

MINUTES
PLANNING COMMITTEE & FINANCE COMMITTEE
TUESDAY, APRIL 4, 2023, 7:00 PM
COUNCIL CHAMBERS
HURLEY BUILDING, 205 SALTONSTALL STREET
VIRTUAL: <https://us06web.zoom.us/j/84662898580>
LIVE STREAM: <https://fingerlakestv.org/live/>

Planning Committee:

Thomas Lyon, Chair
Ellen Polimeni
Steve Uebbing
Dan Unrath

Other Councilmembers Present:

Sim Covington, Jr.
Renee Sutton
Karen White
Erich Dittmar
Mayor Palumbo

City Staff:

John Goodwin, City Manager
Nancy Abdallah, City Treasurer
David Hou, Corporation Counsel
James Sprague, Director of Public Works
Richard Brown, Director of Planning/Development

Zoning Board of Appeals:

Roger Brazill
Julie Harris
John Roberts
Joe Bader, Chairman

City Planning Commission:

Stanley Taylor, Chairman
Anne Beyer
Richard Manley
Guy Turchetti
James Hitchcock
Bonnie Dorschel

Necessarily Absent:

Lindsay Van Deusen

Chair Lyon opened the meeting, welcomed all the members present and reviewed the only agenda item, Short-term Rentals, he introduced Rick Brown, Director of Planning and Development who reviewed the details. Mr. Brown reviewed that both Commissions had met with the Ordinance Committee few weeks ago, to review the issues with Short-term Rentals but felt a broader discussion with more time was needed. He reviewed the background, the City Council passed the Short-term Rentals Ordinance in 2018 and to date they have had 30 applications, but more recently have been seeing an increase in applications, which has led to some confusion on the part of both commissions interpreting the ordinance when reviewing applications. They both were reviewing patterns that were coming

forward in applications and decisions that were being made. They requested meetings to review the law. Joint meetings were held in January and February. They were able to come to a number of recommendations, potential changes to the ordinance that the Committee will be asking City Council to consider. Chair Lyon asked Mr. Brown to summarize the recommendations. Mr. Brown noted, to redefine “short-term rental” and “Bed and Breakfast” more clearly in the ordinance. He cites, for years the City has had Bed and Breakfast or a Tourist home in the area, and that is a form of a short-term rental as it stands. Both commissions have been seeing a mix of applications that are both non-hosted and hosted short-term rentals, making their decisions more difficult with the current definition. Both commissions have wrestled with the definitions and would like some additional clarity. The primary residence requirements have hampered both boards and they are looking to potentially eliminate the requirement. The commissions would also like Council to consider establishing a Short-Term Rental permit that is revocable when the property is sold or transferred to another owner. Currently, by New York State Law, property owners that have a short-term rental permit, stays with the property when it is sold or transferred. They would like to see either some kind of non-transferrable permit for when this happens. Mr. Brown said that the commission are looking into potentially reducing the residential zoning districts where short-term rentals are permitted. They have run into issues with un-hosted short-term rentals in residential districts. They have had issues when the property and the property is owner’s primary residence and given the zoning district, the planning commission has been given the authority to make a determination of compatibility. They have found where un-hosted short-term rentals are not compatible with residential neighborhoods and have been denying those applications. They are recommending that un-hosted short-term rentals not be permitted in residential neighborhoods, essentially limiting them to commercial or mixed-use space or potentially creating a district for these applications. They have spent a great deal of time working together on these recommendations and the recommendations are very detail and they are looking for Council’s feedback. Chair Lyon asked to confirm the bed and breakfast would be allowed within all the current residential areas. Mr. Brown reiterated that a Bed and Breakfast is a hosted primary residence where only the rooms within the home are rented, as opposed to a single-family home that is rented, un-hosted and is not potentially the primary residence of the owner. Mr. Bader, Chair of the Zoning Board explained that with their application process, the they have faced challenges in deciding with the primary residence question, if it will change the character of the home. Their votes have been very tight in making decisions and the challenge with the definition of the primary residence as it stands now, is an issue. He cites an example of someone having a multi-family home with a primary resident on one side of the home, does this mean they can rent out the other apartments while living on the property just not at the same physical address. Mr. Brown said that when it was added by Council, the idea behind this was having a single-family home, who’s owner may live in the home 10 months out of the year and only rent two months. In all the applications they have not see this scenario. Mr. Brazil, said this is the biggest example of what they are seeing between hosted and un-hosted rentals. With primary residence is it one thing with an un-hosted rental it is another. Councilmember Uebbing thanked all the commission members for their time and effort in creating these recommendations. He thinks it is very important to keep the R-1 districts as residential and still allow for the short-term rentals in districts of their own. He does like the idea of an overlay district potentially. Councilmember Polimeni, said she appreciates the hard work the commissions have done on these issues. She likes the idea of revocable permit as a changeable license structure. She wants to take a closer look at the definitions as part of the recommendations as well as the overlay district. Stanley Taylor, Chairman of the Planning Commission, said that the City was lucky that we can this ordinance to begin with as many across the State do not. They are seeing such an increase in application and each application has taken significant time to come to a decision and some of the applications have take a couple of meetings for the Commission to come to the decision. He is advocating for modifications to the law and hoping that Council will dive into these issues, he is hoping that the approval process of the rental will become a revocable permit, to stop the ability to transfer the

