



The Municipal Corporation of the
Town of Fort Erie

Council-in-Committee Meeting Minutes

Monday, October 4, 2021

Council Chambers via Video Teleconference

Due to the COVID-19 Pandemic and the Closure of Town Hall

All electronic meetings can be viewed at:

Town's Website:

<https://www.forterie.ca/pages/CouncilAgendasandMinutes>

Town's YouTube Channel: www.youtube.com/townofforterie

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1. Call to Order

Mayor Redekop called the meeting to order at 6:00 p.m.

Mayor Redekop acknowledged the land on which we gather is the traditional territory of the Haudenosaunee, Mississaugas of the Credit, and Anishinaabe people, many of whom continue to reside in this area.

2. Roll Call

Present (In Council Chambers): His Worship Mayor Redekop, Councillors Lubberts, McDermott and Noyes

Present (Via Zoom Teleconference): Councillors Butler, Zanko, and Dubanow

Staff (In Council Chambers): R. Canavan, T. Kuchyt and C. Schofield

Staff (Via Zoom Teleconference): K. Walsh, K. Dolch, E. Melanson, C. Mackenzie and J. Janzen

This meeting was held in compliance with the electronic participation provisions of Council Rules of Procedure By-law No. 36-2016, as amended.

3. Announcements/Addenda

Mayor Redekop made the following announcements:

National Day for Truth and Reconciliation

Last Thursday, September 30th, Councillor McDermott and I participated in the walk from the Native Friendship Centre to Town Hall that was called by the Fort Erie Native Friendship Centre in the Indigenous community. There were between 200 and 300 people approximately at that march, many of whom were Non-Indigenous people which really blew away the Indigenous community. They were gratified to see the support in our community. Many of you would have seen orange ribbons, orange T-shirts and signs, eliciting the message that every child matters throughout the Town. During our ceremony here at Town Hall, there was a group of young Indigenous dancers and singers, and then a presentation was made to Councillor McDermott and I, of this lovely orange shirt, which has tremendous symbolism for the Indigenous Community, particularly as it relates to their children and the residential schools and the experience that our Indigenous community has had for over 150 years. Fortunately, now hopefully ended, and something that we, as a community can rectify as we go forward. This will be located in a prominent place in our atrium. It will be on one of the columns leading into the Council Chamber so that everyone who comes into the Town Hall and everyone that comes into this Council Chambers will be able to see this. We will be reminded of our commitment to ensure that there is justice for all people in our Nation, and most particularly the Indigenous people. I want to thank all of the organizers of that walk and all of the individuals who came out to participate in that.

COVID-19

There has been a surge of new COVID cases in Fort Erie over the past 2 weeks and over the past week and a half or so, there has been over 30 new cases, which has put us in 3rd place in terms of active cases, per 10,000 people in Niagara.

It is a clear indication, despite the fact many people are following the provincial guidelines. We have had a number of clinics here for people to get vaccinated, and there are still more that will take place. We have to be cognizant of the fact that this pandemic is not over and we have to continue to do everything we can to make sure we are safe and those around us are safe. We will get past this, it's just a matter of now getting to the final stages, so I would urge everyone to continue to make sure that you follow the guidelines and do everything that you can to make sure that those around you are safe.

On-Demand Transit

Today was the start of the On-Demand Transit Service in Fort Erie and individual riders can now request a ride by downloading a new On-Demand Transit App available at the Apple Store and Google Play. You just enter Fort Erie Transit and the App will come up. You can sign in, then log in, and you can book a ride through the App. Or you can board an On-Demand transit vehicle, or you can call 1-833-busline. That is 1-833-287-5463 to book a ride.

The On-Demand service vehicle will pick up the rider and drop them off anywhere within the Town of Fort Erie boundaries for \$3 per ride. The riders may have to walk to the closest intersection or street crossing in order to board the vehicle, but this will now provide public transit available to everyone no matter where they live in the Town of Fort Erie. The hours have also been expanded and this is all part of the initiative to eventually transition to a regionalized Transit System.

I'm advised by those operating the system today, that 174 accounts have been created on the new app and there were 26 trips today on the new service. For the first 2 weeks, the current conventional system will continue to operate to ensure that all riders successfully make the transition from conventional to this new On-Demand service. This looks like a great opportunity for our community, for those who rely upon public transit, and really anyone who wishes to take advantage of this transit service. I encourage everyone to consider that it's going to be a great service. They are local operators, which makes it even more appealing.

Thanksgiving

This coming weekend is Thanksgiving and despite the fact that we've had serious, serious challenges over the past year, on many, many fronts, there are still a great deal of things that we as Canadians have to be thankful for. I hope that everyone will enjoy the weekend. I know the weather is supposed to be nice as far as the last weather report, who knows, but I'm wishing everyone a happy Thanksgiving.

Breast Cancer Awareness Month

I am wearing a pink ribbon, which is emblematic of Breast Cancer Awareness. October is Breast Cancer Awareness month and so I hope all of you will participate in any opportunities that you might have in terms of donating or engaging.

4. Declarations of Pecuniary Interest

(a) Councillor Butler

Councillor Butler declared a pecuniary interest with respect to Item No. 6(a) Public Meeting: 3285 Thunder Bay Road Proposed Zoning By-law Amendment and Draft Plan of Subdivision, and Report No. PDS-88-2021 as her company has done business with one of the partners involved with the subject lands. She abstained from discussing and voting on the matters.

