

HOST COMMUNITIES STANDING COMMITTEE MEETING MINUTES

Tuesday, October 4, 2011 – 12:00 p.m.

Niagara County Department of Economic Development

6311 Inducon Corporate Drive

Sanborn, New York 14132

Representatives Present:

Don Rappold, Asst. Superintendent – Chairman, HCSC

Angelo Massaro, Esq.

Tom O'Donnell, Esq.

Rob Daly, Special Advisor, Relicensing

William L. Ross, Chairman, NC Legislature

Kerin Dumphrey, Business Manager

Michael Risman, Esq.

Steve Reiter, Supervisor

Lewiston-Porter School District

Niagara Falls City School District

City of Niagara Falls

New York Power Authority

Niagara County

Niagara Wheatfield School District

Town of Niagara

Town of Lewiston

Guests:

Tom Prohaska

Chris Roser, Superintendent

Thomas Burgasser, Esq.

Scott Hapeman, Esq.

Mike Johnson

Bernie Rotella

Jackie Siegmann

Bruce Sutherland

Lee Simonson

Sandy Meis, Executive Director

Mark Scheer

Buffalo News

Lewiston-Porter School District

Niagara County

Niagara Wheatfield School District

Town of Lewiston

Town of Lewiston

Town of Niagara

Historical Association of Lewiston

Historical Association of Lewiston

Lewiston Jazz Festival

Niagara Gazette

Staff Present:

Mary Melloni, Recording Secretary

John M. Baird, Treasurer, NPC

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

Chairman Rappold called the Host Communities Standing Committee meeting to order at 12:07 p.m.

2.0 Roll Call

Ms. Melloni called the roll; a quorum was established.

3.0 Pledge of Allegiance

Chairman Rappold led the Pledge of Allegiance.

4.0 HCSC Meeting Minutes of August 9, 2011

Mr. O'Donnell made a motion, seconded by Mr. Ross, to approve the minutes of the August 9, 2011 meeting. Motion passed.

5.0 Project Presentations

5.1 Town of Lewiston

5.1.1 Artpark's Summer Program

This project was approved by the Town of Lewiston on July 19, 2011 for funding in the amount of \$45,000 and determined consistent by the Greenway Commission on July 20, 2010.

Mr. Rotella explained that Artpark is requesting programming money for new events that occur at Artpark. Mr. Reiter explained that this is an expansion of the summer programs.

Q. Mr. Daly asked if this is for upcoming programming.

A. Mr. Reiter stated that it was for programming that took place in 2011.

Q. Mr. Daly asked how this settles with the statement made in the past that the Town would never come back to this committee for this programming again.

A. Mr. Rotella stated that the Town Board passed a resolution requesting that the funds be made available to Artpark for new programs. Mr. Reiter stated that they are going to redesign the amphitheatre area. Mr. Rotella stated that the number of people that come in to Artpark for their events are well worth the investment into the programs.

Mr. Rappold stated that this request has the recommendation of the Town Supervisor, the support of their Board, and it was determined to be consistent by the Niagara River Greenway Commission. Mr. Widger stated that it is his understanding that the prior determination of consistency by the NRG.

*"WHEREAS, the Town of Lewiston has applied to the Host Communities Standing Committee for funding in the amount of **\$45,000.00** for the Artpark Summer Program project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee, at a meeting held on October 4, 2011, finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of **\$45,000.00** for the **Artpark Summer Programs** project is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution will be forwarded to HSBC Bank."*

A roll call vote was taken.

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

The resolution was thereupon duly adopted.

5.0 Project Presentations

5.1 Town of Lewiston

5.1.2 Academy Park Ice Rink

This project was approved by the Town of Lewiston on July 19, 2011 for funding in the amount of \$134,000 and determined consistent by the Greenway Commission on September 20, 2011.

Mr. Rotella explained that this is an exciting program that involves the installation of a portable ice rink in the Academy Park on Center Street in the Village of Lewiston. They have the support of the Village for this project. The request for \$134,000 will cover the cost for a first rental of the portable ice rink, the electrical upgrade, and the entire infrastructure needed to support the ice rink. This is a lease-to-own; the first year will be \$72,000 for the ice rink. The Town is taking this approach to see how the first year goes and if successful they will ask for additional money. They will have a 4-year lease and on the 5th year they will own it. The leasing company provides all of the labor for setup, take-down and storage. They will provide a warming tent, chairs, tables. The tent can also be used for movies during the winter season. It is a multi-purpose project.

Q. Will the rink and warming tent be open for free to the public?

A. Yes.

Mr. Widger stated that this meets the procedural requirements.

