

**NIAGARA POWER COALITION
MEETING MINUTES**

Thursday, June 6, 2013 – Following HCSC Meeting
Niagara County Department of Economic Development
6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132

1.0 Call to Order

Chairman Ross called the meeting to order at 1:45 p.m.

2.0 Roll Call

Ms. Melloni performed roll call:

Representatives Present:

Don Rappold, Asst. Superintendent – Chairman, HCSC	Lewiston-Porter School District
Cynthia Bianco, Superintendent	Niagara Falls City School District
Tom O'Donnell, Esq.	City of Niagara Falls
William L. Ross, Chairman, NC Leg & NPC	Niagara County
Ashley Wood	Niagara Wheatfield School District
Michael Risman, Esq.	Town of Niagara
Steve Reiter	Town of Lewiston

Guests:

Chris Roser, Superintendent	Lewiston-Porter School District
Thomas Burgasser, Esq.	Niagara County
Jackie Siegmann	Town of Niagara
Angelo Massaro, Esq.	Niagara Falls City School District
Scott Hapeman, Esq.	Niagara Wheatfield School District
Mike Johnson	Town of Lewiston

Staff Present:

Mary Melloni, Recording Secretary
John M. Baird, Treasurer, NPC
Stan Widger, Esq., NPC Counsel, Nixon Peabody

3.0 Correspondence – None.

4.0 Unfinished business - None

5.0 New Business

5.1 Personnel Matters

Mr. Ross asked for a motion to enter into Executive Session for the purpose of discussing Personnel matters. Mr. Rappold made a motion, seconded by Mr. O'Donnell to enter into Executive Session at 1:46 p.m. Motion passed.

Executive Session ended at 1:55 p.m. and returned to regular session of the NPC meeting.

6.0 Legal Counsel

6.1 Niagara River Greenway Commission – Recent Proposed Legislation

Mr. Widger discussed the recent proposed legislation that is attempting to revise the agreed-to boundaries to what the NRGK feels is the focus area. To visualize it essentially eliminates 90% of the land area that was originally included in the Greenway definition provided in the plan that was approved by all the municipalities that is required under the enabling legislation. The second aspect of this is that the funding from this committee and others could only be devoted under this new legislation to the focus area. It can't include projects in the interior and upland communities, i.e. all of the projects approved today would not be eligible with the possible exception of one because of not touching the river. It is a major change on both the concept of the Greenway and the funding that would be applicable within the Greenway area. There are some difficulties with the legislation as it was drafted. There are two different versions...the original one was essentially cast in specific distances from the river and the areas surrounding tributaries. The maximum distance was effectively 1000 feet from the river and along certain areas where there were linear rights of ways, i.e. railroads and highways, it would be curtailed to whatever was left between those areas and the river which in some cases is just a few feet. For tributaries it is a comparable very limited scope. The amendments that were introduced on June 3rd changed the definition somewhat to other terms of the legislation so that it would include the focus area instead of a specific number of feet and also would include areas included by the Waterfront Revitalization Plans and Coastal Zone Plans, which in some cases would expand that somewhat but not a great deal or not any greater than what the original version of the legislation had. The maps that were approved in the Greenway Plan shows the focus area as extremely narrow...just a few feet from the shoreline. In the addition to the legislation of that coverage for major tributaries narrowed it down to the point where only very specific purposes relating to the ecology of the river and tributaries could be included in funding requests. Another by-product of the revised definitions is that the school districts for example that had no land bordering the river or within the focus area would effectively be excluded from participation. It appears that most, if not all, of the Town of Niagara would be excluded because its only contact would be with certain areas along one or two of the major tributaries and that contact is only a couple of thousand square feet. Legislation has that clause in it among others, so that it appears that three out of the seven members of the NPC would be effectively excluded from the funding process. The legislation does not deal with the niceties of what you do with that funding that effectively has been precluded. A more serious problem is that it has a very good chance of being unconstitutional and raises issues as to whether there is a violation of the Contracts Clause under the approach that the Relicensing Settlement Agreement both for the HCSC and others is a contract, where this legislation effectively takes away the rights established under that contract. This is a very valid point and one that the Magavern Report effectively dismissed.

6.0 Legal Counsel

6.1 Niagara River Greenway Commission – Recent Proposed Legislation

Mr. Widger stated that the legislation is clearly subject to very strong arguments against it – both practical and legal. He stated it demonstrates a lack of understanding by the sponsors or whomever is promoting it of the history that went into the Relicensing Settlement Agreement process. The object of the legislation appears to be to effectively funnel all of the funding that was provided for other purposes into the area immediately adjacent to the river. He stated that this legislation is seriously flawed, both in the execution and in its legal support and probably warrants a strong response. Some of the members have already passed resolutions opposing it and others may have it on their agendas to take up and this should continue. It also raises the issue of an additional response from the NPC itself and how best to communicate that with those that have the ability to deal with the legislation.

Chairman Ross stated that two entities have already passed resolutions against the legislation – Lewiston Porter School District and the Town of Lewiston. Niagara County will address it on June 18th; Town of Niagara will also address it and Niagara Wheatfield will address it tonight. Mr. Ross stated that it is important that this is dealt with collaboratively with all members. These resolutions will send a message. Mr. Widger drafted a letter that will be signed by all seven entities and sent to the Western New York State legislative members. Mr. Widger asked that counsel discuss any thoughts they may have on the draft with him.

After a lengthy discussion, Ms. Bianco made a motion to send a letter to the WNY delegation strongly opposing the legislation. Mr. Hapeman seconded the motion. Motion passed.

7.0 Other Matters

8.0 Next Meeting – To be Determined

9.0 Adjournment

Mr. O'Donnell made a motion to adjourn, seconded by Mr. Reiter. Motion passed. Meeting adjourned at 2:27 p.m.

Respectfully submitted,

Mary P. Melloni
Secretary