

**TOWN OF NIAGARA  
TOWN BOARD MEETING  
7105 Lockport Road  
Niagara Falls, NY 14305**

**MINUTES**

**Tuesday, November 15, 2022  
6:30 PM**

**PUBLIC HEARING**

**None**

**OPEN MEETING (Pledge, Prayer, Roll Call)**

Supervisor Lee Wallace called the meeting to order with the Pledge of Allegiance.

Deputy Supervisor Teixeira recited a prayer. Attached is a Memorial Page of all the deceased Town residents who passed away recently.

Roll Call:

Present: Supervisor Lee S. Wallace, Deputy Supervisor Charles F. Teixeira, Councilman Richard A. Sirianni, Councilman Samuel Gatto, Councilman Marc M. Carpenter

Absent:

Excused: None

Also, present Sylvia Virtuoso, Town Clerk

**PRIVILEGE OF THE FLOOR (Announce changes to agenda, if any)**

(§50-3 Privilege of the floor. Only members of the public sector are allowed to speak at this time and may address any agenda or non-agenda item.

(3-minute limit)

No Speakers

**APPROVAL OF MINUTES**

1. Town Board Meeting of **October 18, 2022**

Motion to approve by Councilman Carpenter, second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

2. Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

**PAYMENT OF BILLS**

General Fund prepay vouchers [A] \$11,396.68

General Fund vouchers [A] \$92,296.93

Sewer Fund prepay vouchers [G] \$1,132.78

Sewer Fund vouchers [G] \$1,136.16

Water Fund vouchers [F] \$17,610.42  
Water Fund vouchers prepay [F] \$329.52  
Highway Fund vouchers [DA] \$33,490.65  
Highway Fund prepay vouchers [DA] \$335.22  
Fire Protection prepay vouchers [SF]  
Fire Protection [SF] \$205.90  
Street Lighting vouchers [SL]  
Street Lighting Pre-Pay vouchers [SL] \$8,850.20  
Trust & Agency Pre-Pay vouchers [TA] \$3,165.24  
Trust & Agency vouchers [TA] \$5,509.93  
Capital Projects prepay vouchers [H]  
Capital Projects vouchers [H] \$51274.94

Motion to approve by Councilman Gatto second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

## **AGENDA**

1. Resolution to dedicate, and reaffirm the acceptance of the laying out and dedication, as town highways of Taylor Drive, Lee Drive, Thomas Court, and Jackson Drive and authorizing the Town Highway Superintendent to sign an Order consenting thereto and the filing of the Consent Order in the offices of the Town of Niagara Town Clerk and the Niagara County Clerk's Office. (Risman)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Sirianni, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

2. Resolution calling for a Public Hearing on December 13, 2022 at 6:30 pm regarding proposed Local Law No. 4-2022 regulating the use of transient or Short-Term Rentals within the Town of Niagara. (Risman)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

3. Resolution to appoint Mark Heary as temporary sewer lead man to fill in for Shane Hovland while he is off for a period of 4-6 weeks for shoulder surgery starting Tuesday November 15, 2022. (Beiter)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

4. Resolution to approve the purchase of 18 Body Armor Bullet Proof Vests for the Police Dept. in the amount of \$17,010.00 from United Uniform, funding from the American Rescue Act. (Wallace)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

5. Resolution to accept the resignation of Renee Grant from the Town of Niagara Planning Board effective December 1, 2022. (Wallace)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

6. Resolution to approve the annual special use permit renewal requests of:

Crown Castle Cell Tower 10420 Lockport Road

Crown Castle Cell Tower 5000 Mayle Court

Satarian Auto 4250 Witmer Road

Verizon Wireless Cell Tower 2429 Military Road

Schlaak Enterprises 2545 Young Street

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Teixeira, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

7. Resolution to approve the Final Audit of the Basic Financial Statements and the Statement of Changes for the Town Clerk and Town Justice as attached. (Wallace)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Carpenter, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

