

**Official Minutes
City of Niagara Falls Planning Board
Feb. 22, 2023**

A regular meeting of the City of Niagara Falls Planning Board was held on Wednesday, February 8, 2023 at 6:00 p.m. in Council Chambers, City Hall, 745 Main Street, Niagara Falls, N.Y.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Tony Palmer
Charles MacDougall
Beverly Callen
Timothy Polka
Ryan Dallavia
John Spanbauer

STAFF PRESENT:

Kevin Forma, Director of Planning

BOARD MEMBERS EXCUSED:

Ken Nossavage
Shurron Cowart
Joyce Williams

SPEAKERS:

William Rossi
Adam Serbert
Richard Ries

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA – FOR THIS MEETING

A motion to approve the agenda was made by **MR. POLKA** and seconded by **MR. SPANNAUER**.

MOTION: MAJORITY APPROVED

PUBLIC PARTICIPATION

MR. ROSSI, an attorney from Phillips Lytle representing Blockfusion, spoke to inquire about an application submitted on December 9, 2022, by Blockfusion. MR. ROSSI said that Niagara Falls code stated Blockfusion would either hear if any items were missing from the submission or a hearing date would be scheduled, and neither had happened within 15 days of the submission.

MR. ROSSI said he had left a voicemail with city attorneys this week but he wanted to know where Blockfusion stood in the application process.

MR. FORMA said that the city did have Blockfusion's materials and that a response was being formulated through the city's outside attorneys.

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MR. ROSSI thanked the Board and said that Blockfusion feels they've brought their plan into compliance and asked for an opportunity to demonstrate the compliance to the Board.

MR. FORMA said he would speak to the attorneys. MR. PALMER told MR. ROSSI that as soon as the application was ready, Blockfusion would be notified of a scheduled hearing.

APPROVAL OF MINUTES FROM 2/8/23

A motion to approve the meeting minutes from 2/8/23 was made by **MR. SPANBAUER** and seconded by **MR. POLKA**.

MOTION: MAJORITY APPROVED

PUBLIC HEARING

1. Public Meeting: for the purpose of the construction of a Tier 3 solar facility at 4214 Highland Avenue, 4110 Highland Avenue, 1524 Pennsylvania Avenue, and 1530 Delaware Avenue. The project includes the amalgamation of 20 parcels and three abandoned City parcels.

MR. PALMER introduced the item at 6:17 p.m. and read the description. He then opened the floor to the public.

MR. SERBERT introduced himself and MR. RIES as representatives from e2i Property Management and described the company's goal to build solar farms that complement apartment building renovations. He said that the proposed facility would be a "good complement" to Niagara Falls' history of clean power and that it would use "underutilized industrial areas" in the city. He said that the proposed site already has good line infrastructure which is important for a solar facility.

MR. RIES said that e2i has closed on 16 acres of land surrounding abandoned city parcels and that they will need to incorporate the abandoned parcels into the project. He said that e2i also met with the Niagara County Planning Board and that the boards recommended the project for approval.

MR. RIES also said that they had received good feedback from residents at the previous public hearing and the solar panel set back from the residence increased and the units are much lower to the ground. 10 feet before to 24-26 inches.

MR. RIES said that environmental testing had occurred, and excavation is likely going to be beyond one acre, which means that there would have to be retention ponds to prevent flooding.

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MR. SERBERT and MR. RIES gave a presentation to the Board on updates to the project. MR. SERBERT provided an overview of community solar. They assured there would be no glare from the panels and birds and wildlife would not be affected.

MR. RIES said that the facility would also be hiring locally for maintenance and upkeep.

MR. PALMER asked if there were questions from the Board. MR. SPANBAUER said that a resident contacted him with concerns about oil leakage from the solar panels, but the presentation said there was no oil in the panels. The resident also asked what happens when the panels “go bad in 25 years?” MR. RIES said that there are ways to recycle the solar panels and that e2i would own them, so the city would not need to worry about disposal or decommissioning.

MR. SPANBAUER asked how residents would be notified of the community solar project. MR. SERBERT said that e2i would work with the city to notify residents through signage and flyers. E2i would also market the facility to get subscribers.

MR. PALMER inquired about e2i’s plan to create a natural screen with trees at the facility. MR. RIES said that e2i would use whatever trees were acceptable to the city. MR. PALMER said that the type of trees used would have to be a condition in the site plan.

MR. SPANBAUER said that he felt the project would be a good idea for Niagara Falls. He requested that the Board vote to approve the project.

MR. PALMER asked if there were any other comments. No other comments were received.

Motion to add the site plan review to the agenda was made by **MR. DALLAVIA** and seconded by **MS. CALLEN**.

TONY PALMER	YES
BEVERLY CALLEN	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
TIMOTHY POLKA	YES
RYAN DALLAVIA	YES

MOTION: Majority approved.

