

Stakeholder Comments

APPENDIX E

MEMORANDUM

TO: William L. Ross, Chairman, Niagara County Legislature
Niagara County Legislators
Gregory D. Lewis, Niagara County Manager

FROM: Samuel M. Ferraro, Commissioner, Niagara County Economic Development
Benjamin J. Bidell, Senior Planner, Niagara County Economic Development

DATE: July 23, 2009

RE: **RESOLUTION # ED-020-09**
COMMENTS ON NIAGARA COMMUNITIES COMPREHENSIVE PLAN 2030

The following is a summary of comments and recommendations received by Niagara County in connection with the *Niagara Communities Comprehensive Plan 2030* along with responses from the County on each. This information is being provided as background prior to action on the above referenced resolution. All comments and recommendations can be found in Appendix E of the final plan along with a copy of this memo. All comments and recommendations have been addressed and are organized in this memo as follows:

- **General** - comments received by email or in hard copy during plan development.
- **Public Hearing** - comments made at the public hearing held on June 16, 2009.
- **Public Comment Period** - comments received by the Clerk of the Legislature during the 30-day public comment period held between June 1, 2009 and June 30, 2009.
- **Municipal** - recommendations received in response to Niagara County's request for plan review by Niagara County municipalities.

General

1.) Comment: A topic paper was received containing development ideas for a winter wonderland hotel and resort in Niagara Falls.

Response: This idea may be revisited in future visioning and conceptual planning exercises. This document has been added to Appendix E of the plan.

2.) Comment: A topic paper was received containing development ideas for an oil refinery in Niagara County.

Response: This idea may be revisited in future visioning and conceptual planning exercises. This document has been added to Appendix E of the plan.

3.) Comment: A topic paper was received containing development ideas for a new domed professional football stadium in Niagara Falls.

Response: This idea may be revisited in future visioning and conceptual planning exercises. This document has been added to Appendix E of the plan.

4.) Comment: A letter was received stating that a comprehensive plan cannot serve as a generic environmental impact statement (GEIS) and that the State Environmental Quality Review (SEQR) process must be closed out before Niagara County can legally adopt its comprehensive plan

Response: Niagara County prepared a Full Environmental Assessment Form Part 1 and Part 2 for the Niagara Communities Comprehensive Plan leading to a determination that the plan will not result in any significant adverse environmental impacts and as such, a GEIS does not need to be prepared. Consultation from two planning firms with extensive SEQR experience indicated that a GEIS is not necessary for Niagara County's comprehensive plan given the following:

The Niagara Communities Comprehensive Plan is intended as a guidance document with recommendations only that can be used to establish policies towards achieving the goals and objectives identified in the plan. The plan is not intended to be a land use plan as Niagara County does not have regulatory authority over land use controls, which is delegated to local municipalities under New York State's Municipal Home Rule Law. The plan does not commit Niagara County, any municipality within Niagara County, or any other stakeholder to undertake, approve, or fund any specific actions or actions, including projects identified in the plan. Future actions, policies, or projects, especially site-specific projects, carried out in connection with the plan will be subject to the New York State Environmental Quality Review Act prior to implementation.

A poll was conducted by Niagara County involving counties in New York State with similar home rule structure (i.e. no land use controls) that have prepared a comprehensive plan and 100% of counties polled indicated that they followed the exact same SEQR process as Niagara County for their comprehensive plan.

Niagara County issued a Negative Declaration and officially closed out its SEQR process on July 6, 2009. This letter has been added to Appendix E of the plan.

5.) Comment: A letter was received stating that agriculture and farmland protection are not adequately addressed in the Niagara Communities Comprehensive Plan relative to land use, development, and zoning.

Response: Niagara County has an Agricultural and Farmland Protection Plan, which is referenced extensively in the County's comprehensive plan, and while the comprehensive plan provides significant guidance on land use issues and support for agricultural and farmland protection, regulation of land use is an authority given to local municipalities under New York State's Municipal Home Rule Law. Niagara County will continue to provide guidance on land use issues and support for agricultural and farmland protection as outlined in the comprehensive plan, which recommends that the County support an update to the Agricultural and Farmland Protection Plan. This letter has been added to Appendix E of the plan.

6.) Comment: A letter was received suggesting that the Niagara Communities Comprehensive Plan should include a targeted action addressing the need for greater support of arts and cultural attractions in Niagara County. The letter was accompanied by a copy of the 2006 Niagara County Arts & Cultural Needs Assessment Report.

