

**OFFICIAL MINUTES
CITY OF NIAGARA FALLS PLANNING BOARD
July 14, 2021**

A regular meeting of the City of Niagara Falls Planning Board was held Wednesday, July 14, 2021 at 6:00 PM in Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Chairperson Tony Palmer
Joseph Giaquinto
Joseph Sarkees
Charles MacDougall
Timothy Polka
Schurron Cowart
Joyce M. Williams
Michael Murphy

Board Members Excused:

Robert W. Burns

Staff Present:

Eric Cooper, Director of Planning
Sarina Deacon, Clerk

Attendees:

James Abbondanza
Donta Myles
Jackeline Pryor
Todd Salansay
Carroll Schultz Reetz
Paul Dolan
Rod Davis
Frank Soda
Gloria J. Dolson
William Kennedy II
Bob Pascoal
Erza Scott Jr
Rick Pfiefer

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA — FOR THIS MEETING

A motion to approve the Agenda was made by MR. MURPHY, and seconded by MR. POLKA

Motion: **UNANIMOUSLY APPROVED.**

APPROVAL OF MINUTES:

1. Meeting held June 16th, 2021

Motion to approve the draft minutes for the meeting dated June 16th, 2021 was made MR. GIAQUINTO and seconded by MR. POLKA.

Motion: **UNANIMOUSLY APPROVED**

PUBLIC PARTICIPATION (All Non-Agenda Topics):

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Carroll Schultz Reetz came to the Planning Board and read the following statement

"In the last four years, since the current STR ordinance was put in place, the city has seen a tremendous increase in housing prices and capital improvements made in properties throughout the city. STRs have driven a lot of the increase in home values.

"The desire to corral STRs into the downtown core not only goes against the Comprehensive Plan, as was determined last year, but also is just plain stupid. It serves no legitimate purpose. There is no evidence that STRs are a real problem anywhere in this city and when we ask those proposing this zone to cite evidence that there is (i.e., police calls, code complaints) they can't.

"We have heard all sorts of reasons for the zone: It would be easier for Code Enforcement to enforce – how is that? It takes 10 minutes to drive across town. We do not want our tourists in dangerous areas – there are much safer areas outside of this zone.

"The apparent reason is because a few people do not want "those people" or strangers residing for a short period of time next to them, that is not justification. We are not opposed to regulation as long as it is reasonable. Heck, we have been asking for 4 years to enforce the current ordinance and shut down illegal operators. Nothing. The proposed zone is not reasonable. For me personally, it would be a benefit since it would limit competition but that is not what is good for the city.

"Let's be frank, we have an aging housing stock that takes serious money to improve and maintain. Cutting property owners off from the opportunity to make the kind of money required to make capital improvements is detrimental to all neighborhoods. LTRs do not make the kind of money that allows owners to replace the roof, re-side the house, replace the windows, etc. LTR income has to cover taxes, insurance, utilities, and repairs leaving not much left for the owner. That is why so many LTR properties look like crap and the STRs look great.

"Any zone will just create more illegal operators. Since the city's history of enforcement is abysmal, those outside the zone wanting to operate an STR will do so anyway. The other problem with the zone is that there is no visible investment by the city in the zone. I hear \$358 Million have been spent – really? Where did it go? Drive around and see the derelict city owned properties and vacant lots. People who want to own and operate a STR should not be forced to operate in an area that many of the city's own residents won't walk around. The city needs to show its commitment to making the area tourist ready if they want to force the zone. Instead of giving millions to companies like Montante – how about the city fix the sidewalks, lighting, blight removal and regularly pick up trash and litter. Also, provide more police presence since there are an awful lot of mentally ill people wandering around this area. That will drive more investment into the area without the need for gov't handouts, grants, and tax breaks. STR operators have asked for nothing and we have improved our neighborhoods, one house at a time. All we are asking is for the city to get out of the way and let us do it – throughout the city."

Jackeline Pryor spoke about the multiple Air BNB's that have appeared on her street within months. She thought there had been a citywide reform. Jackeline called the city on July 13th to report an Air BnB owner who was working on a third rental property. Jackeline called the city because she did not see a permit for any construction. The work was stopped that day but started back up on July 14th. Jackeline stated that the tenants of the long-term rentals suffer more because the owners of the long-term

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rentals do not take care of their properties. Jackeline stated that the property upkeep is placed on the renters. The resident stated that she had been taking care of a property at 426 FERRY AVENUE under Seth Piccirillo's South End Housing Initiative for 5 years and has been unable to gain ownership of it. The resident argued that people who do not live in the City of Niagara Falls are able to buy lots and that it is difficult for residents to buy lots.