8. Resolution to authorize, and direct the appropriate Town departments with the aid of the Town Attorney to proceed with the elimination of the known health hazards located on the vacant lot known as 146.13-2-25. (Haseley)

Town Board Meeting of **November 2, 2022**

Motion to approve by Councilman Sirianni, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

**TABLED**

1. Discussion on the Security of the Town Buildings. (Wallace)
2. Resolution to call for a Public Hearing for the Solid Waste Facility Siting Permit and the associated property re-zoning, special use permit and final site plan requests of Darek Teeter CES V. President of Covanta Environmental Solutions, LLC 8335 Quarry Road, Tax Map Number 132.13-1-4. Hearing to be scheduled for 6:30 pm, on December 13, 2022 at Town of Niagara Town Hall. (Haseley)

### **COMMENTS**

All the Town Board wishes everyone a Happy Thanksgiving, Condolences to the Haseley Family for the loss of LaVerne Haseley who also was a Town Board Member and many had the honor and privilege of working with him.

December meeting dates announced by Town Clerk Virtuoso, Work Session December 7, Town Board Meeting December 13 and the Zoning Board will meet on December 14.

### **ADJOURNMENT**

Motion to adjourn by Councilman Teixeira second by Councilman Gatto. All in favor. Meeting adjourned at 6:40 pm.

**Respectfully submitted,**

*Sylvia Virtuoso*

**Sylvia Virtuoso  
Town Clerk**

THE MONTHLY AGENDA IS ON THE TOWN WEBSITE

[www.townofniagara.com](http://www.townofniagara.com)



In Memoriam

Carolyn Fruscione

Sam Fruscione

David L. Waldeck

Betty J. Tuttle

Carol V. Rudolph-Alongi

Laura A. Mascaro

Margaret A. Guiliani

Nick J. Sesto

Julia Nancy Dragonette

Stanley S. Sadlo

Thomas E. Metzler

Patrick J. Travers

Jacqueline Laur

**RESOLUTION**

Town of Niagara Town Board

Re: Dedication of Taylor Drive, Lee Drive, Thomas Court, and Jackson Drive in the Town of Niagara, County of Niagara, and State of New York

WHEREAS, on August 17, 1955, Jack B. Johnson and Taylor D. Johnson filed an application with the Town of Niagara requesting the Town Board dedicate Taylor Drive, Lee Drive, Thomas Court, and Jackson Drive as town highways; and

WHEREAS, by Resolution dated August 23, 1955, the Town Board of the Town of Niagara accepted the offer to dedicate these four streets as town highways; and

WHEREAS, the Town Board Resolution and a map and survey describing and laying out these streets was recorded in the Niagara County Clerk's Office on August 29, 2002 at Book Number 3209, page 455 of the Registry of Deeds; and

WHEREAS, New York State Highway Law section 171 requires the Town Highway Superintendent to consent in writing to the street dedication approved by the Town Board and to file the signed consent in the office of the Town Clerk of the Town of Niagara; and

WHEREAS, it does not appear that the prior Town Highway Superintendents signed or filed a consent in writing for these street dedications; and

WHEREAS, adjoining homeowners have approached the Town of Niagara on multiple occasions over many years requesting the Town accept the dedication of these four streets; and

WHEREAS, the Town of Niagara has maintained the streets over the intervening years, including paving two streets, gravel for the other two streets, snow plowing, and filling in pot holes; and

WHEREAS, the Town Supervisor and Town Highway Superintendent believe the dedication of the streets as Town of Niagara highways would benefit both the Town and the residents who live near and/or travel on these streets; it is hereby

RESOLVED, that the Town Board of the Town of Niagara hereby approves the dedication and reaffirms the prior acceptance of the laying out of Taylor Drive, Lee Drive, Thomas Court, and Jackson Drive as Town-dedicated highways and authorization be and hereby is given to the Town Superintendent of Highways of the Town of Niagara, New York to sign and file an order consenting to the dedication of these four streets as they were previously laid out in the “Map showing roads for dedication in Lot 12, T-13, R-9, Town of Niagara, New York, made by Wallace P. Keller, P.L., L.S., Job 10754, Aug., 1955,” and previously recorded in the Niagara County Clerk’s Office at Liber 3209, page 456,” and further authorizing the signed order consenting to the highway dedications be filed by the Town Superintendent of Highways in the Town of Niagara Clerk’s Office and Niagara County Clerk’s Office.

