE COMMUNICATION FROM TABLE APPROVED

The communication was added to the Agenda as #21.

Council Member Walker inquired about revisions/adoption of the Community Development Budget, and Community Development Director Seth Piccirillo said that sessions for public comment would have to be held on the revisions.

Council Member Walker asked the Mayor what was being done about the conditions in the City parking lot used by Wrobel Towers residents and visitors. The Mayor responded that paving of the lot was in the Capital Budget, and the lighting issues were being looked into. Chairman Choolokian asked that the Public Works Department address the issues as soon as possible.

This Session ended at 5:25 PM

Chairman Choolokian reconvened the Meeting at 6:02 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 Items #3, #14                                                                                                                                                                           |
| Ken Hamilton   | Agenda Items #3, #16                                                                                                                                                                           |
| Paul Gromosiak | Presentations at Library                                                                                                                                                                       |
| Ron Anderluh   | Restore cuts to agencies in CD Budget;<br>funding in City Budget for Police patrols in<br>Parks; cameras in Gill Creek Park                                                                    |
| Marcia Massaro | Condition of City Parking Lot used by Wrobel<br>Towers residents & visitors                                                                                                                    |
| Truman Wall    | Condition of City Parking Lot used by Wrobel<br>Towers residents & visitors                                                                                                                    |
| Ken Hamilton   | Recognition of contributions of men and women<br>of color; Veterans Memorial update                                                                                                            |
| Doug Brown     | Closing of Old Falls St.                                                                                                                                                                       |
| Ronda Grose    | Thanks for use of City payloaders/crews for<br>neighborhood cleanup; thanks for Frontier Ave.<br>sidewalks; cleanup of abandoned homes in<br>neighborhood; city needs to use totes for garbage |
| Tracy Green    | Cleanup needed in North End                                                                                                                                                                    |
| Marion Baker   | Condition of City Parking Lot used by Wrobel<br>Towers residents & visitors                                                                                                                    |

THE FOLLOWING COMMUNICATIONS WERE SUBMITTED BY THE MAYOR

PURCHASE: CONCRETE, UNITED MATERIALS

Agenda Item #1

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

TO: United Materials  
3949 Forest Parkway  
North Tonawanda, NY 14120

---

FOR: Concrete 3500 PSI, ASTM size 1: \$98.21/cu. yd.  
Concrete 3500 PSI, ASTM size 67: 98.21/cu. yd.  
Concrete 4000 PSI ASTM size 69: 100.64/cu. yd.  
Additional charges:  
Heated Aggregate: 10/15-10/31 and 4/15-4/30 (hot water):  
4.00/cu. yd.  
Heated Aggregate: 11/1-4/15 (winter charge): 8.00/cu. yd.  
Retarder Agent 3500#: 2.37/cu. yd.  
Retarder Agent 4000#: 2.57/cu. yd.  
Calcium (1% dosage) 3500#: 7.22/cu. yd.  
Calcium (1% dosage) 4000 #: 7.82/cu. yd.  
Short Load Charge, 6 cu. yd. and under: 75.00/load  
Waiting Time: 1.25/minute  
Fuel Surcharge: 10.00/load

The City Purchasing Division 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 two (2) vendors. One bid was received. Funds for these expenditures are available in various departments Construction/Repair Materials code: .0419.006.

Will the Council so approve?  
Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5  
Nays 0  
APPROVED

PURCHASE: HEAVY EQUIPMENT RENTAL, NATIONAL VACUUM CORP. & GREEN ENVIRONMENTAL SPECIALISTS, INC.

Agenda Item #2

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

National Vacuum Corporation  
408 47<sup>th</sup> Street  
Niagara Falls, NY 14304  
Item #: 1 per the attached tally sheet.(on file in the City Clerk's Office)

Green Environment Specialists, Inc.  
8335 Quarry Road  
Niagara Falls, NY 14304  
Item #'s: 10, 11, 36 and 37 per the attached tally sheet.(on file in the City Clerk's Office)

The City Purchasing Division 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 Ten (10) vendors. Three (3) bids were received.

Funds for this expenditure are available in the various department equipment rental codes: .0442.003 and .0442.599.

Will the Council so approve?  
Council Member Fruscione moved that the communication be received and filed and the recommendation approved.

Yeas 5  
Nays 0  
APPROVED

PURCHASE: GILL CREEK PARK, PLAYGROUND EQUIPMENT, R.E. WOODSON, INC.

Agenda Item #3

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

TO: R.E. Woodson, Inc.  
3520 Dewey Avenue  
Rochester, NY 14616

FOR: Purchase and Installation of Playground Equipment and safety surfacing located at Gill Creek Park in Niagara Falls per attached tally sheet (on file in the City Clerk's Office). \$77,037.00

The City Purchasing Division 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. Three bids were received. The above referenced company submitted the overall low bid.

Funds for this expenditure will be provided jointly from a 2012 United States Department of Housing and Urban Development Community Development Block Grant (\$38,518.00) and a Niagara Falls City School District Niagara Greenway Grant (\$38,518.00).