permit with the sale of the property. Councilmember Unrath said that he tries to attend all the meetings he can for both commissions, he was in favor of all the short-term rental and asked City Manager what the occupancy tax rate is, Goodwin responded that it is 3%. The County receives 4% for short-term rentals. He does like the proposed changes based on the conversation he is hearing and agrees this is not an easy issue. Councilmember Sutton wanted to bring up the safety issue with short-term rental ordinance, that every rental, would be inspected and offered safe logging to the people renting. She feels that adding an overlay district that people will still go underground and not report their property as a short-term rental. She is concerned that if the overlay district takes off, people will continue to rent out their homes from places like Airbnb without being subject to regulation. Mr. Taylor, said while he did not work on the original ordinance, the idea was for people to be able to rent their properties occasionally and that's not what they are finding. Mr. Brazill, addressed Councilmember Sutton's comments and said that driving landlords underground is already happening, people are listing their properties on Airbnb and are not applying for the variance. They just reviewed a case where this exact scenario happened at their last meeting. The Mayor thanked the commission for their work and agrees with Mr. Taylor, that our housing stock is going to short-term rentals and that people are buying homes just to turn them into short-term rentals. He is asking if the recommendations would make their lives a little easier in making these decisions. Mr. Brown said yes, it would as it would take the Zoning Board out of the mix all together. Mr. Bader said that that they do not get to hear the presentation on why this property would make a good short-term rental, they are approving or disapproving based on the variance of the primary residence. The questions the state tell us to run down, does not address the primary residence. Just to place the primary residence on the zoning is very tough, when they are reviewing for whether or not it changes the character of the neighborhood. Councilmember Uebbing looked into the number of Airbnb in Canandaigua and was happy to see the majority were in the Town of Canandaigua and believe making the overlay district is a good opportunity to restrict the area that short-term rentals would be, so it is not totally wide open, where he is opposed. Councilmember Unrath agrees with Councilmember Uebbing. He wants tourists to be able to come to Canandaigua and experience the area, but limiting the area is a good idea. Councilmember White asked if this was wise to have in Zoning so if it wasn't a zoning issue and stays with Planning, there would be no adjustment to the property. She likes the idea of a revocable permit with oversight but is concerned with enforcement. She might consider a cap on the number of requests but is concerned with the overlay district. Mr. Thorsten Rhode and served on Planning for ten years, said First, the idea that communities are turning into Airbnb communities, having just spent time in Florida, he knows we do not want to see that in Canandaigua. He said that the comprehensive plan reviews livability and the recommendations to improve the community. The reason to consider an overlay as it allows the commissions to think thoughtfully about the effects of these short-term rentals for the community. The City has to make a commitment to the financially distressed class, and their living arrangements, and with a rising number of Airbnb, losing the number of long-term rentals available is an issue. So, if we convert these long-term rentals to short-term rentals, families will be iced out. He strongly supports the overlay district and does protect the livability of our neighborhoods. Corporations are getting involved in the short-term rental business and what happens to Canandaigua when Hilton or Marriott starts outbidding, it's a growing concern. The ability to cancel a permit is critical. The fact that you can put a two-year renewal or a provision to cancel is very important. When the property changes hand, it needs to be reapplied for, this is critical. Stephania Campagna, Jefferson Avenue. She thinks there is a problem in communication between departments and have a better set of rules to use. She does not want to have big companies come in and buy property in the community. She knows there are places around Canandaigua who are renting properties without a permit. She said because so many landlords ran into issues with the pandemic and were finally able to evict bad long-term tenants, short term rentals were more profitable and retained a better renter. And if there were a problem, it was a phone call for the short-term renter to leave than the lease route. She feels that having a cap could be a good thing for the community. She would like to see an end to the

