

HOST COMMUNITIES STANDING COMMITTEE MEETING MINUTES

Friday, April 15, 2016 – 12:45 p.m.

Niagara County Department of Economic Development

6311 Inducon Corporate Drive
Sanborn, New York 14132

Representatives Present:

Cynthia Bianco, Superintendent / Chairperson, HCSC
Paul Casseri, Superintendent
Lou Paonessa
Thomas Burgasser, Esq.
Scott Hapeman, Esq.
Lee Wallace, Supervisor
Bill Geiben
Thomas O’Donnell, Esq.

Niagara Falls City School District
Lewiston Porter School District
New York Power Authority
Niagara County
Niagara Wheatfield School District
Town of Niagara
Town of Lewiston
City of Niagara Falls

Alternates/Guests:

Bernie Rotella
Sonia Clark
Thomas Burgasser, Esq.
Jackie Siegmann
Bob Deull
Bonnie Haskell
Glenn Wienke

Town of Lewiston
Artpark, Town of Lewiston
Niagara County
Town of Niagara
Sanborn Area Historical Society
Sanborn Area Historical Society
Sanborn Area Historical Society

Staff Present:

Mary Melloni, Recording Secretary
Stan Widger, Esq., NPC Counsel, Nixon Peabody – Via Teleconference
Samuel M. Ferraro, Executive Director/Commissioner - Niagara County Center for Economic Development

1.0 Call to Order

Chairperson Bianco called the Host Communities Standing Committee meeting to order at 12:48 p.m.

2.0 Roll Call

Ms. Melloni called the roll. A quorum was met

3.0 Pledge of Allegiance

Chairperson Cynthia Bianco led the Pledge of Allegiance.

4.0 Introductions

5.0 Approval of Meeting Minutes

5.1 December 1, 2015

5.2 March 16, 2016

Chairperson Bianco asked for a motion to approve the meeting minutes of December 1, 2015 and March 16, 2016. Mr. Wallace made the motion, seconded by Mr. Hapeman, who requested that the title of Superintendent be removed from his name. Motion passed.

6.0 Town of Lewiston

6.1 **Artpark Interactive Children & Family Festivals and Programming– B. Rotella** **(Previously approved for funding on 8/5/2010 in the amount of \$160,000; and on 2/9/2012 for \$45,000 – both for programming; Approved for funding in the amount of \$100,000 by Town of Lewiston on 1/25/2016; Project failed to be approved at 3/16/16 HCSC meeting)**

Mr. Rotella addressed the concerns outlined in the letter from the New York Power Authority. He explained that regarding the concern that the project is operational rather than improvements, while the project is not a capital construction projects and eligible projects are not limited to capital projects, Artpark programming is essential to improve the overall visitor experience and sustain its overall economic impact on the Town and Village of Lewiston. Artpark draws visitors by the thousands into the park each year, offering visitors the chance to explore the trails and views along the River. The year-round programs and activities draw visitors to the park as a destination location as it sits on the escarpment directly overlooking the Niagara River.

He then addressed the concern that any event prior to August 31, 2007 is ineligible for Greenway funding; however, Artpark has provided a variety of new and innovative programming for the many visitors to the park. This project brings new, internationally inspiring talent to the facility and addresses novel, innovative experiences that fall after the August 2007 date and should be considered a new venture. Mr. Rotella stated that based on these responses to NYPA's letter, they should be in compliance.

