



# City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069

## NIAGARA FALLS HISTORIC PRESERVATION COMMISSION

**Brett Doster, Vice Chairperson**

**MEETING MINUTES**

**October 5<sup>th</sup>, 2023**

**City Council Chambers**

**745 Main Street, Niagara Falls, NY 14301**

### CALL TO ORDER

Meeting called to order at 6:00 PM.

#### **BOARD MEMBERS PRESENT:**

Brett Doster, Vice Chairperson  
Andrea Fortin-Nossavage  
Georgia Robinson-Bradberry  
Noah Munoz  
Jessica Collins  
Jessica Berry

#### **BOARD MEMBERS ABSENT:**

Kristian Ruggiero

#### **STAFF PRESENT:**

Mike Pesarchick, Planner II  
Pat Ciccarelli, Code Enforcement

**The Pledge of Allegiance was recited.**

### APPROVAL TO REVISE AGENDA

A motion to revise agenda and move New Business before Old Business on behalf of Mr. Ciccarelli was made by **Mr. Doster** and seconded by **Ms. Fortin-Nossavage**.

Brett Doster	YES
Andrea Fortin-Nossavage	YES
Kristian Ruggiero	EXCUSED
Georgia Robinson-Bradberry	YES
Noah Munoz	YES
Jessica Collins	YES
Jessica Berry	YES

**MOTION: MAJORITY APPROVED**

## APPROVAL OF THE MINUTES

A motion to approve the minutes of September 7, 2023 minutes was made by **Georgia Robinson-Bradberry** and seconded by **Andrea Fortin-Nossavage**.

Brett Doster	YES
Andrea Fortin-Nossavage	YES
Kristian Ruggiero	EXCUSED
Georgia Robinson-Bradberry	YES
Noah Munoz	YES
Jessica Collins	YES
Jessica Berry	YES

## MOTION: MAJORITY APPROVED

## PUBLIC PARTICIPATION

There was no public participation.

## NEW BUSINESS

**Pat Ciccarelli** of the City of Niagara Falls Department of Code Enforcement was introduced.

**Mr. Doster** stated that Code Enforcement has done a great job with the City's historic properties and districts and the stop work orders. Mr. Doster explained that the HPC wanted an understanding of the Code Enforcement processes.

**Mr. Ciccarelli** stated that there are two types of complaints. The first is a complaint from a neighbor. The neighbor can complain about the condition of a house. The inspector would go out and write up all the violations according to New York State Property Maintenance code. The inspector also looks for properties as they drive around the city. They will stop and write violations based on what they see. All violations are based on the New York State Property Maintenance code.

**Mr. Ciccarelli** stated that through years of experience with historical properties, some of the violations are in conflict with the HPC standards.

**Mr. Ciccarelli** stated that when people come in to get permits to fix violations, they put the address in the system and a flag will pop-up to tell them it's historic. Code Enforcement would not issue a permit. The request is sent over to Mr. Pesarchick, the Historic Preservation Specialist.

**Mr. Doster** asked if the property is referred to Mr. Pesarchick, would the owner receive a notice.

**Mr. Ciccarelli** stated that they would get a notice with 30 days to make the repair. If they do not respond within 30 days, the owner would be sent a final notice or it could be written-up for Housing Court.

**Mr. Doster** asked if there were any fines or fees imposed. **Mr. Ciccarelli** stated that fines are imposed through Housing Court. **Mr. Doster** asked Mr. Ciccarelli if he was aware that the City's Historical Preservation Regulations carry fines of \$250.00 per day.

**Mr. Ciccarelli** asked who can enforce those fines. **Mr. Doster** explained that he was asking to determine if Code Enforcement enforced the fines. **Mr. Ciccarelli** stated that they did not enforce those fines. **Mr. Ciccarelli** suggested that Housing Court could enforce the fines. Mr. Doster explained that the HPC would have to be consistent with enforcing the fines.

**Mr. Ciccarelli** asked Mr. Doster to share the Maintenance and Repair Violations.

**Mr. Doster** stated that it was under Regulation 1335.09, Maintenance and Repair Violations, which basically says you have to maintain your property. It can't fall into any kind of state of disrepair to result in an architectural feature degrading, deteriorating, to produce the detrimental effect on the historic character. Any person who violates this regulation is guilty of offence is punishable by \$250 a day fine or imprisonment for a period of not to exceed 15 days for each day's continued violation.