5. Notice of Upcoming Public Meetings

None.

6. Public Meetings

(a) Proposed Zoning By-law Amendment and Draft Plan of Subdivision

Re: 3285 Thunder Bay Road – Owner: Westwind Niagara Developments Inc. (Alfred Beam) - Agent: Upper Canada Consultants (Craig Rohe). The Applicant's request is to permit the development of 41 single-detached dwellings on the subject land. Change the zoning of the subject lands from Waterfront Rural Residential (WRR) Zone to Residential 2A (R2A) Zone, Open Space (OS) Zone and Environmental Protection (EP) Zone and the Hazard (H) Zone on the lands associated with the waterfront area is proposed to remain. (Presentation by Aaron Butler, Manager, Development Approvals)

Mayor Redekop announced that this portion of the meeting would be devoted to the holding of the Public Meeting.

Mayor Redekop also provided information on electronic participation for members of the public who wished to provide input relative to the Application.

Mr. Butler, Manager, Development Approvals, delivered a PowerPoint Presentation which is available for viewing on the Town's website.

Mr. Butler confirmed the statutory requirements for the Public Meeting were met, summarized the purpose of the Application, and public comments received.

Mayor Redekop requested that staff bring the Applicant or Agent in to participate in the meeting.

Mr. Craig Rohe, Senior Planner, Upper Canada Consultants was present to speak on behalf of the Application. Mr. Rohe provided a PowerPoint presentation and provided the following comments:

- Westwind Niagara Developments Inc. has submitted applications for a Draft Plan of Subdivision and a Zoning By-law Amendment for 3285 Thunder Bay Road.
- The subdivision will have 41 lots for single detached homes and 1.75 hectares / 4.3 acres of land that would be transferred to the Town of Fort Erie for both environmental protection and a new municipal lakefront park.
- Zoning would be changed from Waterfront Residential (WR) and Environmental Conservation Overlay (EC) to residential 2A (R2A) for the developable portion of the lands.
- Supporting studies are as follows: the project would protect existing ephemeral watercourse and toad habitat. The Archaeological Assessment has been cleared by the Province of Ontario and conforms with Regional and Town policies.
- An Open House occurred with 10 participants on August 30th.
- There were no concerns from the Niagara Region and Niagara Peninsula Conservation Authority.
- Town's Environmental Advisory Committee (EAC) attended the site on September 14, 2021.
- If approved, detailed design and engineering would occur in late 2021, early 2022.
- Construction possible in late summer or fall of 2022.

Mayor Redekop enquired if there were any members of the public in the waiting room who wished to address Council concerning the Application.

(a) Anne Yagi, President of 8Trees Inc., 11 Berkwood Place, Fonthill

Ms. Yagi provided a PowerPoint presentation and provided the following comments:

- Developer failed to conduct Biological Field Surveys during appropriate seasons and to complete due diligence with respect to Environmental Site Assessment (EIS).
- The presence of endangered Fowler's Toad will prohibit use of engineered storm ponds as they are an ecological trap for Fowler's Toads.

- Amphibian surveys were on March 23, 2018 when the Fowler's Toad is in hibernation - they are only active during the months from May to September.
- Mapping of endangered species habitat protection areas may interfere with municipal plans for a public "shoreline park" and the protection required for Kautz Creek, especially at the shoreline interface.
- Failed to conduct Biological Surveys during appropriate environmental conditions (i.e. Endangered Bat Species).
- Ministry of Natural Resources and Forestry (MNRF) protocol not completed. The EIS would not meet today's standards.
- The Butternut Tree is also an Endangered Species.
- There were no follow up communications with the MNRF or Ministry of the Environment, Conservation and Parks (MECP) responsible for the *Endangered Species Act*.
- The EIS should include all field data and correspondence and should be sent to the MNRF and MECP for agency review.

(b) Joan Roberts, 3303 Lakecrest Court

Ms. Roberts provided the following comments:

- Ms. Roberts stated her property line is directly in line with the development.
- Enquiries / concerns regarding the project are:
Population movement - walking to the beach
Citizens want access to the water
Parking access in the park area

(c) Shari Ruston, 3217 Thunder Bay Road

Ms. Ruston provided the following comments:

- Application for Draft Plan of Subdivision (DPA) and Zoning By-law Amendment (ZBA) is pre-mature and does not conform to Provincial Policy, Municipal Policy or the Town of Fort Erie Zoning By-laws.
- The Official Plan (OP) requires the Town of Fort Erie to consider the intensification of the urban area, protection of the environment, compatibility of the surrounding area and the acquisition of the waterfront property. The DPS and ZBA are not meeting the requirements of this waterfront strategy.
- An Official Plan Amendment is required to support the change in use of the property.
- Good planning is not:

- allowing scarce developable urban land to be purchased by the Town of Fort Erie for open space.
- Permitting half of the intensification required by Provincial and Town Policy, nor for the incompatibility of adjacent properties.
- Selectively investigating the core heritage features and species at risk
- The Niagara Region, in their Pre-Consultation Agreement Comments dated October 8, 2020, stated that *“...the development of the entirety of the property may not be supportable. The EIS will be instrumental in determining the amount of developable space.”* In addition, that *“the proposed development is proposed within and adjacent to the Region’s Core Natural Heritage System (CNHS) and that...”* there may be species at risk.” A scoped EIS should be developed consistent with policy 7.B.2 of the Regions Official Plan (NROP), which states *“to recognize the linkages among natural heritage features and ground and surface water resources.”*
- Beacon Environmental Limited (BEL) completed their EIS in June 2021, and no governing body questioned its disregard for the methodology required for studying and reporting on the core natural heritage features and endangered species.
- Anne Yagi, Chair of the Fowler’s Toad Recovery Implementation Team and President of 8Trees Inc. has 35 years of employment with the MNRF. We retained her services and she will be speaking as well.
- Kautz Creek is identified as a watercourse and is under protection against construction run off surface water.
- As noted by Anne Yagi, *“the inexperience of the agency reviewers in biology and ecology resulted in a poor job when assessing the sites natural heritage features, especially species at risk – fowler’s toad – which use the rocky pool and likely the creek mouth for breeding when the rocky pool areas are flood back at high water levels.”*
- On March 23, 2018, the Fowler Toad was studied by BEL one-time during hibernation, which does not meet the standards of the Ontario’s Endangered Species Act (ESA).
- The shoreline should be given an Environmental Protection (EP) zoning to protect the Fowler Toad as BEL makes note that *“the nearshore of Lake Erie associated with the subject lands is assumed to provide habitat for the Fowler Toad.”* As such, the ESA habitat regulation for Fowler’s toad protects *“...suitable habitat up to a distance of 300m (984 feet) inland from the shoreline.”* In addition, regulations also protect, *“any...other bodies of water, including vernal or other*

temporary pools that are being used for breeding, egg laying or tadpole development as well as the 30m around such areas.”

- The Butternut Tree was found in a hedgerow along the eastern boundary of the subject lands. The BEL is required to send their findings to the Ministry of Natural Resources regarding the Butternut Tree (Endangered Species). Their findings were that the Butternut Tree was considered to be planted. This tree is to be found on a neighboring property.
 - Policy NROP 7.B.1.15, buffer requirements require the measurement from a stable top of bank for watercourses. The watercourse and resulting 10m buffer appear to barely graze the accessory 4-car garage. In BEL's EIS, this watercourse and buffer are shown to encompass approximately 40% of the garage floor. We measured the garage to be 2.5m away from the watercourse.
 - The location of Kautz Creek is significant due to the Open Space designation on Block 45, that will allow for sanitary drainage and a parking lot. It will be within the minimum 10m protective buffer and the maximum 15m buffer. The back yards of the proposed lots 24-35 of the DPS will also have EP overlay within their boundaries.
 - Large scale construction in a woodlot that contains upwards of 1400 trees in close proximity to Kautz Creek, will increase surface water drainage into the watercourse and cause more mud-filled water pre and post development.
 - The Niagara Region Pre-Consultation Agreement comments alluded to that this property may not be developable.
 - If given a competent ESI, Council will be provided with the documentation they require for a ZBA and a DPS Application.
- (d) Arni Rungi, 3217 Thunder Bay Road, Ridgeway

Mr. Rungi provided a PowerPoint presentation and the following comments:

- There is no official plan amendment:
Zoning being changed from WR/EC/H → R2A + OS +EP + H
Official Plan Section 4.13 Open Space, Section 4.131 of General Policies Section states: *“Any open space use other than a similar open space recreational or conservation type and intensity of use will require an amendment to the Plan.”*
Therefore, an Official Plan Amendment (OPA) is required.
- The EIS is incomplete as it did not go through the appropriate channels for the Endangered Butternut Tree, Fowler Toad Species or any other Endangered Species.

- There are R2A Zoning Amendment concerns regarding intensity not being compatible with surrounding neighbourhood.
- The subdivision design will not be compatible with the design as R2A and R1 allow accessory apartments and waterfront at this time does not; therefore, the parameters differ greatly from the surroundings.
- There are Stormwater Management concerns regarding pollution from the upstream owners
- There is a concern there will be a liability to the taxpayers and the Town of Fort Erie.
- There are a 100+ year old building and garage. There is no mention of the purpose of these buildings, the budget, a risk assessment or the impact of the EP area, all causing liability to taxpayers.
- Intensity, Parking and lack of a Traffic Study are concerning – where is the due diligence?
- The parkland dedication is also a concern because there is no plan or budget for this park and will be on land that should be designated EP.

(e) Kerry Mitchell, 3261 Thunder Bay Road

Ms. Mitchell provided the following comments:

- She and her sister live adjacent to the proposed development.
- There are concerns with the maintenance and the regard for property boundaries as the Butternut Tree noted to be located on the neighbouring property is located on her property.
- Changing the zoning on the property from Waterfront Rural Residential can create a public safety issue when it comes to visitors not being familiar with the area.
- She discourages the Town from changing the zoning on the property and consideration should be given to restrict the public access to the water.
- The area where the park is to be designed is a concern because the rocks and slate along the waterfront are slippery and can become a liability for the Town.
- There are concerns with the area being a refuge for Endangered Species and with taking away the natural character of the land.
- The proposed driveways off of Thunderbay Road will be both a disturbance to the residents directly across the street and will also cause traffic congestion.

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- The watercourse has increased movements of water through it since previous developments.