MR. PALMER then asked for a motion to add the site plan approval to the agenda.

Motion to approve the site plan was made by **MR. DALLAVIA** and seconded by **MR. MACDOUGALL**.

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TONY PALMER	YES
BEVERLY CALLEN	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
TIMOTHY POLKA	YES
RYAN DALLAVIA	YES

MOTION: Majority approved.

MR. PALMER then asked for a motion to approve the site plan.

Motion to approve the site plan was made by **MR. DALLAVIA** and seconded by **MR. MACDOUGALL**.

TONY PALMER	YES
BEVERLY CALLEN	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
TIMOTHY POLKA	YES
RYAN DALLAVIA	YES

MOTION: Majority approved.

ACTION ITEMS:

1. Public Hearing: set public hearing date for the purpose of amending the City of Niagara Falls' Zoning Ordinance to include Chapter 1329 Regulations related to the use, cultivation, production, and sale of Recreational Cannabis within the City.

MR. PALMER read the description and introduced the item for discussion.

MR. FORMA suggested that a hearing should be scheduled on March 29, 2023, in order to give the Board enough time to read lengthy documents regarding state laws on cannabis. MR. SPANBAUER said that there was a section in the state legislation about local implementation and suggested that section was highlighted. MR. DELLAVIA asked if cannabis sales was restricted to certain zones. MR. FORMA said that cannabis ordinances appear to have been modeled after alcohol laws and the City was limited in what actions could be taken. The primary action would be to designate where activity could take place. MR. FORMA reiterated the March 29, 2023 to confirm the date for the public hearing and said public notice would be published.

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OLD BUSINESS:

1. Planning Bylaws

MR. PALMER said that a motion had to be made to remove planning bylaws from the table in order to discuss them. They had been previously tabled at the February 8, 2023 Board meeting.

Motion to remove the planning bylaws from the table was made by **MR. MACDOUGALL** and seconded by **MR. POLKA**.

TONY PALMER	YES
BEVERLY CALLEN	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
TIMOTHY POLKA	YES
RYAN DALLAVIA	YES

MOTION: Majority approved.

MR. PALMER said that the Board had not heard back from corporation council regarding the bylaws and suggested the Board should approve the bylaws and consider a subcommittee to look at bylaws for a vote next year. MR. SPANBAUER, MS. CALLEN, and MR. DALLAVIA volunteered to serve on this proposed subcommittee. MR. SPANBAUER said that the current bylaws were passed in 2001 and it was difficult to find bylaws for planning boards in other municipalities. MR. SPANBAUER suggested a few possible suggestions for revisions such as switching to electronic documents for notifications of public hearings and a means of removing members for “just cause.”

Motion to approve bylaws was made by **MS. CALLEN** and seconded by **MR. POLKA**.

TONY PALMER	YES
BEVERLY CALLEN	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
TIMOTHY POLKA	YES
RYAN DALLAVIA	YES

MOTION: Majority approved.

MR. PALMER suggested that three people, one-third of the Board, should be sufficient for a committee. MR. FORMA said he could reach out to other planning directors as well. MR. SPANBAUER said it would be good to have other cities’ bylaws for precedent.

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NEW BUSINESS:

1625 Buffalo Avenue: MR. FORMA said an application was being processed in the office for a portion of the site. The site is zoned for a downtown district which would require variances and potential design exceptions such as the inclusion of large windows which are inappropriate for a helicopter hangar building, The applicant did propose having decorative art pieces to avoid a blank wall. Items like this would require planning board approval. MR. FORMA said that the department did have preliminary draft drawings. MR. POLKA asked why they don't rezone the parcel. MR. PALMER said that the Board could make a recommendation to City Council to rezone. The problem would be to determine what the zone would become. MR. DALLAVIA asked what zone the parking lot next door was and asked if they could simply continue that zone over. MR. FORMA said he could do research on this matter. MR. MACDOUGALL asked if the Federal Aviation Administration (FAA) needed to be involved because of the flight path near power lines and hazards. MR. FORMA confirmed that the applicant would need FAA approval. MR. SPANBAUER commented that the area was still industrial.

PLANNING REPORT / COMMUNICATIONS:

City comprehensive plan: MR. FORMA said that the City Council had tabled a proposed ordinance for a new comprehensive plan and the planning office had begun exploring updating the current plan which is 15 years old. Any updates would likely be in conjunction with a new zoning ordinance.

MR. FORMA said he has made an offer on the Planner II position to the current department intern. The position won't be filled until June. MR. FORMA also said that he has had interest in the vacant clerk position with interviews scheduled and hope for an immediate start.

ADJOURNMENT

A motion to adjourn the meeting was made by MR. POLKA.