*“WHEREAS, the Town of Lewiston has applied to the Host Communities Standing Committee for funding in the amount of \$134,000 for the Academy Park Ice Rink project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of **\$134,000.00** for the **Academy Park Ice Rink Project** is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank.”*

A roll call vote was taken.

Town of Lewiston	<u>Yes</u>
Town of Niagara	<u>Yes</u>
Lewiston Porter	<u>Yes</u>
City of Niagara Falls	<u>Yes</u>
Niagara-Wheatfield	<u>Yes</u>
Niagara County	<u>Yes</u>
New York Power Authority	<u>Yes</u>
Niagara Falls Schools	<u>Yes</u>

The resolution was thereupon duly adopted.

5.0 Project Presentations

5.1 Town of Lewiston

5.1.3 Lewiston's Council on the Arts "Marble Orchard: Spirits of 1812" Mobile Presentation

This project was approved by the Town of Lewiston for funding in the amount of \$15,000 on July 19, 2011 and determined consistent by the Niagara River Greenway Commission on September 20, 2011.

The Lewiston Council of the Arts will present a mobile, multi-media historical preservation told through the first person narrative of the people who lived in Lewiston at the time of the War. Costumed interpreters will relay stories of authentic historical figures and it will be made interesting with Native American drumming and music from the area. Lewiston's proximity to Fort Niagara and the Village will show the local significance of the War of 1812 and will include US and Canadian characters, as well as historical figures from the Native American population. This is a portable presentation. Not only will this funding cover the program, it will also cover the cost of microphones, and some of the materials needed for this presentation.

Eva Nicholas of the Lewiston Council of the Arts stated that this \$15,000 is not only for this year and this presentation; this will take them into the next 10 years. They will be able to turn people on to the history of the area by taking the mobile presentations to schools, senior centers and wherever anyone wants them. Ms. Nicholas explained that the Marble Orchard has shown people how interesting this area really is.

Q. Would you bring this to school districts outside of Lewiston Porter?

A. Absolutely. They are hoping that schools or organizations that are planning 1812 celebrations will call so they can attend and make the presentation.

*"WHEREAS, the Town of Lewiston has applied to the Host Communities Standing Committee for funding in the amount of \$15,000 for the Lewiston Council on the Arts: Marble Orchard – Spirits of 1812 Mobile Presentation project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of **\$15,000.00** for the **Lewiston Council on the Arts: Marble Orchard – Spirits of 1812 Mobile Presentation** is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank."*

5.0 Project Presentations

5.1 Town of Lewiston

5.1.3 Lewiston's Council on the Arts "Marble Orchard: Spirits of 1812" Mobile Presentation

A roll call vote was taken.

<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>Yes</i></u>
<i>Niagara Falls Schools</i>	<u><i>Yes</i></u>

The resolution was thereupon duly adopted.

Artpark's Summer Programs (revisited)

Mr. Daly asked Chairman Rappold if it was stated that consistency was determined on Item 5.1.1, Artpark's Summer Programs. Chairman Rappold stated that he did state that, and it was determined by a 7-1 vote. Mr. Daly stated that according to the protocols it would not be correct. A single no vote results in lack of consensus, thus the matter has to come back to the Committee after 30 days.

Mr. Massaro questioned the fact that the NRGD determined the project to be consistent. Mr. Daly stated the Commission said it was previously but he is confused about using a previous consistency determination, although they deferred it. Mr. Daly stated he does not think the plan envisioned annual funding efforts for these types of projects, where funding is cut from other areas and the application specifically identifies State funding cuts more than one time and the plan specifically notes that the Greenway funds should not be used for that. He stated that is the reason in his mind it is not consistent with the Greenway plan.

Mr. Massaro asked if he took up this issue with the Greenway Commission. Mr. Daly stated that the project was not reviewed this time because they had reviewed it earlier and the first time it was looked at he recalls that they were informed it was a one-time request. It now becomes multiple efforts and with the application indicating that it is because State funding was cut, the Commission's plan is rather specific against replacing that type of funding.

Mr. Widger questioned that since the NRGD did not make a determination because they state they have already reviewed and determined it consistent in the past, then how will is the project to satisfy the criteria you said needs the approval of the Greenway commission. Mr. Daly said he does not believe it needs the approval of the NRGD; this committee retains the authority to approve or determine consistency with respect to the settlement agreement. He stated he is referring to only the plan criteria. One of the ideas behind the funds was to not supplant current funding items, and that is the reason there is an effective date for the funds—they did not want current budgeted items to be supported by Greenway funds.

5.0 Project Presentations

5.1 Town of Lewiston

Artpark's Summer Programs (revisited)

It was determined that after a 7-1 vote consensus was not determined and another vote will be required after 30 days. Mr. Daly was asked to put in writing his reasons for voting no on consistency and forward it to all members. The project will then come back to the members for another vote.