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

CONTRACT: SIGNAL PROJECT (3) INTERSECTIONS, CHANGE ORDER #3 & FINAL, TVGA

Agenda Item #4

A contract for the above referenced project was awarded to TVGA on December 4, 2006 in the amount of \$92,000.00. Change Order #1 was approved by City Council on May 10, 2011 in the amount of \$48,000.00. Change Order #2 was approved by City Council on May 14, 2012 in the amount of \$55,000.00.

The consultant for this project incurred costs well beyond their contractual obligations as a result of both changes in scope and delays, both seasonal and administrative. The total for extra work due TVGA is \$44,295.00, bringing their total fee to \$239,295.00.

It is important to note that these costs are 95% reimbursable and form half the basis for a pending Supplemental Agreement from the New York State Department of Transportation approved by this Council on May 29<sup>th</sup> of this year. This particular Council action today will allow the City to make use of the funds that we have received as of August 13, 2013.

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

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

Yeas

5

Nays

0

APPROVED

CONTRACT: CHIPS SIDEWALK REPLACEMENT PROJECT, CHANGE ORDER #1 & FINAL,  
VALERI CONCRETE CONSTRUCTION, INC.

Agenda Item #5

A contract for the above referenced project was awarded to Valeri Concrete Construction, Inc. on April 1, 2013 in the amount of \$237,400.00.

Subsequent to the receipt of Casino funding, it was determined by the undersigned to extend the City's annual sidewalk replacement contract by approximately \$250,000.00. In order to do so in an effective and timely manner, the City opted to extend the original CHIPS 2013 Sidewalk Replacement Contract by its maximum percentage ( $\pm 20\%$ ) while simultaneously pursuing a second set of competitively-obtained bid prices. To that end, it is the request of the undersigned that \$41,000.00 of additional CHIPS funding be allocated to the 2013 Sidewalk Replacement Contract, bringing the contract total to \$278,400.00. Please note that the entire contract is funded, on a reimbursement basis, by the NYSDOT CHIPS Program and existing agreements with the Niagara Falls Water Board. Funding is available in code A.5110.0200.0300.000.

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

Yeas

5

Nays

0

APPROVED

CONTRACT: DRAINAGE STRUCTURE REPLACEMENT/REPAIR PROJECT, CHANGE ORDER  
#1 & FINAL, YARUSSI CONSTRUCTION, INC.

Agenda Item #6

A contract for the above referenced project was awarded to Yarussi Construction, Inc. on April 1, 2013 in the amount of \$131,910.00.

Subsequent to the receipt of Casino funding, it was determined by the undersigned to extend the City's annual drainage structure replacement contract by approximately \$30,000.00. In order to do so in an effective and timely manner, the City opted to extend the original 2013 Drainage Structure Replacement and Repair Contract by its maximum percentage ( $\pm 20\%$ ) while simultaneously pursuing a second set of competitively-obtained bid prices. To that end, it is the request of the undersigned that \$29,700.00 of CHIPS funding be allocated to the 2013 Drainage Structure Replacement and Repair Contract, bringing the contract total to \$161,610.00. Please note that the entire contract is funded, on a reimbursement basis, by the NYSDOT CHIPS Program. Funding is available in code H0313.2013.0313.0419.006.

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

Yeas

5

Nays

0

APPROVED

CONTRACT: CUSTOMHOUSE RESTORATION PROJECT, CHANGE ORDER #1, WATTS  
ENGINEERS & KTA PRESERVATION

Agenda Item #7

Wendel and their sub consultants Watts Engineers & KTA Preservation have incurred \$90,661.36 in additional fees through December 2, 2012. This represents the cost of continued inspection services and administration of the contract for an additional 14 months past the expiration of the contractors' final completion deadline.

Wendel and their subconsultants continue to assist the City with the administration of the contract including the claims process as well as the close out of the project on a Time & Expense basis with costs as follows: \$45,653.80 to include administration of claims and final completion project with the necessary construction inspections and construction contract administration.

The continued inspection and administration costs were necessary to ensure the compliance with the FHWA and NYS Parks Office of Historic Preservation requirements under Section 106 of the National Environmental Policy Act.

In addition to date, Wendel has provided litigation support in defense of the legal action taken by the contractor also on a Time and expense basis with a cost to date of \$45,007.56 and it is anticipated that an additional \$15,000.00 in cost will be incurred.

Wendel's scope of work has been according to the original contract. Funding is available from casino revenues.

|                           |                     |
|---------------------------|---------------------|
| Original Contract Amount: | \$495,000.00        |
| Change Order No. 1:       | \$105,661.36        |
| Revised Contract Amount:  | <u>\$600,661.36</u> |

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

RAINBOW RAMP: CITY WIDE PARKING SYSTEM, NTCC & USAN

Agenda Item #8

On November 30, 2011 the City entered into a Development Agreement with Niagara County Community College (NTCC) and USA Niagara Development Corporation (USAN) which, among other things, provided for USAN to make approximately nine million dollars in improvements to the Rainbow Ramp (the "Ramp"). As part of this Development Agreement, the City is required to submit to USAN a parking plan each year for 10 years for the City's management of the Ramp. This plan must include a preventative maintenance and repair program as well as revenue collection and control measures. A financial/expenditure plan is also required which is intended to maximize revenues. This gave rise to the City also scrutinizing its management of on-street parking practices as well as the management of the City-owned parking lots.