Response: Several studies addressing arts, cultural, and heritage tourism were reviewed for the Niagara Communities Comprehensive Plan and are summarized in the document. The plan recognizes the importance of cultural resources to issues involving economic development, tourism, and quality of life. Future updates to the plan will consider opportunities to add and/or strengthen sections of the document involving arts and cultural attractions, including recommendations in the plan. This letter has been added to Appendix E of the plan along with the 2006 Niagara County Arts & Cultural Needs Assessment Report, which will serve as an important reference.

7.) Comment: A topic paper was received recommending that the Niagara Communities Comprehensive Plan include a long-term vision and plan for countywide transportation needs balancing development of land with movement of vehicles, including development of frontage along existing right-of-ways and planning for future arterials.

Response: The Niagara Communities Comprehensive Plan includes a recommendation that Niagara County encourage the Greater Buffalo Niagara Regional Transportation Council to undertake countywide corridor management plans involving long-term land use/transportation planning for major road corridors linking communities in Niagara County. Implementation of Niagara County's comprehensive plan and/or future updates to the plan will consider opportunities to engage in visioning and planning for long-term transportation needs. This information has been added to Appendix E of the plan and will serve as an important reference.

- 8.) Comment: Comments were received clarifying programming offered by Niagara University.
- Response: Comments were received in the form of page-specific changes to the plan. All recommended changes have been made and the comments have been added to Appendix E of the plan.
- 9.) Comment: A number of comments were received via interactive display boards presented at the community outreach meetings held across Niagara County in April 2009.
- Response: A number of changes were made to the Plan based on input received via the display boards. A summary of comments received via display boards has been added to Appendix E of the plan.
- 10.) Comment: Recommendations were received that all municipalities in Niagara County should review and amend their approved comprehensive plans and zoning codes every 3 to 5 years and enact cell tower regulations, wind farm regulations, ethics policies, a farmland protection policy, a transfer of development rights policy, and a green infrastructure policy. Comments were also received that a countywide watershed protection policy and plan should be enacted and that there should be an intergovernmental agreement with regard to SEQR notification. It was also recommended that the Niagara Communities Comprehensive Plan be reviewed and amended every 3 to 5 years. A study on ethics for wind energy companies doing business in New York State was also provided.
- Response: The Niagara Communities Comprehensive Plan addresses a number of these issues. The plan includes a recommendation to provide technical support to local municipalities seeking to update their comprehensive plans, zoning codes, and subdivision regulations. The plan also includes a recommendation encouraging development of a countywide watershed protection plan as well as a provision that the plan be subject to ongoing review with minor updates to the plan made at least every two years and major updates performed at least every five years. While a number of these issues are mentioned in the plan, enactment of local policies and regulations is the responsibility of local municipalities under New York State's Municipal Home Rule Law. However, opportunities to facilitate these recommendations will be considered as part of implementation actions carried out in connection with the plan as well as future updates to the plan, any strategic planning carried out in connection with the plan, and any initiatives involving coordination and collaboration with municipal stakeholders. The recommendations have been added to Appendix E of the plan along with the study on ethics for wind energy companies, which will serve as an important reference.

11.) Comment: Comments were received clarifying programming offered by Niagara County Community College along with questions/comments on data.

Response: Comments were received in the form of page-specific changes to the plan. Recommended changes have been made as appropriate and the comments have been added to Appendix E of the plan.

Public Hearing

1.) Comment: Comments were made that: a comprehensive plan cannot serve as a generic environmental impact statement (GEIS); that a county comprehensive plan must include a GEIS; and that the New York State Environmental Quality Review (SEQR) process must be closed out before Niagara County can legally adopt its comprehensive plan.

Response: Niagara County prepared a Full Environmental Assessment Form Part 1 and Part 2 for the Niagara Communities Comprehensive Plan leading to a determination that the plan will not result in any significant adverse environmental impacts and as such, a GEIS does not need to be prepared. Consultation from two planning firms with extensive SEQR experience indicated that a GEIS is not necessary for Niagara County's comprehensive plan given the following:

The Niagara Communities Comprehensive Plan is intended as a guidance document with recommendations only that can be used to establish policies towards achieving the goals and objectives identified in the plan. The plan is not intended to be a land use plan as Niagara County does not have regulatory authority over land use controls, which is delegated to local municipalities under New York State's Municipal Home Rule Law. The plan does not commit Niagara County, any municipality within Niagara County, or any other stakeholder to undertake, approve, or fund any specific actions or actions, including projects identified in the plan. Future actions, policies, or projects, especially site-specific projects, carried out in connection with the plan will be subject to the New York State Environmental Quality Review Act prior to implementation.