Mr. Paonessa stated that they carefully reviewed the proposal. They believe their rationale is consistent with the concerns they expressed back in 2010. They do not feel that their concerns were addressed at that time and they are not addressed at this time. The two main reasons NYPA believes they are not consistent with the Greenway plan and therefore do not comply with funding is that the project is primarily operational rather than improvement in nature. According to the HCRSA, paragraph 7.3 *"the Host Community shall ensure that they proposed project (i) entails the construction and/or rehabilitation of parks, recreation and related facilities..."* The second reason is that Artpark's Children Programming precede the settlement agreement. *"In no event shall the Host Community Greenway Fund be utilized to: (1) meet the obligations existing as of August 31, 2007 of any local municipality, school district or State agency, or (2) pay for operation and maintenance of any projects existing as of August 31, 2007..."* He stated that they do understand that the programming Artpark proposes could provide a great service to the community; however, it is not consistent with the overall aim of the Niagara River Greenway Plan and does not meet the criteria for the HCSC fund and should be funded through another source. Mr. Paonessa stated that the letter from Artpark actually opens up other questions as the last sentence asks that they consider this as a new venture and if it is a new venture, it means that the Town did not bring the project to the Greenway Commission. He noted that at the last meeting it was brought up that they did go to the Greenway Commission; however, there is currently no Executive Director at the Commission right now, and he is not questioning the directives of Mark Thomas and Sean Edwards, but this committee needs to set criteria for what it considers consultation with the Greenway Commission on a project such as this.

6.0 Town of Lewiston (Continued...)

6.1 Artpark Interactive Children & Family Festivals and Programming– B. Rotella

Ms. Bianco asked if the project meets all procedural requirements. Mr. Widger stated yes, the procedural requirements have been met.

Mr. Burgasser stated that he has requested a response to any questions the Greenway Commission asked of the Town; Mr. Rotella explained that since they did not have to go back to the Commission there were no questions and the questions were addressed back in 2010 when the commission determined the project was consistent.

Mr. Widger stated that the project meets the legal requirements and the only question remaining is if the Committee feels it would be a good project for any other reason. In terms of complying with the HCRSA, he feels that NYPA's position that it has to meet the first clause of 7.3, that is one way for a project to be deemed appropriate for approval; however the Power Authority leaves out the fact that the second clause is or for promoting tourism, enhancing environment and etc...." Therefore, if the committee concludes that this project meets the criteria in the second clause, that is a solid basis for approval. Mr. Widger stated that the other concern about a pre-existing project is addressed in the letter from the Town. This is a legitimate inquiry. The funding for Artpark activities is handled on an annual basis...no pre-existing funding prior to the 2007 date and is handled on an annual basis.

Sonia Clark addressed some of the concerns, stating that Children's programming is too broad of a concept. She then reviewed some of the upcoming programs and the fact that they have to cover artists fees, materials for installations, crews that will be hired. None of those expenses are included ... only the performances and installations.

Bill Geiben stated that the Town of Lewiston unanimously supports this program and it is their hope that it will be passed.

A motion was made by Mr. Geiben and seconded by Mr. Casseri, to approve the request for funding in the amount of \$100,000 for the Artpark Interactive Children and Family Festivals and Programs Project.

A roll call vote was taken.

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| <i>Town of Lewiston</i> | <u><i>Yes</i></u> |
| <i>Town of Niagara</i> | <u><i>Yes</i></u> |
| <i>Lewiston Porter</i> | <u><i>Yes</i></u> |
| <i>City of Niagara Falls</i> | <u><i>Yes</i></u> |
| <i>Niagara-Wheatfield</i> | <u><i>Yes</i></u> |
| <i>Niagara County</i> | <u><i>Yes</i></u> |
| <i>New York Power Authority</i> | <u><i>No</i></u> |
| <i>Niagara Falls Schools</i> | <u><i>Yes</i></u> |

Approval of the project for funding has passed.

6.0 Town of Lewiston (Continued...)

**6.2 Sanborn Area Historical Society Parking Lot Project – *Bernie Rotella*
(Approved for funding in the amount of \$200,000 by Town of Lewiston on 12/28/2015;
Determined consistent NRGC on 3/15/2016; Project failed to be approved at 3/16/16 HCSC
meeting)**