5.2 Niagara Wheatfield School District

5.2.1 **NWSD Eco Campus Outdoor Conservation, Recreation and Education**

This project was approved for bonding on September 21, 2011 in the amount of \$6,094,000 and determined consistent by the Niagara River Greenway Commission on September 20, 2011.

Mr. Dumphrey explained that they have been working closely with David Kenyon from Wendell, their landscape engineer and with Loren Smith of the Audubon Society to re-envision the campus with a trail around it where people can run, ride bikes or hike and to restore it to a natural setting; will add some recreational facilities and provide an outdoor classroom.

Mr. Kenyon gave a brief summary of the project, noting that some of the elements of the project are trailhead parking, the nature trail enhanced by native species, attracting wildlife – consistent throughout the trail. In terms of the signage, it celebrates the ecological sense of the site, as well as the heritage and history of the community. The site will be supplemented with the trail, playground, and recreational activities. There will be an outdoor classroom – an open-air facility offering an opportunity for outdoor exploration in a formal structure in an informal setting. They are collaborating with the Buffalo Audubon Society. Mr. Smith indicated that this is a capital project that will have generational impact across Niagara County. The facilities in this district will infuse nature and place the greenway into the creek and that is going to grow and connect them to the river through the creek. It will build that emotional connection with the Greenway, utilizing the natural amenities of the area.

The request is for \$6.94 million as debt service; they are requesting the entire \$6 million and if state aid comes through it will then be factored in. Mr. Massaro stated that it should be clear that the HCSC is funding only the non-aided portion. It was explained that any money that is left over after aid will be utilized in the Phase III portion of the project. Mr. Daly stated that sometime in the future when the aid question is settled, documentation could be provided at that time to address the concerns over the unaided portion of the funding.

Mr. Widger suggested determining the exact amount needed per year now, with specification that it is only to cover non-aided portion of the project, utilizing the \$6.94 million as debt service.

5.2 Niagara Wheatfield School District

5.2.1 NWSD Eco Campus Outdoor Conservation, Recreation and Education (Continued...)

*“WHEREAS, the Niagara-Wheatfield School District has applied to the Host Communities Standing Committee for funding in the amount of \$6,094,000 for the NWSD Eco Campus Outdoor Conservation, Recreation and Education project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of **\$6,094,000** for the **NWSD Eco Campus Outdoor Conservation, Recreation and Education Project** is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank.”*

A roll call vote was taken.

Town of Lewiston	Yes
Town of Niagara	Yes
Lewiston Porter	Yes
City of Niagara Falls	Yes
Niagara-Wheatfield	Yes
Niagara County	Yes
New York Power Authority	Yes
Niagara Falls Schools	Yes

The resolution was thereupon duly adopted.

5.3 City of Niagara Falls

5.3.1 Griffon Park

This project was approved for funding by the City of Niagara Falls on July 19, 2011 in the amount of \$200,000 and determined consistent by the Niagara River Greenway Commission on September 20, 2011.

Mr. O’Donnell is explained that this park is located a couple of blocks from the City border on the Town of Wheatfield, separating Cayuga Island from the Niagara River. Currently there is a boat launch located there, and they are planning to pave and put in boat docks, lighting and other miscellaneous upgrades. The total cost of the project is \$400,000; they are requesting \$200,000 in Greenway funds and they have submitted an application to the EPA for the remaining funds.

Mr. Widger stated that the project meets procedural requirements.

5.3 City of Niagara Falls

5.3.1 Griffon Park (Continued...)

*“WHEREAS, the City of Niagara Falls has applied to the Host Communities Standing Committee for funding in the amount of \$200,000 for the Griffon Park project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of \$200,000 for the **Griffon Park – City of Niagara Falls** project is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank.”*

A roll call vote was taken.

Town of Lewiston	Yes
Town of Niagara	Yes
Lewiston Porter	Yes
City of Niagara Falls	Yes
Niagara-Wheatfield	Yes
Niagara County	Yes
New York Power Authority	Yes
Niagara Falls Schools	Yes

The resolution was thereupon duly adopted.

5.3.2 Restoration of Hyde Park Comfort Station & Lounge

This project was approved for funding by the City of Niagara Falls on June 28, 2010 in the amount of \$200,000 and determined consistent by the Niagara River Greenway Commission on November 16, 2010.

Mr. O’Donnell explained that this project involves the original building at Hyde Park that was built in the 1920’s and now connected to the ice rink. It is part of a restoration project that they have received a State grant in the amount of \$125,000. The City is looking at using \$300,000 in grants and \$200,000 in Greenway funds to replace windows and doors, masonry repairs and interior renovations. Mr. O’Donnell stated that the building will be open and available to the general public.