back and forth between Zoning and Planning, a lot more due diligence needs to be done. Chair Lyon said that it has been a good discussion on this topic. Councilmember Uebbing asked City Staff to put together a draft ordinance for Council to review. Councilmember Polimeni agrees and thanked Thorsten for his comments. She said that the comprehensive plan and said that it is a very defining document for the public to review. Councilmember Uebbing motioned for City Staff to create an outline of an ordinance to be considered by full Council, Councilmember Polimeni seconds. Unanimously passed and carried. Councilmember Unrath asked about a moratorium that suggested. Mr. Brown said the moratorium would be before short-term rentals in residential neighborhoods, they do not want to hinder further rentals and commercial neighborhoods as there's never been any contention on those. Mr. Brown said with the given the length of time for this ordinance to be approved, they could see a number of applications come in for summer. David Hou said that any application that is pending, would be paused until further action on this proposed ordinance, but it is ultimately up to the Council. Councilmember Unrath motioned to propose creating a moratorium on short term rentals until Council can get the rules in place. Councilmember Uebbing seconded. Before the vote, Mr. Brown said that they will work with Corporation Counsel on draft language for the moratorium with the details. Unanimously passed and carried. Chair Lyon thanked everyone for the discussion and coming.

Chair Lyon closed the meeting.

Finance Committee:

Steve Uebbing, Chair
Ellen Polimeni
Thomas Lyon
Dan Unrath

Other Councilmembers Present:

Sim Covington, Jr.
Renee Sutton
Karen White
Erich Dittmar
Mayor Palumbo

City Staff:

John Goodwin, City Manager
Nancy Abdallah, City Treasurer
David Hou, Corporation Counsel
James Sprague, Director of Public Works

Chair Uebbing opened the meeting and reviewed the agenda, the license agreement for the Management for The Central on Main. At the March 21st Planning and Finance Committee meeting a proposed license agreement was discussed that would involve Simply Crêpes being responsible for marketing, managing the guest experience, contracting with bands, managing the bar including alcoholic beverages, trash removal and providing insurance coverage. This management would be for Friday and Saturday evenings (5 PM – 10 PM) from May 15th to September 9th. Patrons would pay a \$5-\$10 cover charge which would include a drink and pay for the bands with the idea of being able to attract larger draw local bands. The license agreement would have Simply Crêpes pay the BID and the City 5% of total event revenues collected and coordinate/invite other area participating restaurants to do the same. Pierre Heroux, owner of Simply Crêpes, attended via zoom. Mr. Heroux spoke on the proposal; cover charge monies would help pay for the musical; acts. They would like to reach out to more local acts, as well as work with the other area restaurants and their willingness to participate. The agreement with the restaurants, to provide

us with an easy way for customers to order and a time frame that their food would be available for pickup/delivery and pay a 5% licensing fee. Chair Uebbing said that these are parts of the agreement that worry him and asked how Mr. Heroux would manage that aspect. Mr. Heroux said he will work with the restaurants to help ensure they pay their fee. He will know if restaurant A doesn't pay and they will know the sales they have had and by the third month, if they haven't paid anything they would be off the menu. Councilmember Polimeni, asked if they would consider one night a week versus two. Mr. Heroux said that they would consider one night over two. They have the management team to ensure success, even if not having the experience working with Council. Denise Chaaple, BID Board did hope that we move forward with this concept and agreed to have one night versus two. Councilmember Sutton asked about who would be empowered to cancel events and Mr. Heroux would be able to do that per an email conversation from Denise Chaaple. She feels that City Staff should be able to make that call. Chair Uebbing agrees and it would be City Manager's responsibility to make that call. Councilmember Polimeni motioned to move this onto full Council, Councilmember Unrath seconded. Unanimously passed and carried.