Paul Dolan, an agent with Hunt Real Estate, spoke about the proposed zone for short-term vacation rentals. Mr. Dolan explained that while he understands the need for a proposed zone from a code enforcement perspective, he argued that the zone would not be an ideal solution for small business owners and real estate agents. Mr. Dolan argued that the zone would limit the amount of sales of new short-term rental providers and would limit the practice of Free Enterprise in the city. Mr. Dolan argued that when a short-term rental with a dedicated owner appears in the neighborhood, the neighborhood naturally begins to clean up. Mr. Dolan stated that it is not considered gentrification, as short-term rentals do not compete directly with the rental stock. Mr. Dolan argued that the city needs to take better stock of the abandoned houses and stop allowing them to sit vacant. Mr. Dolan stated that people from all over the country are moving into houses that were once owned by large property owners. Mr. Dolan stated that prices in the city have been increasing regularly for the last few years. Mr. Dolan stated that home prices in Niagara Falls were still well below most of the country. Mr. Dolan argued that if all the short term rentals were moved into a compressed area, the surround homes would sky rocket in price. Mr. Dolan stated that people coming to visit are not always visiting for Niagara Falls. He stated that some of them are visiting for family and friends. Mr. Dolan argued that visitors like to stay near the attractions and not be forced into hotels. Mr. Dolan stated that when small businesses and short term rental owners thrive, the city does well because of it. Mr. Dolan ended his speech by stating that the city needs to keep growing strong and let business flourish wherever it can.

CHAIRMAN PALMER let the audience know that the Planning Board would not be addressing Short Term Rentals and stated that he did not know when they would be addressing Short Term Rentals. He stated that the Planning Board would not be addressing Short Term Rentals because they had not received anything from anyone for them to discuss.

Gloria Dolan, resident of 1502 Ontario Avenue, spoke. She stated she did not know the city had a Planning Board and did not know about the Planning Board meetings. She stated that the public should be more involved. She stated she did not know what the Planning Board does or how the public could help. She stated that she had recently visited two local restaurants and the owners had lamented to her how hard it was to open a business in the city. Gloria stated that she would like more information about the Planning Board. Gloria stated that more young people should be involved with the Planning Board because they have so much knowledge about what the city needs.

James Abbondanza wrote the following statement to give but did not have time to speak

"Hello, My Name is James Abbondanza and I am here tonight to speak to you about the shady doings of our local government.

"In a City where we have so many issues, we have watched the administration use our time, tax money and city resources to push an agenda against that has no basis in fact, data or the will of the people. Why is this, above all else, the priority of both the Mayor and the Council? What data or influence do

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they have that justifies this effort? It is certainly not the Comprehensive Plan and it is certainly not the will of the people.

"Last year we had this exact fight – the administration quickly and unilaterally rolled out a new ordinance for approval and expected it to just go right on through the line to law. To their chagrin, they did not get their way because cooler, more reasonable heads prevailed in both the county and city planning boards. This very board saw the ordinance for all its many flaws, some illegal, and wisely voted against it.

"Here we are again with the same substantive ordinance, including some items that procedurally and legally do not belong in an ordinance - some of which are illegal – this time though, they administration is attempting to cut out our rights and protections by changing the rules in their favor.

"These important advisory boards are here to protect the people from leaders who are making bad choices, short-sited choices, and corrupt choices. There is a noticeable disdain from the city council and administration for advisory panels, they treat you as pests or uninformed people who are in the way of their smart plans.

"I will walk you through a short list of things that have occurred so far:

1. A suspicious and malformed moratorium has been put in place that fails on many fronts to follow land use moratorium law – Don't take my word for it - I implore you to ask local legal counsel for a write up of how this fits the law.
2. Although followed to the minimum letter of the insufficient law, the meeting for the public hearing was scheduled last minute not giving the public much time to find out about it. Council also stated that it was a courtesy that they let the public know at all – that is patently false and worrisome since it was the chairperson that said this.
3. The council is attempting to have you, the planning board, remove your ability to regulate their poor decisions by removing the rule of a unanimous vote if you advise no to an item. They actually have the gull to ask you to make yourselves irrelevant.
4. Not happy with last years outcome, the administration has systematically been cleaning house of any employee that didn't agree with them, they bullied the planning department until everyone left, they have pressured employees to fudge data and they have purposely withheld FOIL requested data for over a year now.
5. Speaking of FOIL, we have multiple FOIL requests that have been purposely held up in the law department. I again implore you to ask legal counsel – why? Especially since the City Council Chairperson has, on record, referenced the very data we asked for and then refused to share it.
6. They have used the planning department to inflame and already bad situation in a neighborhood in order to use that neighbor dispute as a false narrative that favors their plans.

"Tonight, I am asking that you look logically, systematically, and factually into what is happening here regarding the rule changes and STRs. Removing this rule will affect future projects as well, and with

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Niagara Falls being on the precipice of potential positive change, you must vote to hold on to the protective powers you have."

PUBLIC HEARING: **NONE**

ACTION ITEMS:

1. **Recommendation to City Council:** Disposal of City-owned real property located at 220 79th Street, SBL# 73-1-6, (R2-B). Disposition/Sale to Lorrilie & Joseph Mundier, owners of 224 79th Street.

CHAIRMAN PALMER asked if they were in the audience. Nobody responded. Mr. MURPHY asked if the owners were asked to come to the meeting. MR. COOPER stated they were not.

CHAIRMAN PALMER stated that the owners should be at future meetings in case of any questions.

Motion to recommend approval of the disposal of subject property to the applicant made by MR. GIAQUINO and seconded by MR. MACDOUGALL.