In 2011, the Administration began to conduct internal discussions about addressing parking issues and concluded that it was desirable to retain a consultant to analyze the City's parking situation and make recommendations as to improvements that could be made and revenues that could be anticipated from implementing those recommendations. A request for proposals was circulated, the responders interviewed and a determination was made that the proposal submitted by Desman Associates could best serve the City's interest. Accordingly, the City retained Desman Associates and Desman proceeded to conduct its study and made recommendations for the City to implement in order to move forward. While the recommendations made by Desman Associates were responsive, the City, at that time, did not have the resources to move forward with the implementation of those recommendations.

In addition to recommending a centralizing of parking operations, Desman Associates recommended the installation of new equipment in the Ramp, new equipment for each lot, including Pay-and-Display systems, as well as on-street Pay-and-Display equipment. There were also recommendations pertaining to hourly rates, etc. Based upon its preliminary projections, Desman Associates estimated that the proposed downtown parking system enhancement recommendations could generate in excess of one million dollars in positive cash flow annually from the downtown parking system, assuming the City pays up front for the initial expenditure using casino revenues. The cash to implement the system is not expected to exceed one million dollars.

The City is now in receipt of its long awaited casino revenues. Section 99h of the State Finance Law makes it very clear that an appropriate expenditure of casino revenues is for projects in the nature of economic development. The implementation of the recommendations made by Desman Associates fits squarely within this definition.

Will the Council authorize the expenditure of one million dollars in casino revenues to implement the recommendations described in the Parking Improvement Plan and authorize the Mayor to execute any agreements for such implementation in form satisfactory to the Corporation Counsel?

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

|                                                  |   |
|--------------------------------------------------|---|
| Yeas                                             | 2 |
| Grandinetti, Walker                              |   |
| Nays                                             | 3 |
| Anderson, Fruscione, Council Chairman Choolokian |   |

DEFEATED

Chairman Choolokian said that Parking Meters are needed downtown but there are other options in which to accomplish this

#### PUBLIC WORKS: MODERN DISPOSAL BILL FOR REMOVING STORM DEBRIS

##### Agenda Item #9

The Director of DPW is in receipt of a bill from Modern Disposal for services rendered as a result of the July 2013 storm event. This was to assist in clean up. The bill is attached hereto (on file in the City Clerk's Office) and is in the amount of \$16,253.75. Funding to pay this bill is available in general fund balance to be utilized for unanticipated events. This bill will be submitted to the State together with others with a request for reimbursement.

Will the Council so approve?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

#### CONTRACT: SAL MAGLIE STADIUM, RECONSTRUCTION OF LIGHT STANDARDS, FERGUSON ELECTRIC

##### Agenda Item #10

A section of the light standards at Sal Maglie Stadium has not been in service for quite some time and is in need of reconstruction. It is anticipated that the cost of this reconstruction will be approximately \$20,000.00. Quotes were solicited and Ferguson Electric responded. Funding is available from casino revenues.

Will the Council so approve and authorize Ferguson Electric to accomplish the reconstruction?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

CITY PROPERTY: 8676 BUFFALO AVE., SIGN ENCROACHMENT

Agenda Item #11

The operator of The Vault Nightclub at 8676 Buffalo Avenue has proposed the installation of signage on the outside of the building which will encroach into the City's right-of-way. The Planning Board has reviewed this and has made a positive recommendation to the City Council, a copy of which is attached hereto (on file in the City Clerk's Office).

The owner must comply with the following conditions:

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 the sign encroachment.
3. The City can revoke the license for the encroachment on sixty (60) days' written notice.
4. The owner must apply for and be issued all applicable permits and inspections.

Will the Council so approve?

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

Yeas

5

Nays

0

APPROVED

POLICE DEPT: OPERATION SWIFT CURRENT, GRANT AGREEMENT

Agenda Item #12

The Police Department has received a New York State grant in the amount of \$5025.00 for the above program which relates to increasing border security. There is no City match required.

Will the Council so approve and authorize the Mayor to execute an agreement or other documentation 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 DEPT.: JAG/EDWARD BYRNE PROGRAM-CRIME REDUCTION PROGRAM, GRANT

Agenda Item #13

The Police Department has received a grant in the amount of \$25,000.00 under the above program for the period of October 1, 2013 thru September 30, 2014. 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

PUBLIC WORKS: CAPITAL PURCHASES

Agenda Item #14

The Director of DPW is requesting the sum of \$1,056,900.00 to be made available for capital purchases. A list of equipment/items to be acquired is attached hereto (on file in the City Clerk's Office). Funding is available from casino revenues. This request is being made at this time due to the fact that in some cases it takes approximately six or seven months for these items to be manufactured.