Mr. Doster said that the owner is then required to restore property if they alter it without permit or allows it to fall into disrepair. Any action to enforce this subsection shall be brought by the Corporation Council upon authorization by the City Council.

**Mr. Ciccarelli** asked if the fine would be imposed for the work being completed without complying with the requirements. He explained that work not done to maintain the property would fall under Code Enforcement but work completed incorrectly would not be Code Enforcement. Work completed incorrectly, would be a matter for the HPC.

**Mr. Ciccarelli** asked for a copy of the regulations.

**Mr. Pesarchick** stated that after reading the regulation, the HPC would need to contact the Law Department to issue a formal letter.

**Mr. Doster** asked if, right now, the only way to impose a fine is if the issue goes to Housing Court.

**Mr. Ciccarelli** stated yes, the judge could fine the owner a \$100 or \$200 per violations.

**Mr. Doster** asked if Corporate Council would refer this to the Housing Court.

**Mr. Pesarchick** said that he would check with Corporate Council the next day.

**Mr. Doster** asked if Code Enforcement was looking for basic life safety issues.

**Mr. Ciccarelli** stated that they look at blight too. The goal is compliance not to send everyone to Housing Court but in the end, they will if they have to.

**Mr. Ciccarelli** explained that some court cases can extend over a long period of time. He gave an example to illustrate that some projects like putting in windows may not be sent to court but a major project like a house that is being gutted down to the studs, not done in compliance with the HPC regulations may be sent to court after 30 days.

Mr. Doster explained that Code Enforcement and the HPC does not have jurisdiction over interiors unless a COA was needed for public accessibility.

**Mr. Ciccarelli** used a property located on 4<sup>th</sup> Street as an example. He stated that the contractor need to replace a pillar but for safety reasons had to use a pillar that was not like the pillars on the building. This was done as a temporary measure but ensure the safety of the tenants.

**Mr. Doster** stated that there was a provision for safety and hardship in the regulations.

**Mr. Doster** asked what we do for regular property inspections. He asked if larger buildings were regularly inspected.

**Mr. Ciccarelli** stated that the Fire Dept. inspects buildings yearly or every two years. If the exterior of a building appears unsafe, Code Enforcement can look into it.

**Mr. Doster** asked if the city were considering eminent domain, would it be determined by the Housing Court. He asked if the Housing Court determines that the city need to take back a building because it's unsafe.

**Mr. Ciccarelli** stated that he had not aware of the court doing that. He stated that we do not an official Housing Court. It is Court and all kinds of cases are heard.

**Ms. Berry** asked whose jurisdiction is it to address a problem with a commercial building that has a tarp on it that has become a litter problem. She asked if she sees something like this, who she calls.

**Mr. Ciccarelli** stated that that she should call Code Enforcement. He stated that if you see nothing, to call and report it to Code Enforcement and they will check it out.

**Mr. Doster** asked how often matters are taken to Housing Court.

**Mr. Ciccarelli** stated that they go to court often, He said that they have one Inspector taking people to court at least a couple times of the week.

**Ms. Robinson-Bradberry** asked who was responsible for cleaning up the trash and debris left near the thruway. **Mr. Ciccarelli** stated that Public Works was responsible for the clean-up.

**Mr. Pesarchick** suggested that they move on to the discussion of the Turtle under Old Business.

## **OLD BUSINESS**

**Ms. Novassage** asked if there was a conversation about the by-laws that need to be held prior to the Turtle discussion.

**Mr. Doster** explained the Mr. Forma said that the HPC should work on the by-law prior to having the public hearing for The Turtle because the HPC has no provisions for how public hearings on how public hearings run in the bylaws.

**Mr. Doster** stated that the current bylaws state that we have to give notice at a meeting, in writing that the bylaws are being revised. The HPC can then vote on the bylaws at the next meeting.