(f) Debbie Waitkus, 3059 Thunder Bay Road

Ms. Waitkus made the following statements:

- Ms. Waitkus stated that she resides near Bernard Beach and that the beach has been wiped out since the additional development and an excess of water in the surrounding areas.
- There is concern regarding pedestrian safety and whether or not there will be sidewalks located on both sides of the road as there is a considerably more traffic that needs to be addressed.

(g) Lauren Mitchell, 3261 Thunder Bay Road

Ms. Mitchell provided the following comments:

- There are concerns with the removal of the Environmental Conservation Overlay in the main area where the proposed homes would be built.
- 5 years ago, ash trees were taken down because they were sick due to the Emerald Ash Borer, and there were no trees planted to replace them to continue the environmental concept.
- There is a liability issue with the waterfront for the proposed park as there have been previous falls in this specific area.
- There are also concerns with the possibility of boat traffic and safety.
- The proposed development is too much density for the area.

Mayor Redekop enquired whether there were any members of the public in the who wished to speak in support of the Application.

No members of the public came forward.

Mayor Redekop enquired whether the Clerk received any comments subsequent to the posting of the Report. The Clerk read the following comments into the Minutes:

(1) Charles Kautz

“Good afternoon,

I offer these documents with out prejudice, as they relate to

public comments from the above open house. I expect to see this, and my previous comments in the final recommendations report before council on 4 October 2021.

This letter from 1999 demonstrates the same concerns as today, some 20 years later. Please note the accurate predictions, including a greatly diminishing property value when I sold my property last year. This is very easy to demonstrate, compared to other recent real estate transactions, include next door.

The environmental concerns are only amplified now, some 20 years later, with pollution, clay silt and other crimes against nature, which are a direct result of TFE policies and practices that pollute Lake Erie during every rain event. The town now owns and operates these Storm water management facilities, which pollutes all of Thunder Bay even during a minor rainfall.

This document also demonstrates extent of the watershed for Kautz Creek, including the Towns being the largest contributor of polluted storm water.

In closing, I find it interesting that this Burleigh Road South Subdivision, approved in 2000, is not and never has been assigned a registration number, date and other oversights I have asked Mr. Brady about for years. Never a response, except that it was before his time, which is no excuse.

If this subdivision is not approved, according to your own 10 years of reports, I would request that this subdivision be included in the Draft Plans of approval chart, as this one was, and is not, an actual Registered Plan of Subdivision... are they paying their fair share of special taxes, such as the sewer assessments I was subjected too?

I look forward to an answer to this question as a ratepayer and business owner in this town. Please feel free to ask for more details. I have many of them.

Sincerely, Chip Kautz”.

The Clerk noted that there was a letter dated 1999 attached.

(2) Diane Nielson

“Dear Mr. Butler, Mayor & Councillors:

I have many questions and concerns about this development.

I retired from DSBN over a year ago and have worked in schools in Ridgeway and Fort Erie over the last 22 years. It was my dream to retire here from Niagara Falls because of the small-town feel (peace and tranquility) and the many friends I have made. I moved here 5 years ago but my dream has become a nightmare. The first couple of years I was able to go for a walk and always see deer in the bushes or yards. I have not seen any for at least a couple of years now. It used to be quiet sitting outside in the mornings but now all I hear is traffic, machinery and construction noises. Development is one thing but this has become overdevelopment and causing serious problems with traffic (speeders), crime, destruction of trees and eviction of wildlife. I know more tax dollars is very tempting but it is worth upsetting the lives of the residents who have been here most of their lives? How can their children afford to stay here with the prices of homes? I can barely make it myself living alone paying almost \$5000 a year in property taxes for a 2-bedroom bungalow on a tiny lot. Why was my builder allowed to build these new homes so close to each other? Why are people being crammed together like sardines in a can? Why are the new homes not designed to fit the small-town look? Is anyone aware of how many of the new homes are being bought only to be rented out? People are not buying property to live here themselves. They are buying to make money and destroy this once appealing little town. I cannot even drive near the eyesore subdivision at Thunder Bay and Ridge Roads because it upsets me so much. Is anyone aware that there are 3 driveways running into the intersection of Farr and Ridge? Who approved it? Everywhere I go around here I'm asking Why? Why? Why? Why are the homes so massive and obstructing natural views? Why aren't builders required to replace trees they destroy? There is a new home listed at the corner of Bethune and Cook for \$1,175,000.00. This used to be a little bush where I would see deer almost every morning. Now I see this out of character massive 2-bedroom bungalow that was only built to make huge money.

I watched the open house meeting on YouTube and now there is a plan to urbanize Thunder Bay Road? This cannot happen! Thunder Bay is suburban and needs to remain that way. Ridgeway is not able to meet the demands of more people. The only public school is already overflowing with 4 portables and students are sharing desks. Building 41 houses next to people

who have been here for over 100 years is also a disgrace. It is just so wrong. Why can't the town see this?

Also, looks like there will be more construction here on Riselay. I watched that meeting and even though neighbors opposed they still allowed another lot to be severed. Please just leave Ridgeway/Thunder Bay alone! Any development should be consistent with small town feel...we don't want city life here!

I had friends visiting from out of town and was informed that Ridgeway is now called "Richway". This is embarrassing! I hope someone can answer my concerns.

Thanks for hearing me out,

Diane Nielsen
Keep Thunder Bay rural!"