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 CORPORATION COUNSEL

CLAIM: STANEK, KIMBERLY

Agenda Item #15

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 | 09/09/2013             | \$ 35.52      |

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 | 5 |
| Nays | 0 |

APPROVED

RESOLUTION: WORD OF LIFE MINISTRIES, HONORING, 2013-39

BY: ALL COUNCIL MEMBERS

Agenda Item #16

Word of Life Ministries 25<sup>th</sup> Church Anniversary

Whereas, anniversaries are occasions for compliments and praise and saying many things we don't always say. For often through the passing days we feel deep inside, unspoken thoughts of thankfulness and fond admiration and pride. But words can say so little when the heart is overflowing. And often those we appreciate the most have no way of knowing. The many things the heart conceals and never can impart, for words seem so inadequate to express what's in the heart, and

Whereas, on September 21, 2013 Word of Life Ministries, celebrated 25 years of service to God and to the citizens of Niagara Falls, New York, and

Whereas, your ministry tells it all: feeding the poor, clothing the needy, providing services to help those gain victory over addiction, visiting those in prison, spiritual guidance and direction to families and children in all aspects of life, nursing home and hospital ministry, support of our court system and police department, support of our youth in and of out of church settings, and

Whereas, because of ministries such as Word of Life, Niagara Falls has spiritual minded individuals who come out of prison, out of hospitals and out of poverty with hope and vision and a goal to make not only their lives, but also the lives of those around them better,

Now therefore be it resolved that we the Niagara Falls City Council on behalf of the citizens of Niagara Falls, NY do congratulate Pastor Jesse J. Scott, First Lady Minister Joann Scott and the entire Word of Life family on their 25<sup>th</sup> Anniversary. This is one of those occasions for compliments and praise, and you are well deserving of them and more. We appreciate you, your service and your prayers on behalf of this great city.

Prepared by Councilman Charles A. Walker

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

ADOPTED

RESOLUTION: YOUTH BOARD APPOINTMENTS, 2013-40  
BY: ALL COUNCIL MEMBERS

Agenda Item #17

BE IT RESOLVED, that the following individuals are hereby re-appointed to the City of Niagara Falls Youth Bureau for the term expiring on the date which appears opposite their names:

|      | <u>RE-APPOINTMENTS</u> | <u>TERM EXPIRES:</u> |   |
|------|------------------------|----------------------|---|
|      | Alexandrea Dell        | 12/31/2013           |   |
|      | Rashad Travis          | 12/31/2013           |   |
|      | Bryan Rotella          | 12/31/2014           |   |
| Yeas |                        |                      | 5 |
| Nays |                        |                      | 0 |

ADOPTED

LASALLE FACILITY, USE BY CAYUGA GAMBLERS TRAVEL SOFTBALL LEAGUE

Agenda Item #18

The City has once again been requested by the Cayuga Gamblers Travel Softball League to use the LaSalle facility for its fall, winter and spring season 2013-14. Utilization would be for full days on Saturdays and Sundays as the League has done during the past nine years.

Attached (on file in the City Clerk's Office) is a copy of correspondence containing this request.

Will the City allow the League to utilize the LaSalle facility as requested in exchange for a fee of \$100.00 to apply to administrative expenses?

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

|      |   |
|------|---|
| Yeas | 5 |
| Nays | 0 |

APPROVED

CONTRACT: BRIDGE PAINTING PROJECT, PORTER RD. OVER CSX RAILROAD, ERIE PAINTING & MAINTENANCE

Agenda Item #19

The following was the result of bids received on April 16, 2013 for the above referenced project:

| <u>CONTRACTOR</u>              | <u>BASE BID</u> |
|--------------------------------|-----------------|
| Erie Painting & Maintenance    | \$ 487,000.00   |
| 999 Rein Road                  |                 |
| Cheektowaga NY 14225           |                 |
| Amstar                         | \$ 524,000.00   |
| Niagara Coating Services, Inc. | \$ 589,202.00   |
| ABHE & Svoboda, Inc.           | \$ 782,100.00   |
| Atlas Painting                 | \$ 847,000.00   |

It is the recommendation of the undersigned that this project be awarded to Erie Painting & Maintenance at its Base Bid of \$ 487,000.00. Funding is available under Code H1110.2011.1110.0449.599.

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

RESOLUTION: 104<sup>TH</sup> STREET ALTERNATE OVERNIGHT PARKING, 2013-41  
BY: COUNCIL MEMBERS ANDERSON, FRUSCIONE, CHAIRMAN CHOOLOKIAN

Agenda Item #20

WHEREAS, it has been called to the attention of the City Council that passenger vehicles are not permitted to park parallel to the curb between the hours of 3:00 a.m. and 6:00 a.m. on 104<sup>TH</sup> Street between Cayuga Drive and Marine Memorial Drive; and

WHEREAS, residents have contacted the City Council requesting such alternate overnight parking so as to be similar to and consistent with the parking permitted on various other blocks in the vicinity of 104<sup>th</sup> Street; and

WHEREAS, a petition from residents of this block was received with more than seventy percent supporting a request for such alternate overnight parking.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Niagara Falls, New York does hereby approve the following:

Install alternate overnight parking on 104<sup>th</sup> Street between Cayuga Drive and Marine Memorial Drive such that alternate overnight parking between the hours of 3:00 a.m. and 6:00 a.m. is permitted on the side of the street bearing even house numbers on the even days of each month and on the side of the street bearing odd house numbers on the odd days of the month.