Chair Uebbing moved onto the Canandaigua Mile Race Event. Abbie Sullivan and AJ Beers submitted a special event application for one mile race event on Main Street on July 4th. City Staff informed the race organizers that July 4th is not logistically feasible and closing Main Street is very costly. City Staff met with the race organizers and worked with them for an alternative route on City Pier/Lakeshore Drive and in the morning on a date to be determined on a weekend in August, tentatively scheduled for August 13th. Councilmember Sutton was uncomfortable approving their application without seeing the revamped application. Mayor asked if other stakeholders were in the meeting. Mr. Goodwin said that they met with AJ Beers and Abbie Sullivan met with the Chief of Police, City Manager and Denise Chaaple on finding an alternative time frame and will be resubmitting their application, although, previously reviewed at the last meeting but wanted to appear before Council to explain the change. Councilmember Polimeni moved to approve the application, pending the changes be sent to Council ahead of the Council meeting. Councilmember Unrath seconded, unanimously passed and carried onto full Council.

Chair Uebbing reviewed the details for the 2022 Preliminary Financials, at the March 21st meeting, City Treasurer Nancy Abdallah review the unaudited 2022 financials with the City Council. Chair Uebbing thanked Mrs. Abdallah for her spreadsheets which he found very impressive. He asked if any questions that City Council may have after having had the opportunity to review the document. There were no questions for Mrs. Abdallah and she thanked Chair Uebbing for his comments.

Chair Uebbing reviewed Bond for Water Treatment Plant, Two resolutions are on the agenda for the April 6th City Council meeting to approve the SEQRA and a bond authorization of \$1.5 million to improve and upgrade the Water Treatment Plant settling basins by installing new and larger settling tubes and a new sludge collection system. Originally, the Capital Plan including funding to complete engineering and design for this project (which was approved via Resolution #2023-014) followed by the pursuit of grant funding for construction in 2024; however, during the clean-up after the wind storm event that occurred on December 23rd and 24th, it was discovered that the state of current equipment was in need of replacement as soon as practicable. This item is on the agenda to answer any questions or concerns prior to the City Council meeting. Chair Uebbing called for a motion to approve. Councilmember Lyon motioned to move this to full Council, seconded by Councilmember Unrath. Unanimously passed and carried.

Chair Uebbing reviewed the Awarding/Rejecting Various Bids and RFPS, Kershaw Park Concessions – the City received one proposal for the concessions at Kershaw Park from Woodard Rentals, which City Staff has recommended rejecting. Mr. Goodwin said that Woodard Rentals was the previous lease holder