Mr. Widger stated that the project meets procedural requirements.

*“WHEREAS, the City of Niagara Falls has applied to the Host Communities Standing Committee for funding in the amount of \$200,000 for the Restoration of Hyde Park Comfort Station & Lounge project; WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation; WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan; NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of \$200,000 for the **Restoration of Hyde Park Comfort Station & Lounge– City of Niagara Falls project** is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank.”*

5.3 City of Niagara Falls

5.3.2 Restoration of Hyde Park Comfort Station & Lounge (Continued...)

A roll call vote was taken.

Town of Lewiston	Yes
Town of Niagara	Yes
Lewiston Porter	Yes
City of Niagara Falls	Yes
Niagara-Wheatfield	Yes
Niagara County	Yes
New York Power Authority	Yes
Niagara Falls Schools	Yes

The resolution was thereupon duly adopted.

5.4 Niagara County

5.4.1 Town of Lockport Lytle Nature Preserve

This project was approved by the Host Communities Standing Committee for funding in the amount of \$94,802 on February 1, 2011; this is a request for additional funding in the amount of \$6,400 which was approved by the Niagara County Legislature on June 7, 2011.

David Kinyon explained that this project was brought before the Committee in February of 2011. The original request was for 94,802; and they are now asking that that appropriation be supplemented with an additional \$6,400 in order to add signage back into the project. Mr. Widger stated that the project meets all procedural requirements.

*“WHEREAS, the **County of Niagara**, on behalf of the **Town of Lockport**, has applied to the Host Communities Standing Committee for funding in the amount of **\$6,400.00** for the **Lytle Nature Preserve Signage Modification Project**; and WHEREAS, this project was submitted to the Niagara River Greenway Commission for consultation. WHEREAS, the Host Communities Standing Committee finds the project to be consistent with the Greenway Plan. NOW THEREFORE BE IT RESOLVED, by the Host Communities Standing Committee that the funding in the amount of **\$6,400.00** for the **Lytle Nature Preserve Signage Modification Project** is approved; and BE IT FURTHER RESOLVED, that a certified copy of this resolution is to be forwarded to HSBC Bank.”*

A roll call vote was taken.

Town of Lewiston	<u>Yes</u>
Town of Niagara	<u>Yes</u>
Lewiston Porter	<u>Yes</u>
City of Niagara Falls	<u>Yes</u>
Niagara-Wheatfield	<u>Yes</u>
Niagara County	<u>Yes</u>
New York Power Authority	<u>Yes</u>
Niagara Falls Schools	<u>Yes</u>

The resolution was thereupon duly adopted.

6.0 HCSC Audit

Chairman Rappold stated that this is outlined on page 9 of the HCSC Protocols, indicating a financial audit of the Standing Committee shall occur every three years; the audit shall be conducted by the NYS Office of the State Comptroller or an independent auditor agreed upon by all members of the Standing Committee. Chairman Rappold stated that the Committee does have a responsibility to conduct an audit, and at this time a decision needs to be made as to whether the State Comptroller is invited to conduct the audit or engage an independent auditor that all the members of the Standing Committee agree upon.

Mr. Widger explained that the State Comptroller's office had an objection to the wording of the protocols as they felt that it obligated them to conduct the audit whether they wanted to or not. Mr. Widger stated that in conversations with their office he explained that that was not the intent. It was agreed that the Committee would modify the statement to make sure it did not appear that this was an automatic obligation. A revised version was put together along with some other minor wording revisions and this version was circulated in June of 2008 and there is a copy provided *[a copy of which will be attached hereto and made a part hereof these minutes]*. A meeting was held on June 25, 2008 to discuss those changes and there was a general consensus that the changes were appropriate. There were several versions of the language reviewed and this was not resolved at that time (whether to go to the State Comptroller first). The original version made it an either/or situation.

After much discussion, it was decided that first Mr. Daly will look into whether NYPA has any requirement that the State Comptroller perform the audit. An ad hoc committee will be formed (one representative from NYPA, one from a municipality, and one school district) to meet to move forward on an independent audit and solicit RFP's from three auditors. The ad hoc committee will then get back to the membership on next steps and get approval from the HCSC members. The ad hoc committee will consist of Mr. Daly, Mr. Dumphrey and Mr. Ross.

7.0 Informational Materials

7.1 HCSC Project Status Report

These were provided as informational only.

8.0 Next HCSC Meeting: Tuesday, November 29, 2011, 12 Noon (if needed)

9.0 Adjournment

Mr. Dumphrey made a motion, seconded by Mr. Reiter, to adjourn the meeting. Meeting adjourned at 1:53 p.m.

Respectfully submitted,

Mary P. Melloni
Recording Secretary