A poll was conducted by Niagara County involving counties in New York State with similar home rule structure (i.e. no land use controls) that have prepared a comprehensive plan. Of the counties polled, 100% indicated that they followed the exact same SEQR process as Niagara County for their comprehensive plan.

Niagara County issued a Negative Declaration and officially closed out its SEQR process on July 6, 2009. A transcription of these comments has been added to Appendix E of the plan.

2.) Comment: Comments were made that the Niagara Communities Comprehensive Plan should address apiculture (beekeeping) and the importance of pollinating insects to the agricultural industry in Niagara County.

Response: Niagara County has an Agricultural and Farmland Protection Plan, which is referenced extensively in the Niagara Communities Comprehensive Plan. The Niagara Communities Comprehensive Plan includes a recommendation that the County support a full update of the 1999 Agricultural and Farmland Protection Plan and it is suggested that the Agricultural and Farmland Protection Plan would be more appropriate to address a topic of this scope. A transcription of these comments has been added to Appendix E of the plan.

Public Comment Period

1.) Comment: A letter was received stating that the planning process did not sufficiently include private businesses in the County and that the recommendation in the plan dealing with industrial hazardous waste management facilities misunderstands the regulatory process for siting and permitting of such facilities, including the role of the County and local municipalities.

Response: The planning process for the Niagara Communities Comprehensive Plan involved significant community outreach including 18 public meetings. Public meetings were announced in the local media and posted online via the County's website, which was actively promoted. Public meetings provided substantial opportunity for a broad cross-section of stakeholders to participate in the planning process and many individuals, including businesses, attended and participated in meetings.

The plan articulates a number of community positions involving industrial hazardous waste management that were identified over the course of the planning process, and the recommendation in the plan dealing with this topic is consistent with these positions. It should be noted, however, that the recommendation does not commit Niagara County, any municipality within Niagara County, or any other stakeholder to undertake, approve, or fund any specific actions or actions. In addition, the recommendation does not assert that Niagara County or any municipality within Niagara County has complete regulatory authority over the siting or expansion of industrial hazardous waste management facilities within the County. Furthermore, the recommendation is not intended to imply that Niagara County or any municipality within Niagara County has the authority to determine what constitutes an equitable geographic distribution of such facilities. The County's comprehensive plan is not a Hazardous Waste Facility Siting Plan. However, it will serve as an important instrument in future planning initiatives affecting Niagara County. The recommendation in the plan is intended as a framework only to help advance County policies respectful of proper State and Federal channels and consistent with applicable State and Federal statutes.

Language has been added to the plan recommending clarification of the policies and positions of the County and other stakeholders, including municipalities, residents, community-based organizations, and owners/operators of industrial hazardous waste management facilities, with respect to the treatment, storage, and disposal of industrial hazardous waste in Niagara County. This letter has been added to Appendix E of the Plan.

2.) Comment: A letter was received stating: that the State Environmental Quality Review (SEQR) process followed by Niagara County is inadequate; that a Generic Environmental Impact Statement (GEIS) should be prepared and/or further environmental review conducted given that the plan identifies actions that will likely result in significant impacts; that Niagara County should seek guidance on its SEQR process; that the SEQR process must be closed out before the County can legally adopt its comprehensive plan; that issuance of a Negative Declaration requires a 30-day public comment period; and that adoption of the plan by the County should be delayed to accommodate additional SEQR work.

Response: Niagara County prepared a Full Environmental Assessment Form Part 1 and Part 2 for the Niagara Communities Comprehensive Plan leading to a determination that the plan will not result in any significant adverse environmental impacts and as such, a GEIS does not need to be prepared. Consultation from two planning firms with extensive SEQR experience indicated that a GEIS is not necessary for Niagara County's comprehensive plan given the following:

The Niagara Communities Comprehensive Plan is intended as a guidance document with recommendations only that can be used to establish policies towards achieving the goals and objectives identified in the plan. The plan is not intended to be a land use plan as Niagara County does not have regulatory authority over land use controls, which is delegated to local municipalities under New York State's Municipal Home Rule Law. The plan does not commit Niagara County, any municipality within Niagara County, or any other stakeholder to undertake, approve, or fund any specific actions or actions, including projects identified in the plan. Future actions, policies, or projects, especially site-specific projects, carried out in connection with the plan will be subject to the New York State Environmental Quality Review Act (SEQRA) prior to implementation.