(3) Sian Jarvis

"As a resident living in close proximity to the proposed subdivision at 3285 Thunder Bay road, I would again like to reiterate that I do not support the zoning by-law amendments or the removing of the Environmental Conservation overlay required to accommodate the subdivision. It also seems a bit conflicting to me that the company that wants to develop the land is also the one who retained and paid the company that did the environmental impact study in order to again apply to have the Environmental overlay removed.

There are many large trees on this property that will all have to be removed to accommodate the building of this subdivision the way it is currently proposed. It will take at least 20-100 years for new ones to grow. Perhaps developers should be required to save a number of the larger trees within the properties they wish to develop.

Since blocks 42, 43, 44, and 45 are going to be the towns responsibility, I'm wondering how the town will be able to protect and preserve the environmental protection area, (block 42), running between the two blocks of designated parkland, (blocks 43 and 45), from erosion and degradation from people passing over it to get from one block of parkland to the other.

I am really disheartened at the proposal of another subdivision in a place I have chosen to make my home and am not looking

forward to more constant construction noise, or the increased traffic on Burleigh road speedway, a road that is in dire need of repair and is only wide enough to accommodate two unimpeded vehicles going in opposite directions. Most of the residents in the area that I have spoken to do not want another subdivision here. There are plenty of lots in the area still waiting to be developed, as well as the subdivisions still under construction, without having another tightly packed subdivision with no trees. This property could still be modestly developed with the current zoning that is in place, or a more reasonable zoning, so I hope the town will at least consider that in their deliberations.

Regards,
Sian Jarvis
61 Burleigh”

Mayor Redekop declared the Public Meeting closed.

Council recessed at 8:14 p.m. for 10 minutes.

7. Consent Agenda Items

7.1 Request to Remove Consent Agenda Items

7.2 Consent Agenda Items for Approval

CS-12-2021 2022 Budget Planning

That: Council receives for information purposes the 2022 Budget Planning as presented in Report No. CS-12-2021 and quantified in Appendix “1” and “2”, and further

That: Council approves the 2022 Budget Timetable as per Appendix “3”. **(Carried)**

PDS-89-2021 Heritage Happened Here - Pilot Project

That: Council approves the History Happened Here pilot project, and further

That: Council consider the financial implications of the History Happened Here pilot project, through the 2022 capital budget deliberations. **(Carried)**

PDS-90-2021 Proposed Combined Official Plan & Zoning By-law Amendment - 544 Walden Boulevard - Hallex Engineering Ltd. - Anthony Infurna (Agent) - Anthony Infurna Sr. (Owner)

That: Council approves the amendment to the Town's Official Plan for 544 Walden Boulevard as detailed in Appendix "3" of Report No. PDS-90-2021, and further

That: Council approves the amendment to the Town's Zoning By-law No. 129-90 for 544 Walden Boulevard as detailed in Appendix "4" of Report No. PDS-90- 2021, and further

That: Council directs staff to submit the necessary by-laws for approval. directs staff to submit the necessary by-law to Council for approval.

PDS-91-2021 Amendment to Comprehensive Zoning By-law No. 129-90 - Housekeeping Amendment

That: Council directs staff to initiate house keeping amendments to the Town's Comprehensive Zoning By-law No.129-90 in accordance with the *Planning Act*, as outlined in Report No. PDS-91-2021. **(Carried)**

PDS-92-2021 Town of Fort Erie Site Plan Review 2021

That: Council receives Report No. PDS-92-2021 for information purposes, and further

That: Council consider the financial implications of the Zoning Technician position through the 2022 Operating budget deliberations. **(Carried)**

IS-45-2021 Award of Tender for Nigh Road Watermain - Prospect Point Road North to Ridge Road North - Contract No. ISE-21T-NIWM19

That: Council accepts and approves the tender submission for the Nigh Road Watermain – Prospect Point Road North to Ridge Road North - Contract No. ISE-21T-NIWM19 from 1984370 Ontario Inc. (o/a Alfidome Construction Niagara) in the amount of \$316,211.29 (including 13% HST), and further

That: Council amends the 2021 Capital Budget to supplement the Nigh Road Watermain – Contract No. ISE-21T-NIWM19 by \$70,000.00 with funding from the Road Refurbishing Reserve.

(Carried)

IS-47-2021 Award of Consulting Services for the Design Facilitation (Phase I) of Software Systems for Asset and Work Order Management and Finance Enterprise Resource Planning Services

That: Council accepts and approves the proposal from GM BluePlan Engineering Limited to provide Consulting Services for the Design Facilitation of Software Systems for Asset and Work Order Management and Finance Enterprise Resource Planning (Contract No. ISE-21P-AWOFSC) to the upset limit of \$345,486.20 (including 13% HST), and further

That: Council amends the 2021 Capital Budget to supplement the Consulting Services for the Design Facilitation of Software Systems for Asset and Work Order Management and Finance Enterprise Resource Planning (Contract No. ISE-21P-AWOFSC) by \$61,122 from IT Reserves (\$50,121) Roads Reserve (\$2,750), Water Reserves (\$2,750), Sanitary Reserves (\$2,750) and Storm Reserves (\$2,750), and further

That: Council directs that the costs of procurement, implementation and maintenance of the Finance ERP, Asset Management and Work Order System be included in future budget deliberations.

(Carried)

Consent Agenda Recommendation

Recommendation No. 1

Moved by: Councillor Dubanow

That: Council approves the Consent Agenda Items as recommended.