POLLED VOTE:

Mr. Giaquinto	Yes
Mr. Murphy	Yes
Mr. Sarkees	Yes
Mr. MacDougall	Yes
Mr. Polka	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Chairman Palmer	Yes

Motion UNANIMOUSLY APPROVED

2. **Recommendation to City Council:** Disposal of City-owned real property located at 1915 Whitney Avenue, SBL# 73-1-6, (RS-B) Disposition/Sale to Calletta Gayle, owner of 1911 Whitney Avenue.

CHAIRMAN PALMER asked if the lot was vacant and asked what Gayle's intention for the property was. MR. COOPER responded that it was not stated on the form and unclear.

Motion to recommend approval of the disposal of subject property to the applicant made by MR. POLKA and seconded by MS. COWART.

POLLED VOTE:

Mr. Giaquinto	Yes
Mr. Murphy	Yes
Mr. MacDougall	Yes
Mr. Polka	Yes
Ms. Cowart	Yes

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Ms. Williams	Yes
Chairman Palmer	Yes

Motion: UNANIMOUSLY APPROVED

3. Set Date for Public Hearing: Amending Zoning Ordinance Section 1302.4.2 (D) – Affect of Planning Board Recommendation

CHAIRMAN PALMER read the following statement

"In response to resolution 2021-29 relative to amendments of City of Niagara Falls Zoning Ordinance 1302.4.2 (D) after reading and studying this resolution in my opinion there are questions that need to be asked and answered. While it is true, the Planning Board is an advisory board and according to the Zoning Ordinance, the only time a unanimous vote is mandated is when **BOTH** the Niagara County Planning Board **AND** the Niagara Falls Planning Board recommend to deny it. I think that if the Council did further research, they would see that the current zoning ordinance is the rule followed by most municipalities in the state.

"If this board is to entertain this resolution, let it be known that we will follow the amendment process that is designed to be thoughtful and takes the time to avoid making decisions in the heat of the moment.

"Here are questions that we need answers to...

- 1) Where is the Long Form Environmental Assessment Form?
- 2) When was SEQR lead agency established?
- 3) Has this been sent to the Niagara County Planning Board for a 239m review? If not, why not?
- 4) What was the reason for this change?

"This zoning amendment is a Type 1 SEQR action that requires the city to establish a lead agency before it can be considered. The Niagara County Planning Board must recommend before the Niagara Falls Planning Board may entertain this issue. As it currently stands, this is an incomplete request."

MR. SODA asked CHAIRMAN PALMER if he could cite the State Law in which mandates the unanimous decision. CHAIRMAN PALMER said that he could get the information to MR. SODA. MR. MURPHY said that sending the information would be the responsibility of Corporation Council. MR. SODA argued that it did not exist in Municipal State Law. MR. MURPHY asked how many times in the last five years, did the Planning Board vote on and denies an item that was ultimately approved by the Board. MR. MURPHY stated that he requests that a member of Corporation Council be present at future meetings.

CHAIRMAN PALMER reminded MR. SODA that the Planning Board makes recommendations to the City Council and they do not have to follow the recommendation. MR. SODA disagreed, saying otherwise unless there was an unanimous vote. MR. SODA argued that the Planning Board had no regular control over the governing body of the city. MR. SODA lamented how the Planning Board could have control over City Council in several ways. MR. MURPHY again stated how he had asked someone from Corporation Council to attend the meeting so any legal questions could be answered. MR. SODA argued that certain votes within either the Planning Board and/or City Council could lead to certain financial

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issues. MR. MURPHY stated that there was an implication that the Planning Board was against the current admin or against the City Council. MR. MURPHY stated that the ordinance was discriminatory towards people of color. MR. MURPHY had several more questions about the writing in the ordinance. MR. MURPHY stated that Corporation Council would be able to help with those.

A member of the audience, DONTE MYLES, spoke up and about the issue of gentrification with the short-term rental-zoning ordinance. He stated that he had gone to the City Council several times about this issue. He stated that the zoning ordinance would have an effect on his community.

CHAIRMAN PALMER asked for a motion to remove action item number 3 from the Agenda due to not having the proper paperwork.

Motion to recommend removing action item number 3 made by MR. MURPHY and seconded by MR. POLKA

POLLED VOTE:

Mr. Giaquinto:	NO
Mr. Murphy:	YES
Ms. Williams:	NO
Mr. Sarkees:	YES
Mr. Polka:	YES
Mr. MacDougall:	YES
Ms. Cowart:	YES
Chairman Palmer:	YES

Motion: PASSED

OLD BUSINESS: NONE

NEW BUSINESS: NONE

PLANNING REPORT / COMMUNICATIONS:

MR. COOPER stated that James had left his position and that the department was looking to fill it as soon as possible. MR. COOPER stated that Sarina Deacon had started in the role of Clerk. The next meeting was planned for July 28th of 2021 at 6pm. There were no meetings planned for August unless for a special hearing.

ADJOURNMENT:

Motion to adjourn made by CHAIRMAN PALMER and seconded by MR. MURPHY.

Motion: **UNANIMOUSLY APPROVED.**