AND BE IT FURTHER RESOLVED, that this alternate overnight parking take effect immediately.

Yeas

5

Nays

0

ADOPTED

CONTRACT: CSX BRIDGE RECONSTRUCTION, CONSTRUCTION INSPECTION & ADMINISTRATION SERVICES, CHANGE ORDER #1 & FINAL, WENDEL

Agenda Item #21

A contract for the above referenced project was awarded to Wendel on November 29, 2010 in the amount of \$677,020.00.

The consultant for this project incurred costs well beyond their contractual obligations as a result of both changes in scope and delays, both seasonal and administrative. The total for extra work due Wendel is \$419,900.00, bringing their total fee to \$1,096,920.00

It is important to note that these costs are 95% reimbursable and form half the basis for a pending Supplemental Agreement from the New York State Department of Transportation approved by this Council on May 28<sup>th</sup> of this year. This particular Council action today will allow the City to make use of the funds when they become available later this summer.

Will the Council vote to 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 Choolokian recessed the Meeting at 7:00 P.M. until 4:30 PM on  
October 1, 2013.

Carol A. Antonucci  
City Clerk



OCTOBER 1, 2013

**RECESSED COUNCIL MEETING**

**NIAGARA FALLS, NEW YORK**

The October 1, 2013 Recessed Meeting of the Niagara Falls City Council was called to order by Council Chairman Glenn Choolokian at 4:35 p.m. in the City Council Chambers.

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

Council Member Anderson was excused.

Mayor Paul A. Dyster presented his Proposed 2014 Executive Budget. During his presentation, he made the following comments:

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 2014 fiscal year. As you know, the date of presentation of last year's budget was delayed from the normal October 1<sup>st</sup> presentation date while we worked to try to minimize the negative effects of a very difficult and unprecedented situation stemming in part from the delay in the delivery of casino revenues. Happily, that situation was resolved well in advance of the closing date for preparation of the 2014 budget, as Governor Andrew Cuomo himself joined us for the presentation of the famous "big check" for \$89 million on July 31<sup>st</sup>. I want to once again extend my heartfelt thanks to Governor Cuomo for the strong leadership role he exercised in ensuring that we would be paid the full amount we were owed; the positive outcome we experienced would not have happened without him.

Many people might assume that getting a check for such a large amount would automatically and instantaneously eliminate any budgetary challenges for the foreseeable future, but the world is not so simple. As I explained in my press conference shortly after we received word of the settlement, one of the first steps we took was to repay our General Fund \$22.7 million that had been used to cover what should otherwise have been casino-paid expenses during the period when revenues were delayed. As I have explained several times since, this does not change the fundamental difficulty we face in drafting budgets in the immediate future—a difficulty that is shared by many upstate communities with similar economic challenges: namely, that our recurring expenses are tending to grow faster than our recurring revenues. Yet, that said, I am proud to offer you today a balanced budget with essentially zero increase in business or residential taxes, no layoffs or drastic cuts in services, and no increase in the overall tax levy.

In searching for a way to explain this paradoxical situation, I turned to classic literature for inspiration. Remember the opening lines from Charles Dickens' Tale of Two Cities? "It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way..." Well, it's kind of like that. It's a paradox.

On the one hand, we are, for the moment, cash rich. How did that happen?

Through the course of this administration, we have exercised sound fiscal management and self-imposed discipline. Only three months into my first term as mayor, we ran head-on into the "Great Recession." We reacted quickly and decisively; 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 or even reduce spending in the ongoing budget year, generating fund balance to be re-appropriated for subsequent budgets. Through much of 2010, 2011, and 2012, we operated under a spending freeze, avoiding non-essential spending and trying to hold the line on upgrades and raises even when we knew they were well-deserved. For several years, we built up Special Project Fund balance, created initially to fund critical projects in the face of declining State AIM aid. 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. We decided 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 would only work if our reserves could be made to last until the dispute between the Senecas and the State was resolved. There was a lot of naysaying and pessimistic prognosticating, but in the end our strategy was vindicated. We did not "hit the wall," miss payments or otherwise succumb to the negative effects of this classic "cash flow crunch." Now, we have repaid our drained cash reserves, and even after making planned payments out of the reserves, we stand in a very strong cash position as we enter the budget process. "It was the best of times," right? Well, unfortunately, that's only half the story.

The strong cash position in which we now stand was the result of being able to run in the black during previous budget years and scoop up the surplus as a reserve for hard times. Based on everything we have seen about future cost and revenue trends, it will be very difficult—and I only say that because I try not to say that ANYTHING is impossible—that we will be able to do that again in the next several years. So we have a strong fund balance today, but we need to shepherd our resources carefully, because are almost certain not to be able to regenerate it any time soon once it is depleted. We cannot, for example, simply dump casino revenues into the General Fund to plug gaps because it is prohibited by Section 99-H of the Municipal Law, which regulates our use of casino funds.

As I have said in several previous budget addresses, we face several years of austerity and fiscal discipline before the positive effects of ongoing economic development begin to catch up to the negative effects of rising costs. What are the challenges as to costs?