**TOWN OF NIAGARA, NEW YORK  
LOCAL LAW NO. 4 of 2022**

**A Local Law Regulating the Use of Transient  
or Short-Term Rentals within the Town Of Niagara**

The Town of Niagara Town Board hereby adopts amendments to the Town Zoning Code, Chapter 245 of the Town Code, as follows:

**SECTION 1: Purpose, Intent, and Findings.**

**Background.** It is the legislative determination of the Town of Niagara Town Board (“Town Board”) that the proliferation of short-term rentals of non-owner-occupied properties in certain zoning districts has presented negative impacts to the health, safety, and welfare of the Town of Niagara (“Town”), and as a result, new short-term rental uses shall be prohibited in the Agricultural (“A”), Single-Family Residential (“R-1”), Single- and Two-Family Residential (“R-2”), Multiple Family Residential (“R-3/R-4”), and the Cluster Residential Overlay (“CRD”) Districts (together, “Agricultural and Residential Districts”). However, pre-existing short-term rental uses in the Agricultural and Residential Districts may continue for an amortization period of two years, as provided below.

The residential uses permitted as of right in the Agricultural and Residential Districts are one-, two-, and multiple-family dwellings. *See* Zoning Code, Art. IV. In adopting the Zoning Code, the Town Board intended residential uses in the Agricultural and Residential Districts to be owner-occupied.

**Findings.** New York State has long recognized the difference between transient rentals and longer-term rentals, specifically by classifying transient and non-transient uses differently in the Multiple Dwellings Law. *See* N.Y. MULT. DWELL. LAW §§ 4(8)(a) (McKinney 2012) (“A ‘class A’ multiple dwelling is a multiple dwelling that is occupied for *permanent* residence purposes.”), 9 (“A ‘class B’ multiple dwelling is a multiple dwelling which is occupied, as a rule, *transiently*, as the more or less temporary abode of individuals or families who are lodged with or without meals.”) (emphasis added). The Town Board finds that it is in the public interest that new Transient or Short-term Rentals be prohibited in the Agricultural and Residential Districts due to certain safety concerns with utilizing non-owner-occupied residential structures for Transient or Short-term Rentals. The non-owner-occupied Transient or Short-term Rental use brings with it certain impacts that are best kept away from permanent residential uses, such as: noise, damage to personal and real property, poor upkeep of structures, large

gatherings and/or parties, parking issues, debris, garbage left out at the curb for long periods, late night disturbances, and use of property in a manner that is not permitted by applicable law. The Town Board has seen evidence of these effects in the Agricultural and Residential Districts.

Nevertheless, the Town Board notes the financial opportunities that Transient or Short-term Rentals may present. As such, Transient or Short-term Rentals are permitted in the General Business (“B-1”), Planned Business Center (“B-2”), Light Industrial (“LI”), and Heavy Industrial (“HI”) Districts (together, “Business and Industrial Districts”), with a special use permit which must be renewed annually.

Lastly, New York law permits the Town Board to put a definitive end to nonconforming uses, even if they existed lawfully at the time the Town Code was changed. As such, the Town Board determines that pre-existing Transient or Short-term Rentals in the Agricultural and Residential Districts may continue operation as legal non-conforming uses for an amortization period of two years from the passage of this local law before such uses are prohibited. This adequately balances protection of the Town from the concerns identified above, with the potential impacts to the property owner as a result of eliminating the use.