**Andrea Fortin-Novassage** stated that they talked about the bylaws at the last meeting and created a subcommittee. Ms. Fortin-Novassage asked if their attendance at the last meeting sufficient or was it needed in writing.

**Mr. Doster** read the Article Six, Section Two of the bylaws. The bylaws stated, "Notice to amend these rules or bylaws must be offered at least one meeting prior to the voting. And any such proposed amendments shall be in writing and made part of the subsequent meetings agenda."

Mr. Doster stated that he didn't know why that was the case but it might some kind of legal precedent. He stated that it probably needs to be on the agenda so that the public is aware.

**Andrea Fortin-Novassage** asked if they needed to make a motion to add the Notice to Amend to the next agenda.

**Mr. Pesarchick** stated that it could be added to the next meeting agenda as an Action Item.

**Mr. Doster** explained that the amendments to the bylaws would need to be completed and offered at least one meeting prior to voting and any such proposed amendments shall be in writing and made part of the subsequent meetings agenda. The bylaws had to be written for the Notice to Amend.

**Ms. Berry** stated that the bylaws had to be written first, give them one meeting notice and then present them.

**Mr. Pesarchick** stated that it could be added to the agenda in December.

**Ms. Fortin-Novassage** suggested that the HPC not act on having a public hearing on their recommendations until after completing the bylaws.

**Mr. Doster** stated that yes, they would not have a Public Hearing until after the bylaws were completed.

**Mr. Doster** stated that they would receive and file comments. He asked if they wanted to set the hearing date as well.

**Mr. Pesarchick** stated that they did not have to set the hearing date. Mr. Pesarchick stated that to his knowledge, once the department comments are received the commission will vote to schedule a public hearing but doesn't say you have to do it right away.

**Mr. Doster** proposed that the HPC discuss and file the comments with the recommendation.

**Mr. Pesarchick** stated that the discussion was not an Action Item. It was old business, just a discussion. If the HPC needed to vote on anything, a motion to create an agenda item would need to be made, but under the current bylaws, he didn't know if it's something that the HPC could do.

**Ms. Fortin-Novassage** volunteered to look over the by-laws if they had a draft. She stated that she is willing to provide another set of eyes if needed to review the draft.

**Ms. Doster** stated that there was a draft.

**Ms. Fortin-Novassage** asked if they could review the draft at the next meeting and make modifications prior to the vote on the new bylaws. She stated that at the December meeting they could then make any changes needed.

**Mr. Doster** stated that he felt it was time to get the Turtle up for a vote. **Mr. Pesarchick** said that it was almost a year that the Turtle has been an item.

**Ms. Fortin-Novassage** asked if there was a time-line to have the bylaws completed.

**Mr. Doster explained**, using an example, that there were actions that were not stated in the bylaws that they might take. To prevent problems, they needed to be included.

**Andrea Fortin-Novassage** stated a proposed timeline would be at the next meeting, we fixed the bylaws, we set up publicly hearing to hear comments and feedback from community. She stated at that time, any interested stakeholders can share with HPC whether they feel that we should recommend to City Council that they landmark the building. The HPC only recommend; we make our recommendation after hearing public formally commentary.

**Mr. Pesarchick** stated that it sounded to him like if you were to go that route, you would rather set public hearing November and hold the public hearing in December. There would be a vote to send the recommendation to City Council in January. He stated that typically what Planning Board does is they record public hearing comments and then prepare the next meeting for recommendation.

**Mr. Pesarchick** stated that the HPC could call a special meeting as well.

**Mr. Doster** asked if there was a certain amount of time that they needed to give the public notice of the hearing.

**Mr. Pesarchick** was not sure but believed it was less than 30 days. He would find out and let them know.

**Ms. Fortin-Novassage** stated that having the timeline gamed out would help them be prepared for December or January.

**Ms. Robinson-Bradberry** stated that the HPC did not have much flexibility because the elections were in November.

**Mr. Doster** stated that there's nothing all that offensive in the comments. He wanted to make the point that there's no requirement for the HPC to have a plan for the building. He stated that he did not want to see the building vacant but that's in the owner's control.

**Ms. Robinson-Bradberry** stated that personally feel that maybe how people feel or some of the people who made comments, predates the HPC and are centered more towards an administration that no longer exists. They feel they don't have any responsibility to The Turtle. She stated that that's her personal feeling.