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 while the figures are not in yet for 2012 to 2013, and we estimate will increase by another \$1.1 million from 2013 to 2014. This is in spite of our efforts—sometimes supported by Council and sometimes not—to eliminate vacant positions (created, for example, when someone retires, dies, or leaves City employment) wherever possible. Note also that we are still "out of contract" with several of our unions, and could see arbitration-driven raises (whether through actual arbitration awards or negotiations driven by the results of past arbitrations) or other increases in future years. We are always looking for ways to keep manpower up while keeping costs down, as in our past use of federal COPS and SAFER grants for Police and Fire. We were thrilled recently to be able to announce that we have received a new but smaller COPS grant that will allow us to add an officer for a little over \$4,000 in City match, but that doesn't reverse the overall trend of rising wage costs.

Second, pension expenses keep going up. They had already increased about \$1.3 million from 2010 to 2011 as a result of lower returns on the fund's Wall Street investments. So, in the 2011 budget statement, we announced that we would move to an amortization strategy. We amortized in 2012 and 2013. 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 2013 outlay for pension costs by over \$2.5 million. We will use that strategy again this year. From Employee Retirement System (ERS) costs of \$1,974,214 for 2013, we will go to an estimated \$1,964,601 for 2013 with amortization, a decrease of \$10,000. Not impressed? Without amortizing, that cost would be \$2,714,138—that's a huge savings of almost \$800,000 worth of taxes or jobs. Similarly, police and fire retirement will be \$5,229,590; without amortizing they would total \$6,362,342—over \$1.1 million difference.

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 once again this year we are looking to get bids on our book of business, but we are bucking a trend where we 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 that year's increase.

Implementing the "Forever Blue" program helps 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. But in spite of all these efforts, which in some recent years had led to manageable, single-digit increases, we are looking down the barrel of an estimated \$1,916,581 increase going into 2014. That's simply unacceptable. Our citizens can't afford it. Rather than raises taxes to pay these increased costs, we're going to dip into our health care reserves to cover at least \$916,581 of the increase for this year. But that means this absolutely must 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 need to cover that \$1 million somehow. We think there is some "low-hanging fruit" out there that creates the opportunity for win-win situations. Well, the time has come to pick that fruit. We need to sit down as soon as possible and get the job done. The alternative if we fail is to cover the remaining \$1 million gap out of our rapidly diminishing reserves; that is not sustainable for very long.

Our goals in the 2014 budget process are basically the same ones that have driven budget preparation every year of my administration. First, we protect our ability to deliver vital City services to our residents by making whatever cuts we can that don't cripple our ability to perform. Second, we protect the jobs of our City employees, who faithfully serve the public. And third, we seek to minimize taxes for the residents and businesses who foot the bill. We fully concur with Governor Andrew Cuomo's assessment that "New York has no future as the tax capital of the nation," and we have worked to chart a course designed to provide the best possible services while creating conditions for future economic growth. 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 kept moving key projects forward, first in the face of the "Great Recession," then even when the "Great Recession" was joined by the casino revenue crisis on our list of obstacles to overcome. We will continue to make those key investments, as witnessed by the \$4 million in casino revenues included in our capital plan for investment in economic development for 2014. We will hold to our promise to Governor Cuomo to use the resolution of the casino dispute to help shift our efforts at economic growth into high gear, and look forward to being among his strongest partners as he seeks to implement the Buffalo Billion Plan for regional economic revitalization, including a very strong Niagara Falls component.

Many people believe one of the best economic development strategies a municipality can employ is to hold the line on taxes. If that is the key to success, then we should be on the verge of exciting times, as we have consistently been among the most fiscally-disciplined municipalities in the State when it comes to keeping the tax levy down over the last several years.

Our 2006 levy—the total amount of property taxes collected from both residential and business taxpayers—was \$28,080,951. The tax levy I propose today for 2014—the total amount of property taxes we would collect to run the government next year—is \$28,100,000. Yes, that's the same as last year, and less than \$20,000 more than it cost to run the government seven years ago, when total expenses were only \$67,207,152—almost \$16 million less than today.

For the entire period of my time in office, from 2008 to 2013, the levy will increase only a tiny fraction of a percent per year - far less than the rate of inflation, and not taking advantage of even what would have been allowed under the tax cap by way of increased revenues. And this is despite the fact that, as we all know, the price of everything goes up at least a little each and every year.