Mr. Paonessa stated that overall NYPA concurs with the project review that was presented to the Greenway Commission. It describes the benefits to the Historical Society, but was deficient in describing the benefits to the overall Greenway plan. The application fails to include design elements that would include Greenway structure. The project is away from the river so it should help establish physical and/or interpretive connections between the river and the surrounding area. Aspects of the Sanborn Historical Society improvements have been previously supported by the Power Authority as they were deemed consistent with the Greenway plan, however, paving an existing gravel parking lot into a 100-vehicle parking lot appears to be an operation and maintenance project rather than a project envisioned under the Greenway plan. It also appears that the Greenway fund is asked to provide 100% of the project cost; wherein paragraph 7.3 of the HCRSA states *“to the extent practicable, the HC Committee shall attempt to secure matching funds or other resources to offset the funding of Greenway projects.”*

Mr. Rotella stated that they feel very strongly that if they would have submitted this project as one project during the construction of building #2, the moving of the building onto the historical site it would have been a more palatable project. The Town of Lewiston has been very kind in helping the Sanborn Area Historical Society in pulling these pieces together; however, their budget is very limited so the project was divided into separate parts. There is a great need for a new parking lot for visitors to navigate without falling. This is an important part of the overall project. During presentation to the Commission, Mr. Rotella had an opportunity to speak with some of the Riverkeepers who offered to help them with some green elements to the project. They would like to incorporate those green elements into the construction of the parking lot. The SAHS has been trying to contribute as much as they can into the project.

Mr. Burgasser asked if Mr. Rotella had incorporated the plans from the Riverkeepers into the project. Mr. Rotella stated since they have not received those recommendations they have not included them as of yet. A discussion was held regarding response to the questions that the Greenway Commission may have had about the project.

Bonnie Haskell, Curator of the Historical Society, stated that they will try to stay in compliance and will incorporate green elements.

Bill Geiben stated that he was on the Greenway board when the Greenway agreement was signed. One part of it was what was going to be the geographic area and the major consensus was that it is broader than just along the river. This project the Town of Lewiston finds very beneficial as it is developing an interest and an economic impact in the Sanborn area and the Town unanimously supports it.

Mr. Widger stated that it is not required to respond to the questions from Greenway commission in writing. The Committee can decide in the future to have them answered in writing.

6.0 Town of Lewiston (Continued...)

**6.2 Sanborn Area Historical Society Parking Lot Project – *Bernie Rotella*
(Approved for funding in the amount of \$200,000 by Town of Lewiston on 12/28/2015;
Determined consistent NRGC on 3/15/2016; Project failed to be approved at 3/16/16 HCSC
meeting)**

Mr. Burgasser stated that there is a drainage issue that was not addressed and a request to look at permeable pavement and a question about outside funding. Mr. Rotella stated that they will incorporate these items once they meet with the architect and engineer to incorporate those into the budget. Mr. Geiben stated that the Town may be able to assist with some of the green element expenses,

Mr. Hapeman asked that the Town provide the Committee the recommendations of green changes and whatever was done to meet the concerns.

Mr Widger stated the issue of whether this is Operation & Maintenance, the Settlement agreement does not prohibit projects that have elements of operation and maintenance in them.

Mr. Widger stated that this project meets all procedural requirements. A motion was made by Mr. Geiben and seconded by Mr. Wallace, to approve the request for funding in the amount of \$200,000 for the Sanborn Area Historical Society Parking Lot Project.

A roll call vote was taken.

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| <i>Town of Lewiston</i> | <u><i>Yes</i></u> |
| <i>Town of Niagara</i> | <u><i>Yes</i></u> |
| <i>Lewiston Porter</i> | <u><i>Yes</i></u> |
| <i>City of Niagara Falls</i> | <u><i>Yes</i></u> |
| <i>Niagara-Wheatfield</i> | <u><i>Yes</i></u> |
| <i>Niagara County</i> | <u><i>Yes</i></u> |
| <i>New York Power Authority</i> | <u><i>No</i></u> |
| <i>Niagara Falls Schools</i> | <u><i>Yes</i></u> |

Approval of the project for funding has passed.

7.0 Any Other Matters

8.0 Next Meeting: June 7, 2016 - 12:00 p.m.

9.0 Adjournment

Mr. Geiben made a motion, seconded by Mr. Wallace, to adjourn the meeting at 1:50 p.m.

Respectfully submitted,

Mary P. Melloni
Recording Secretary