**Mr. Doster** stated that to a large extent, like the Planning Board's comments are just opinions really. There's nothing wrong with that. He stated that he was worried with the legal action, pertaining to eminent domain that this would be a bad idea, but Legal did not state that.

**Ms. Fortin-Novassage** stated that she wanted to piggyback on what was said with regard to the comments from the Law Department. She thought it was interesting that there were no significant legal

issues. There was quite a review, and then the comments closed with, “those are my thoughts”, which are not necessarily those of the Administration Law Department. She stated that when the HPC asked for comments, they were asking for personal opinions, as opposed to certain professional obligations like, no lawsuits involved in the property, or other significant legal barriers to doing this but there was a comment about it being a failed building.

**Ms. Fortin-Novassage** stated that when we're looking at land marking something for its historic nature of the architecture, the cultural contributions, the meaning to the people in the community, like the building didn't fail. She stated that there was clearly failed stewardship of the building, stewardship and ownership and coordination of the program that was there. But she did not think that should necessarily act as a deterrent, in her opinion, about the way some of the language in the comment the building was referred to.

**Ms. Fortin-Novassage** stated it's not a foregone conclusion that the HPC have an opportunity as members of the board and citizens in this community to make the attempt to preserve and protect something that we think is important to many people in our community. Even if it's not all the people in our community. There are business interests, economic interests, and social interests, and she thinks our interest is preserving and protecting those interest.

**Ms. Fortin-Novassage** stated that she appreciates Preservation Buffalo [Niagara], for giving a bigger picture, overview and their recommendation. She believes that Preservation Buffalo [Niagara] is very respected, very researched, well thought out, planned out, and experienced with regard to the Turtle. She stated that we would be fools not to heavily weight their recommendation to HPC. She stated that their letter in particular holds a great deal of sway in terms of the legitimacy of the process.

**Ms. Berrt** stated she wished to read something into the record. She stated it was from the recommendation of historic landmark designation for the Turtle. She read, “When the Turtle opened, and the NACLA was the largest center of indigenous art in the eastern United States.”

**Ms. Berry** stated that we let it fail, the people let it fail, not the people running it.

**Mr. Doster**, stated that the sad part is the city foreclosed on it and took it back. He stated that the irony is, after we already stole their land, and funded this for them, to kind of somehow somewhat write that wrong, and then took it back again.”

**Ms. Berry** continued to read, “The Turtle was built to exhibit and celebrate the indigenous people of the Western Hemisphere through art history and culture. It was a vital breakthrough in the self determination of the local indigenous community to recover, revitalize and reserve indigenous culture after hundreds of years of oppression and genocide by European settlers.



**Ms. Fortin-Novassage** stated that at a time and a climate of diversity, inclusion, equity and as well as looking at the symbolic nature of the creation story of the earth, she feels that there are no other examples that she has ever seen.

**Ms. Fortin-Novassage** stated that the notion of a building that is shaped like an animal and the unique nature of it, the things that occurred there, and the memories, has a great value and meaning to our people. She stated that if tearing down buildings was going to breed great economic success, we would look like Canada.

**Ms. Fortin-Novassage** stated that we are living at a time that we have a responsibility to just say enough, and stop tearing our buildings down and giving them to developers that are going to take pilots where they don't pay taxes. She stated that the developers never deliver on their promises to create jobs, they hire security to watch the parking lot and a hire temporary workers to clean the hotel rooms.

**Ms. Fortin- Novassage** stated that is not what a World Wonder should look like or be about.

**Ms. Berry** stated that Niagara Falls could be one of the most historical places in New York State, if not the United States if we didn't tear down all of our monuments and landmarks. They would be something people came to see in the wintertime as well.

**Mr. Doster** stated that the Turtle fronts the National Park. It should be a public building.

**Mr. Pesarchick** stated that he was asked to complete some research for HPC. He stated that it's inconclusive but he believes the Turtle is the largest Native American-designed building in New York State, if not the Northeast USA. He found one that's larger, the National Museum of the American Indian in Washington D.C. The Museum is five stories high, and something like 560,000 square feet. At the time there were only 11 Native American architects in the United States. **Mr. Pesarchick** found another turtle building in the United States. It is the Oneida Nation Elementary School, which was built in 1994. The school is located in Nebraska and is 165,000 square feet.