In past years, we've asked the departments to tighten their belts and cut what can be cut from already bare-bones budgets. They found \$1.2 million in 2011 and an additional \$175,000 in 2012. When you see a number like that, it is obviously not just "fat" being cut—you're into muscle and bone. For 2014, our proposed budget increases spending from the 2013 adopted budget from \$81,430,779 to \$82,969,867, an increase of approximately \$1.5 million. That sounds bad, but before rushing to judgment, there is a tale to be told. First, we know the actual spending for 2013 will be more than the adopted budget because operational expenses were paid out of the "Council contingency line" through resolutions passed during the ongoing budget year. Second, most of the increase comes in the form of increased contractual wages and medical insurance costs. When you look at actual operational expenses, the departments actually found an additional \$400,000 worth of savings and this in spite of having to absorb an increase in hydrant use fees from \$57,000 to \$215,000. Our shared services with the Water Board save us about \$120,000 a year, but that is still a big hit to absorb. One thing we have been able to do as result of the arrival of casino revenues is to shift 99-H allowable expenses that had been put in the general fund during the casino cash crunch back to being casino funded. We also now have a limited amount of casino interest income which can—in fact must—be used in the general fund. Every penny helps. In the future, we hope our return to a regular replacement schedule for casino-funded capital equipment will help once again to drive down General fund parts and repair costs—without casino revenues we didn't replace 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, and \$2 million in 2013, consistent with our policy, begun in 2011, of adding property tax relief to the other restricted purposes (e.g., paving and other capital projects) for which we use these funds. (We had in fact planned to use \$3 million in 2013, but could not because of the use of these funds to cover casino fund expenses.) In past years, there were other sources of funds that we could use to help offset revenue shortfalls in the General Fund. In 2011 and 2012, we had fund balance left over from Debt Service in the 'V' Fund, \$2.5 million and \$1.5 million respectively. Those funds aren't there this year. Because we don't believe in increasing anyone's taxes unless we've used up funds we've collected from taxpayers in the past, we conducted a review of our capital accounts to look for funds that had been reserved for capital projects that have now been completed. We used \$3.9 million of these funds on 2012 and another \$2.9 million this year. Last year we used \$2 million of Special Projects Fund Balance and \$2.9 million of these left-over capital funds to help supplement revenues, for a total of \$4.9 million of so-called "one time" revenues. The Capital funds are not there this year. So this year, we propose to use a total of \$4.4 million of our recently-replenished Special Projects Fund Balance in the General Fund.

We are not entirely happy with that, but note that it is a half-million dollars less of "one time" revenues than in this year's budget—and we intend (and need) to keep pushing that trend going forward in the next few years. 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, while we grow our tax base through economic development until the expense and income lines finally cross.

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. Then last year, I reported 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. That was because the new Olive Garden and Buffalo Wild Wings were completed and became fully taxable last year, and Hobby Lobby, Panera and Walgreens came on line as well.

I am pleased to be able to announce today that we were able to add \$41.3 million in total assessed value of non-homestead properties for our 2013 tax roll. Although several of the contributing properties are subject to IDA PILOTs that postpone the collection of full taxes into future years, this is still a very robust picture of growth. The largest contributor to this total was the new Greenpac Mill which came on line this summer. The new business construction which is underway along the Military Road corridor, along Niagara Falls Boulevard, and the several new hotels proposed downtown will help increase revenues and reduce the tax liability for all property owners in the future, subject to our ability to capture these revenues under the tax cap. One obvious conclusion to be drawn: getting these economic development projects done with responsible oversight but without unnecessary delay is critical to our future bottom line. It can make a big difference in which tax year a future project comes on line.

Another pleasant surprise was an increase in our homestead valuation. We were pleasantly surprised in 2012 when homestead valuation was up, then disappointed for 2013 when homestead valuation went down over \$3 million, or about a third of one percent. Last year, I cited concerns about reductions in assessed value granted by the Board of Assessment Review, but even more importantly the loss of property value as vacant houses were demolished. I mentioned that in 2012 alone, we lost \$1,661,200 in homestead value to the wrecking ball. When a building is past the point of no return, there is no choice. But one of our greatest long-term challenges is increasing the value of our residential real estate through encouraging rehabs rather than demos. So we put much effort and creative energy into getting properties back on the tax roll, rehabbing them, and recruiting new residents into our city.

I'm proud to report that taxable value of homestead properties increased by \$4.9 million this year. This is a huge rebound from the losses of the previous year. One of the reasons for this increase is the vast number of city-owned properties that were sold to individuals and put back on the tax rolls for 2013. Please note that this value is very sensitive year-to-year to the impact of demolitions, since properties where homes are demolished are assessed the following year as land value only. That is why we are using innovative programs like Live NF and Isaiah 61 to encourage renovation of homes and home ownership, and we're just getting started. We're working now with Housing Visions, which has had great success in Syracuse and nearby Lockport, to bring properties back to the tax rolls as soon as the 2014 calendar year.

We looked at historical figures for hotel and restaurant taxes (HRU), though the industry is strong, decided to keep them stable in light of previous years' increases. We looked at Niagara County sales tax, and even with the distribution of funds shifting against us because of the 2010 census, we were able to raise these revenues \$800,000. Unfortunately, as a result of reduced commodity costs for natural gas, we had to reduce Gross Utility Taxes by \$200,000, but there was still a net gain there of \$600,000.

An area of income generation we need to work on for next year is parking revenues and related revenues from parking enforcement, including tickets and court-imposed fines. The principal purpose of a parking enforcement system is not, of course, to generate revenue. Rather, delivering safe, clean and convenient parking options is an integral part of our tourism industry infrastructure. But that doesn't mean we should leave money on the table when jobs and tax increases are at stake.