## **SECTION 2: Zoning Code Amendments**

The following are amendments to the Town Zoning Code relating to Transient or Short-Term Rentals.

Section 245-22(C) of the Zoning Code is hereby amended to read in its entirety as follows:

### *C. Uses permitted with a special permit.*

- (1) Public utility uses, including telecommunications facilities (exclusive of maintenance buildings and yard and equipment storage yards).
- (2) Motels and hotels.
- (3) Motor vehicle service stations and public garages.
- (4) Motor vehicle sales lots.
- (5) Car washes.
- (6) Transient or Short-term Rentals.

Section 245-24(C) of the Zoning Code is hereby amended to read in its entirety as follows:

### *C. Uses permitted with a special permit.*

- (1) Public utility uses, including telecommunications facilities.
- (2) Transient or Short-term Rentals.

Section 245-26(C) of the Zoning Code is hereby amended to read in its entirety as follows:

### *C. Uses permitted with a special permit.*

- (1) Excavation operations.
- (2) Junkyards, subject to the requirements of Town Code Chapter 173.
- (3) Public utility uses, including telecommunications facilities.
- (4) Solid waste management facility.
- (5) Transient or Short-term Rentals.

“Section 245-13 Definitions” of the Town Zoning Code is hereby amended to include the following additional definitions relating to Transient or Short-term Rentals, as follows:

**Section 245-13: Definitions.**

As used in this section, the following terms shall have the meanings indicated below:

**TOURISTS OR TRANSIENTS.** Individuals occupying a dwelling unit or sleeping unit for less than thirty (30) continuous days.

**TRANSIENT OCCUPANCY.** Living and/or sleeping accommodation provided for compensation for any period of less than thirty (30) consecutive calendar days. Hotels, motels, and transient short-term rentals shall individually and collectively be considered types of transient occupancies.

**TRANSIENT or SHORT-TERM RENTAL.** A dwelling or dwelling unit, including associated appurtenant facilities, used for transient occupancy by one or more guests, boarders or tenants, where the record owner of the premises is not physically present upon the premises during the transient occupancy, and whether or not meals or cooking facilities are provided for the guests, boarders or tenants, but excluding hotel and motel uses.

**PREEXISTING TRANSIENT OR SHORT-TERM RENTAL.** A Transient or Short-Term Rental that was in operation before the effective date of this Local Law No. 4 of 2022.

Article IX, Section 245-44, Special Permits, Additional Requirements, shall be amended to include the below subsection (J) as follows:

**Section 245-44(J): Regulation of Transient or Short-Term Rentals.**

- (1) Agricultural and Residential Districts.
  - a. No new Transient or Short-Term Rental shall be permitted in the Agricultural and Residential Districts within the Town.
  - b. Notwithstanding any other law or provision of the Town Code to the contrary, pre-existing Transient or Short-Term Rentals in the Agricultural and Residential Districts shall be considered legal non-conforming uses, and may continue to operate as such for an amortization period of one year from the date of passage of Local Law No. 4 of 2022, after which such uses shall be prohibited.
- (2) Business and Industrial Districts.



- a. New Transient or Short-term Rentals are permitted in the Business and Industrial Districts, subject to obtaining a special use permit and site plan approval from the Town Board, after review and recommendation by the Planning Board.
- b. Applicants for a special use permit and site plan approval for a Transient or Short-term Rental use must comply with Zoning Code, Article IX ("Special Permits") and Zoning Code, Appendix B ("Site Plan Requirements"). Special use permits granted by the Town Board for Transient or Short-term Rentals in the Business and Industrial Districts shall only be valid for one year and must be annually reviewed for renewal by the Town Board, pursuant to Zoning Code § 245 40.

**SECTION 3: Severability. If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this local law. The Town Board hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.**

**SECTION 4: Effective Date. This local law shall be effective immediately upon filing with the office of the New York Secretary of State.**