**Mr. Doster** stated that the American Institute of Architects reported that only 4% of architects in the U.S. are Native American.

**Mr. Pesarchick** stated that he reached out to the American Indian Engineers and Architects Association that does exist as a small firm. He tried to locate some data or anything like that on Native American design structures. He is waiting for a reply.

**Mr. Doster** stated that he while doing the research for PBM he learned that the Minnesota Architectural Heritage Association has tried to document Dennis Sun Rhodes because he's probably the most well-known Native American architect and the most successful.

**Mr. Doster** stated that may not be many buildings out there that are styled as animals. He stated that there may be one other Native American building. He stated that he believed the building was located in Coney Island. He was not sure nut the building was built like an elephant and he believes that there was a move to preserve it some years ago.

**Mr. Doster** stated that was some hearsay that the Duffy Wilson Family stole artifacts to avoid them being taken by the IRS. There may be some artifacts related to the Turtle out there.

**Ms. Robinson - Bradberry** stated that she works with a lot of groups and thinks that there is a lot of support for preserving the Turtle.

**Ms. Berry** recommended that the lights on the roof be turned on and the body be repainted so that it can be seen from everywhere.

**Ms. Robinson – Bradberry** stated that the Turtle is holding up very well. It has only been within the last five years that you see some wear and tear.

**Mr. Doster** stated that for the building to be empty 20 years with presumably no heat, it is holding up incredibly well.

**Andrea Fortin-Novassage** stated that she thinks it's fascinating to the location where you have the Red Coach Inn, the Cataract Hotel and the dig site. She stated that she thinks there is hope for a corridor of some really special things there. The Hotel Niagara has been sitting also unaddressed but the Jacamo was beautifully restored with the tiles and seems to have worked out for them. She stated that we didn't tear the United Building down.

**Mr. Doster** made a motion to receive and file the Planning Board comments with the recommendations.

**Ms. Fortin-Nossavage** seconded the motion.

Brett Doster	YES
Andrea Fortin-Nossavage	YES
Kristian Ruggiero	EXCUSED
Georgia Robinson-Bradberry	YES
Noah Munoz	YES
Jessica Collins	YES
Jessica Berry	YES

**MOTION: MAJORITY APPROVED**

## **PLANNING AND HISTORIAN REPORT (COMMUNICATIONS)**

**Mr. Pesarchick** stated that he walked by 760 4<sup>th</sup> Street. He reported that Mr. Kaiser doing a spectacular job with the stucco repair and urged the HPC to go by and take a look.

**Mr. Pesarchick** stated that PBN is in discussions to do some trainings and would to train them as well as set up some education seminars for the people. This would help new owners of historic properties to know what they're doing and what resources are available to them.

**Mr. Pesarchick** would like to propose looking into grant funding for new signs for the Park Place Historic Districts. He stated that the signs look like they've been lit on fire due to sun damage.

**Mr. Doster** if they could use the CLG Grant.

**Mr. Pesarchick** stated that he I think it does count for signage and recognition purposes. He will look into it and get back to them.

**Mr. Pesarchick** stated that in November he needed to send a report to SHPO. He asked the HPC if they had anything of note that happened in the six months before I came on full time, to let him know.

**Mr. Doster** stated there were a couple of COA's.

**Mr. Pesarchick** stated there was approximately six and maybe one more if the Unitarian Church decided to add solar panels to their roof.

**Mr. Doster** asked about outreach channels. He asked if the HPC wanted to propose a Landmark District, could they have a public hearing about it prior.

**Mr. Pesarchick** stated that it could be done and would go through the City's new Public Information Officer.

**Andrea Fortin-Novassage** asked if it would that be something that they would utilize in promoting the Public Hearing for the Turtle.

**Mr. Pesarchick** stated that it would be used for the Public Hearing for Turtle.

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A motion was made to adjourn by **Mr. Doster** and seconded by **Mr. Munoz**.