By implementing a parking control system that includes updated technology at our ramp and surface parking lots and a limited number of strategically-placed on-street meters, we can net an additional \$200,000 in lot and other parking revenues. We also estimate an increase in ticket and court fine revenues of approximately \$400,000 (to a total of \$950,000) once on-street meters are installed. If we pay for the system upfront using casino revenues, as the administration proposes, we can put all these new revenues in the General fund from the start. The cost is paid back within 2 years, with no impact on the taxpayer.

While we are disappointed that the Council voted down a proposal to dedicate casino funds for this purpose at last night's meeting, we are not taking this as the last word. We will continue to work with Council to try to implement a parking system in time for the start of the 2014 tourism season that meets our legal obligations, provides additional revenues and satisfies the tourism industry's for a more rational downtown parking scheme.

In 2011, we established the Business Tax Relief for Economic Development Fund to help compensate all commercial 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, \$449,000 in 2012, \$454,000 in 2013, and propose \$448,000 for 2014; the number is derived from the non-homestead base proportion. We propose to do 20% equalization for 2014, as we did last year, but because non-homestead payers are still taxed much more per \$1,000 of assessed value (\$30.16 vs. \$17.72), and to help offset the impact of IDA PILOTs on the vast majority of businesses that don't receive them, we will continue this effort to make sure that the tax burden doesn't fall disproportionately on the backs of small businesses.

We will use casino revenues to cover the debt service for the public safety building, to fund a share of public safety services, and to compensate the levy for the loss of revenues from properties removed from the assessment roles when the Compact land was created; these amounts are, respectively, about \$3.5 million, \$290,000, and \$941,000. Add the \$448,000 for Business Tax Relief for Economic Development, and the total is \$5,189,833.88 used in the General Fund.

It was frustrating last year at budget time because we faced such a disastrous situation after years of sound financial management, and the build-up of cash reserves. We did multi-year financial planning, providing our own safety net, but, because of forces over which we had no control related to the dispute between the Seneca Nation of Indians and the State of New York, we faced the prospect of fiscal crisis without the full range of resources that should justly have been at our disposal to help weather the storm. Now those resources are restored. But make no mistake--they are a lifeline, not a windfall. Wise use of casino revenues to rebuild roads and other infrastructure, improve vital services, purchase public safety equipment and facilitate economic development is our lifeline out of the current danger.

In spite of the recession and Seneca casino dispute, we have consistently improved on City services, kept taxes down, and improved our reputation for stability and sound fiscal planning. This year, with no increase in the tax levy, we have balanced the budget without layoffs or service cuts. We are proposing essentially no increase in either the homestead or non-homestead tax rate. This very significant accomplishment has required the use of some of the City's precious reserves, but has been achieved without touching the undersigned fund balance that we keep as the City's "rainy day" fund. In fact, that fund has been increased.

We still face many challenges. Despite our current strong cash position, we cannot for long sustain the current imbalance between recurring revenues and expenses that I highlighted earlier. In the near future, I will ask the City Council to approve a resolution authorizing us to join the Governor's Financial Restructuring Assistance Program. Hopefully the Board's non-binding recommendations will help us find the path to increased fiscal stability and economic prosperity. We will face many difficult choices, but the legacy of past good decisions will at least put some tools in our tool box. When the fortunes of upstate cities are compared, I suspect we will be worse off than some, but better off than many.

So are these "the worst of times," or "the best of times?" As Dickens suggested when he first penned these now famous words, the answer lies largely in the perspective of the one asking the question. Some people are inclined to a negative outlook on life, and see nothing but problems, troubles and dangers in every situation. They always take the dimmest possible view of everything. They're rarely happy, and it is very difficult to please them. Others are so inclined toward a rosy view of life, that they may fail to see the many dangers lurking in the shadows along the road. At least they can see the positive aspects of even the most difficult life situations. The truth, one suspects, lies most often somewhere between these extremes. That, I suggest, is where the City of Niagara Falls finds itself now.

When the year started, many in this room expected us to be in or near default at this time. That didn't happen. Instead, we find ourselves well-supplied with short-term cash, but facing the prospect that those reserves could be continuously and relentlessly drained in the next few years in a futile effort to plug holes in future budgets unless we muster the courage and wisdom to take corrective action while there is still time (and money) to solve the problems. The choice is ours.

Thanks to our City Administrator, our City Controller and her staff, and all the Department heads and other staff who have helped make this budget possible. I look forward to working with the City Council, whose members were invited to have input in the process from the very beginning, to finalize the 2014 budget. My administration presents you with an austere but balanced budget, with no layoffs, no reductions in services, and no tax increase. Please don't be tempted for political or personal motives to do anything that disturbs that very positive outcome, but instead let's put our minds to imagining how we can be more effective and efficient going forward. Then, like Dickens' protagonist Sydney Carton, whatever else fate brings, we will be able to say, "It is a far, far better thing that I do, than I have ever done..." God bless you, and keep working for a better tomorrow.

Sincerely yours,

Hon. Paul A. Dyster  
Mayor

There being no further business to come before the Council, Chairman Choolokian adjourned the Meeting at 5:05 p.m.

Carol A. Antonucci  
City Clerk

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