Recommendation No. 1A

Moved by: Councillor Lubberts

That: Report No. PDS-90-2021 be postponed to the October 18, 2021 Council-in-Committee meeting.

(Carried)

Recommendation No. 1B

Moved by: Councillor Dubanow

That: Council approves the Consent Agenda Items as recommended, save and except Report No. PDS-90-2021.
(Carried)

7.3 Items Removed to be Dealt with Separately

None.

8. Corporate and Community Services

Chaired by Councillor McDermott

8.1 Presentations and Delegations

- (a) Doug Swift, 1715 MacDonald Drive - Fort Erie Community Preservation Coalition

Re: Short Term Rentals - Community Impact, Zoning and Housing Affordability (Report No. EDTS-04-2021)

Mr. Swift provided the following comments:

- The Fort Erie Community Preservation Coalition is a committee of 5 Fort Erie homeowners that represent approximately 400 Fort Erie residents,
- He is at Council regarding the Short-Term Rentals commonly referred as Ghost Hotels.
- The land use is changing the character and quality of life within the community and it is causing compatibility issues.
- The staff report suggests implementing zoning regulations for controlling the spread and ensuring land use compatibility.
- There were 136 submissions that were received in response to the "Lets Talk Survey". The staff report states that the opportunity to participate was advertised on Social Media platforms, however, their group was not aware of this survey.
- Through research they realize the complexities of these complicated issues and to do this right expert opinions, planning and municipal law is needed.
- There has to be thoughtful consideration to the social, cultural, and economic environment as well as the natural environment.
- They request that Council refer the Licensing By-law and the consideration of the Planning Act land use

controls back to staff for further review, and come back to Council with a report, outlining options and recommendations.

- They also asked that the Town consider all options and work with their team and other stakeholders to ensure a careful and thorough review of this matter.

(b) Amanda Marshall, 3504 East Main Street, Stevensville - Fort Erie Short Term Rental Association

Re: Short Term Rentals (Report No. EDTS-04-2021)

Ms. Marshall provided a PowerPoint presentation which she was unable to share; however, the PowerPoint presentation is available for viewing on the Town's website.

Ms. Marshall provided the following comments:

- The Fort Erie Short Term Rental Association is a group of like-minded licenced owners / operators who practice responsible renting through education, professionalism, and have a regard for the neighbours and community.
- Their Association is committed to the economic development of the Town of Fort Erie by promoting it as a premiere tourist destination in the Niagara Region.
- The Bay Beach Master Plan 2016 estimated that each visitor spends \$9.11 per day and their goal is to encourage an increase in tourist spending to an average of \$20-30 per day along with employing service providers such as cleaners, lawncare, property managers and maintenance personnel.
- Short-Term Rentals host visitors, provide housing to people between moves, on temporary work assignments, displaced due to renovations from fires and floods, or to people who live in 3season properties.
- The value of Short-Term Rentals brought \$1,081,175 to \$3,560,400 into the community hosting 118,680 (120 days x 215 rentals x 4.6 people per stay).
- Their independent survey of 127 people shows that 89% stay in a Short-Term Rental because of the location and the amenities provided.
- Their survey indicates that 75% of people stay for 3-7 nights, 14 % stay from 1-2 nights and 11% stay for more than 7 nights.
- The issues they have with the proposed by-law changes are the increase of the licence fee to \$1000,

limiting licences to 300 on a first-come-first-serve basis, annual fire and building inspection requirements, and land use controls.

- The report indicates 2 full-time equivalencies may be required to administer the changes to the program at a cost of \$200,000, and propose an alternative of hiring an external company that specializes in management of Short-Term Rentals,
- The licence fee be based on occupancy rather than a flat fee.
- How will a cap of 300 licences enhance the economic performance of tourism? More research should be done to determine the optimal ratio of Short-Term Rentals based upon the number of dwelling units, and adjusted annually based on a formula.
- A first come first serve licencing process will create adversarial relationships among Short-Term Rental owners, instead of a collaborative approach.
- Recommend that a licenced renewal for properties in good standing be automatic with the timely submission of documents and payment, and thereby given priority over new applicants.
- They are concerned about the efficiency of every property being inspected prior to a licence being issued. A time saving option to consider would be photos of fire, extinguishers, CO detectors, or that other compliance requirements be submitted with a renewal or new application. A random inspection could compliment the licencing process, thereby saving time and money for the Town.
- Re: land use controls, Option 1 will limit available tourism accommodations and create even greater density in Crystal Beach and along the waterfront. Option 2 won't necessarily curb guest behaviour. With Option 3, as part of the current licencing process, properties with septic are required to have inspection by Niagara Region at a cost of \$300. Their Association does not understand why these properties would be excluded from receiving a licence when they pass a capacity test. Restricting to inside the urban area boundary only increases density when rural lots tend to be larger and thereby reduce the risk of offending neighbours. Option 4 would kill tourism in Fort Erie. They agree with the staff recommendation to seek a legal opinion prior to considering any land use controls.

- Suggest that it be mandatory for owners to include their licence in all advertising.
- Fine guests for not adhering to the by-laws. If guests are fined, word will soon spread that Fort Erie is not open to hosting disrespectful visitors
- They suggest an advisory group be made up of Short-Term Rental owners, local resident groups, and Town staff to work on resolving issues as they arise.