and there were several issues. Woodard Rental made illegal electrical modifications to our facility without approval or in accordance with building/fire code, left trash, debris and the facility in an unclean state, utilized more than the leased portion of the facility and parkland for the rental of small crafts and negatively impacted park maintenance activities. Further, the proposal has a starting wage below the current NYS minimum wage. They are seeking out options as they do not have a secondary vendor. Councilmember Polimeni motioned to reject Woodard Rentals bid, seconded by Councilmember Lyon. Unanimously passed and carried. Regarding, Street Marking, Chair Uebbing reviewed bids were received for the annual street marking program. The lowest bid was received by OH Striping for a total of \$92,000. OH Striping was awarded the 2022 contract; however, OH Striping did not complete a great deal of the contracted work, failed to keep to their own work schedule, failed to provide adequate communication and provided poor/substandard quality of workmanship. As a result, City Staff recommends rejecting OH Striping's bid as they failed to perform faithfully on a previous contract with the City and award the contract to Shuttleworth for a total cost of \$93,710. City Manager said that they had received three bids and this would give us what we need and under \$100K. Councilmember White agrees this project will be great to be completed. Councilmember Polimeni motioned to reject the approval seconded by Councilmember Unrath, unanimously passed and carried. Chair Uebbing moved onto GIS Consultant Bid. The 2023 Water and Sewer Fund Budgets included funding to GIS map water and sewer infrastructure of the water distribution and sewer collection systems. An RFP was issued for assistance with the technical expertise to assemble the needed data bases and related digital files and interfaces. The lowest proposal was submitted by Fisher Associates for a total cost of \$30,000. City Staff recommends awarding an engineering services contract with Fisher Associates. Councilmember Polimeni asked if they have worked with us before. James Sprague said he was familiar with them but had not worked with them before. Councilmember Polimeni moved to approve the contract, Councilmember Unrath, unanimously passed and carried. Chair Uebbing moved onto, Fire Station 1 Apparatus Bay Doors. The Capital Budget included funding to replace the seven (7) apparatus bay doors at Fire Station 1. The lowest bid was received from Tri-Co Overhead Doors for a cost of \$77,777 plus a bid alternative to powder coat paint the doors (durability, scratch resistance and longer use life of doors) at a cost of \$12,600 for a total cost of \$90,377. City Staff recommends awarding the contract with bid alternative to Tri-Co Overhead Doors. This project is under budget, according to City Manager. Mr. Sprague said that they have run their course and the they have replaced them several times. Councilmember Unrath motioned to approve the approval seconded by Councilmember Lyon, unanimously passed and carried. Chair Uebbing reviewed Water and Sewer Parts. Bids were recently opened for a variety of water distribution system and wastewater collection system parts including pipe, fittings, valves, hydrants, etc. which are required to complete various upcoming projects and maintain City infrastructure. The lowest responsible bid for all of the requested materials was from Core and Main at a total cost of \$39,716.60. City Staff recommends awarding the contract. Councilmember Polimeni moved to approve to full Council, Councilmember Unrath seconded. Unanimously passed and carried. Chair Uebbing reviewed Chemicals at the Water Resource Recovery Facility; The Effluent Disinfection Project at the City's Water Resource Recovery Facility is nearing completion. As part of this new system, additional chemicals, Sodium Chloride (used to generate hypochlorite to disinfect the effluent) and sodium bisulfite (used to remove hypochlorite prior to release into the environment). Bids were recently opened with the lowest responsible bid for Sodium Chloride submitted by US Salt at a unit price of \$240 per ton and the lowest bid for Sodium Bisulfite was submitted by JCI Jones Chemical at a unit price of \$2.56. City Staff is looking to award the bid to Slack, as the other bids are higher. Councilmember Lyon motioned to approve, seconded by Councilmember Unrath, unanimously passed and carried onto full Council. Councilmember Sutton asked to have the motioned amended as it should be awarded to US Salt and Slack Chemicals for the two chemical compounds needed. Councilmember Lyon motioned to amend to approve both US Salt and Slack Chemicals, Councilmember Unrath seconded. Unanimously passed onto full Council.

Chair Uebbing reviewed Reallocation of Tech Fund to Police Reserve. The City Council at its March 2nd meeting adopted resolution #2023-017 that approved a \$10,542 appropriation from the Technology Fund to update the City's camera system to comply with FCC regulations. However, anticipated revenue for the Technology Fund has been delayed due to a dispute with a former lease holder of a cell tower and as a result the Technology Fund will have a negative fund balance. As such, the appropriation approved in Resolution #2023-017 cannot be made. The camera system is primarily used by the Police Department and 911 Center as a tool to enhance law enforcement and public safety activities and as such the Police Asset Seizure & Forfeiture Reserve can be utilized to fund this project. The reserve is about 175 K from a case and had about 12K at the time, has a healthy reserve, according to City Manager. Councilmember Unrath said that this is a good use of the funding. Councilmember Unrath motioned to approve, seconded by Councilmember Polimeni, unanimously passed and carried to full Council.

Councilmember Polimeni motioned to move adjourn the meeting into executive session on attorney/client privilege for the purpose of discussing pending litigation and employment history of a particular person, Seconded by Councilmember Lyon. Unanimously passed and carried.