(c) Bryan Keenan, 1791 MacDonald Drive - Brock View Property Management

Re: Short Term Rentals - Enforcement, Garbage Collection, Number of Renters and Units (Report No. EDTS-04-2021)

Mr. Keenan provided the following comments:

- He is a Short-Term Rental owner and a full-time waterfront resident.
- There is a need to get everyone at the table.
- The visitors that come into our community for rentals should be taxed since the community driving revenue is taxed.
- He is in student housing, family housing, land development, and Short-Term Rental.
- He owns the corner of Gorham Road and Hibbard Street and just spent \$1.6 million cleaning it up. The money was funded from rental properties, being it family, student, or Short-Term Rentals. He is building 19 bungalows there for the aging population.

(d) Brad Hutchings, 2285 Staniland Park Road

Re: Short Term Rentals - Support of Tourism, Investment and Economic Recovery (Report No. EDTS-04-2021)

Mr. Hutchings provided the following comments:

- He is a licensed Short-Term Rental owner which helps to provide for his family.
- There is a common ground and strategic alignment to work together to create a strong model that will support tourism, Short-Term Rentals and the community in a socially responsible manner.

- Working with Council, they can define the key issues and objectives.
- The formation of a Short-term Rental Association will enable Short-Term Rental owners to share best practices, work on issues together, and help to improve communications with the Town and other stakeholders on key matters.
- Short-Term Rentals are critical to help support tourism investment in the economic recovery. Going into summer '22 with the awareness from Ontario, the GTA and with the U.S. Border re-opening and COVID-19 hopefully under control, Fort Erie has the opportunity to grow tourism.
- There is a limited hotel inventory of the area and Short-Term Rentals would help with housing guests coming into the community and this would help the business economy including employment which will help improve the local tax base which brings permits and fees to the Town.
- If a quota is implemented for licence renewals, there should be considerations with existing licenses noting that a first come first serve approach is not fair for an existing licensee given their investment of time, dollars and tax related implications.
- A Short-Term Rental Advisory Committee is recommended.
- The goal is to increase collaboration, to increase communication and work together with key stakeholders on opportunities and concerns to ensure the Short-Term Rental program and economic benefits are acceptable and socially responsible.

(e) Dave McPherson, 3856 Ryan Avenue o/b of South Coast Developments

Re: Short Term Rentals - Zoning By-law Changes (Report No. EDTS-04-2021)

Mr. McPherson delivered a PowerPoint Presentation which is available for viewing on the Town's website, and provided the following comments:

- South Coast Developments is a community of 56 existing homes and 74 condominium homes that do not wish to live next to Short-Term Rentals.

- The issue with the Short-Term Rentals in South Coast Village is that there are 7 operating licences and only 2 have local agents, the applications for the licences were incomplete, all of the housing units appear to have unrealized capital gains and these units are operating in contravention of the restrictive covenants in the original Buy / Sell Agreements registered on title for this development.
- Properties are turning over quicker and these businesses do not have on-site management or supervision and most renters are unknown to property owners.
- There are concerns with enforcement, occupancy limits are hidden, the demerit point system and penalty system are not that effective, and zoning is not aligned with approved subdivision agreements.
- Their requested solution is to re-zone South Coast Village so as to exclude the use of residences contained therein as short-term rentals.

Recommendation No. 2

Moved by: Councillor Butler

That: The hour of adjournment be extended to 10:30 p.m.
(Carried)

8.2 Reports

EDTS-04-2021 Short Term Rental Report - 2021 Pilot Program Year Review and Analysis

Recommendation No.3

Moved by: Mayor Redekop

That: Council receives for information purposes Report No. EDTS-04-2021 regarding a review of the 2021 Short-Term Rental Pilot Program, and further

That: Council directs that commencing January 4, 2022:

- a) Short-Term Rental Licence fees be increased to a flat rate of \$1,000 per licence
- b) The maximum occupant limits for Short-Term Rentals shall be as set out in Table "6" on page 11 of Report No. EDTS-04-2021
- c) The time limit for guests visiting Short-Term Rentals shall be 11:00pm each day

- d) Annual fire and building inspections shall be carried out for each Short-Term Rental application
- e) Penalties shall be increased as set out in Table “9” on page 18 of Report No. EDTS-04-2021
- f) The number of Short-Term Rental licences shall be issued in accordance with Option No. as set out on page 13 of Report No. EDTS-04-2021, and further

That: Council directs staff to:

CHOOSE ONE:

a) Obtain a legal opinion regarding initiating Option No. ____ on the matter of land use controls for Short-Term Rentals as set out on pages 23 and 24 of Report No. EDTS-04-2021 and report back to Council;

OR

b) Take no further action with respect to land use controls, and further

That: Council consider the financial implications of the increase in staff to support the program changes during the 2022 Operating Budget deliberations, and further

That: Council directs that a By-law be submitted to amend Business Licencing By-law No. 217-05 – Schedule “13”, accordingly.

The Chair advised that items (a) to (f) of the second recommendation would be dealt with separately.

That: Council receives for information purposes Report No. EDTS-04-2021 regarding a review of the 2021 Short-Term Rental Pilot Program, and further

That: Council directs that commencing January 4, 2022:

a) Short-Term Rental Licence fees be increased to a flat rate of \$1,000 per licence.

Recommendation No. 4
Moved by: Mayor Redekop

That: The recommendation be amended to provide that Short-Term Rental Licence fees be increased on a two-tier system of

\$750.00 for 1 and 2 bedrooms and \$1,250.00 for 3 bedrooms or more. **(Carried)**

b) The maximum occupant limits for Short-Term Rentals shall be as set out in Table “6” on page 11 of Report No. EDTS-04-2021.

Recommendation No. 5
Moved by: Mayor Redekop

That: The recommendation be amended to provide that the maximum number of bedrooms in a Short-Term Rental be limited to 3, and the maximum occupant limits for Short-Term rentals shall be as set out in Table “6” on page 11 of Report No. EDTS-04-2021. **(Carried)**

c) The time limit for guests visiting Short-Term Rentals shall be 11:00pm each day. **(Carried)**

d) Annual fire and building inspections shall be carried out for each Short-Term Rental application. **(Carried)**

e) Penalties shall be increased as set out in Table “9” on page 18 of Report No. EDTS-04-2021.

Recommendation No. 6
Moved by: Mayor Redekop

That: The recommendation that penalties shall be increased as set out in Table “9” on page 18 of Report No. EDTS-04-2021 be postponed to the October 18, 2021 Council-in-Committee Meeting. **(Carried)**

f) The number of Short-Term Rental licences shall be issued in accordance with Option No. 2 as set out on page 13 of Report No. EDTS-04-2021.

Recommendation No. 7
Moved by: Mayor Redekop

That: The recommendation be amended to provide that the number of Short-Term Rental licences shall be limited to 250 in any given year.

Mayor Redekop made a friendly amendment that current licence holders be provided the first opportunity to renew by March 31st

of the following year provided they have complied with all rules during the previous year.

Following the friendly amendment to the amendment, the amendment as amended, was voted on as follows:

That: The number of Short-Term Rental licences issued shall be limited to 250 in any given year with current licence holders being provided the first opportunity to renew a licence by March 31st of the following year provided they have complied with all rules during the previous year. **(Carried)**

That: Council directs staff to:

CHOOSE ONE:

a) Obtain a legal opinion regarding initiating Option No. ____ on the matter of land use controls for Short-Term Rentals as set out on pages 23 and 24 of Report No. EDTS-04-2021 and report back to Council;

OR

b) Take no further action with respect to land use controls, and further

Recommendation No. 8
Moved by: Mayor Redekop

That: Council directs staff to obtain a legal opinion regarding initiating Option No. 1 on the matter of land use controls for Short-Term Rentals as set out on pages 23 and 24 of Report No. EDTS-04-2021 and report back to Council, amended as follows:

That: Council directs staff to obtain a legal opinion regarding initiating land use controls for Short-Term Rentals in core mixed-use, commercial, and specific historic residential areas, such other zones as staff might consider, and any incidental issues regarding zoning. **(Carried)**

Recommendation No. 9
Moved by: Mayor Redekop

That: A further recommendation be added:

That: No further Short-Term Rental licences be issued beyond the current issued licences and applications currently

being processed, pending receipt of the further report from staff regarding land use controls. **(Carried)**

That: Council consider the financial implications of the increase in staff to support the program changes during the 2022 Operating Budget deliberations, and further

That: Council directs that a By-law be submitted to amend Business Licencing By-law No. 217-05 – Schedule “13”, accordingly.

Recommendation No. 10
Moved by: Mayor Redekop

That: The Recommendation to direct that a By-law be submitted to amend Business Licencing By-law No. 217-05 – Schedule “13”, accordingly, be postponed to the October 18, 2021 Council-in-Committee meeting. **(Carried)**

Following approval of the amendments, Recommendation No. 3 was voted on as amended, save and except the Recommendations postponed by Recommendation Nos. 6 and 10, as follows:

That: Council receives for information purposes Report No. EDTS-04-2021 regarding a review of the 2021 Short-Term Rental Pilot Program, and further

That: Council directs that commencing January 4, 2022:

- a) Short-Term Rental Licence fees be increased on a two-tier system of \$750.00 for 1 and 2 bedrooms and \$1,250.00 for 3 bedrooms or more.
- b) The maximum number of bedrooms in a Short-Term Rental be limited to 3, and the maximum occupant limits for Short-Term rentals shall be as set out in Table “6” on page 11 of Report No. EDTS-04-2021.
- c) The time limit for guests visiting Short-Term Rentals shall be 11:00pm each day.
- d) Annual fire and building inspections shall be carried out for each Short-Term Rental application.
- f) The number of Short-Term Rental licences issued shall be limited to 250 in any given year with current licence holders

being provided the first opportunity to renew a licence by March 31st of the following year provided they have complied with all rules during the previous year, and further

That: Council directs staff to obtain a legal opinion regarding initiating land use controls for Short-Term Rentals in core mixed-use, commercial, and specific historic residential areas, such other zones as staff might consider, and any incidental issues regarding zoning, and further

That: No further Short-Term Rental licences be issued beyond the current issued licences and applications currently being processed, pending receipt of the further report from staff regarding land use controls.

That: Council consider the financial implications of the increase in staff to support the program changes during the 2022 Operating Budget deliberations. **(Carried)**

*Mayor Redekop **recessed** the balance of the meeting Agenda at 11:32 p.m. to a date to be determined in consultation with the Chief Administrative Officer and the Clerk.*

(Subsequently determined to be recessed to a Special Council-in-Committee Meeting at 6:00 p.m. on October 18, 2021).

Mayor

Clerk