A poll was conducted by Niagara County involving counties in New York State with similar home rule structure (i.e. no land use controls) that have prepared a comprehensive plan. Of the counties polled, 100% indicated that they followed the exact same SEQR process as Niagara County for their comprehensive plan.

While a number of specific projects and programs are listed in the plan, many of those identified are conceptual. It was determined that review of

all potential actions associated with the plan and preparation of a GEIS, including review of specific projects and programs listed in the plan and potential actions carried out in connection with the recommendations in the plan, would be time consuming and expensive as well as potentially unnecessary given that many actions, especially those at the conceptual level, may never be undertaken. The County recognizes that any projects and programs, especially site-specific projects, carried out in connection with the plan or otherwise will be subject to SEQRA prior to implementation.

Niagara County issued a Negative Declaration and officially closed out its SEQR process on July 6, 2009. No public comment period is required for a Negative Declaration. Niagara County has determined that it is in full compliance with the State Environmental Quality Review Act. This letter has been added to Appendix E of the plan.

3.) Comment: A letter was received stating that the Niagara Communities Comprehensive Plan should address apiculture (beekeeping) and the importance of pollinating insects to agricultural in Niagara County.

Response: Niagara County has an Agricultural and Farmland Protection Plan, which is referenced extensively in the Niagara Communities Comprehensive Plan. The Niagara Communities Comprehensive Plan also includes a recommendation to support a full update of the 1999 Agricultural and Farmland Protection Plan. It is suggested that the Agricultural and Farmland Protection Plan would be more appropriate for addressing a topic of this scope, though future updates to the Niagara Communities Comprehensive Plan will consider opportunities to address this topic. This letter has been added to Appendix E of the plan.

Municipal

1.) Comment: A letter was received from the Town of Wheatfield providing page-specific comments with recommended changes and items of general clarification.

Response: Changes recommended by the Town of Wheatfield have been made as appropriate. This letter has been added to Appendix E of the Plan.

NIAGARA FALLS IMPROVEMENTS
WEEK OF 10-5-2008 TO 10-12-2008
BY DAVID M. METRO

TOPIC:

NIAGARA FALL'S WINTER WONDERLAND

LOCATION:

NIAGARA STREET, FERRY AVENUE, FOURTH STREET, GOING EAST
TO JOHN DALY BLVD.. (A.K.A. MAIN STREET; A.K.A. EIGHTH STREET).

ZONING CODE REQUIREMENTS:

HIGH RISE OFFICE / HOTEL BUILDINGS ZONE
ONE MILLION SQUARE FEET OF USEABLE SPACE.
TEN THOUSAND PARKING SPACES
REQUIRED CONVENTION SPACE

PROJECT OVERVIEW:

A WORLD CLASS FIVE STAR HOTEL ATTRACTION, WITH
CONVENTION SPACE, CULTURAL ACTIVITIES (BROADWAY PLAYS,
MUSICAL PERFORMANCES), AND FAMILY ENTERTAINMENT ACTIVITIES (
A INDOOR WINTER MOUNTAIN RESORT, AND A NORTH POLE ASSOCIATION
(SANTA'S WORK SHOP, ETC.).

PROJECT DETAILS:

THE MAIN ENTRANCE TO THE HOTEL AND ATTRACTION WILL BE ON
THE NIAGARA STREET SIDE OF THE PROPERTY.

THE TEN THOUSAND PARKING SPACES WILL BE BROKEN UP INTO
TWO PARKING RAMPS. FIVE THOUSAND PARKING SPACES PER RAMP, TEN
FLOORS TALL PER RAMP, WITH FIVE HUNDRED PARKING SPACES PER
FLOOR PER RAMP. PLACE THE TWO PARKING RAMPS ON THE BACK LEFT
AND BACK RIGHT SIDES OF THE HOTEL. PARKING RAMP ENTRANCES WILL
BE ON THE NORTH-SOUTH RUNNING SIDE STREETS (E.G. FOURTH STREET).
PARKING RAMP ONE WILL BE ON FOURTH STREET. PARKING RAMP TWO
WILL BE ON A SIDE STREET TO BE DETERMINED LATER (PENDING THE
REQUIRED SIZE OF THE COMPLEX).

BETWEEN THE TWO PARKING RAMPS IN THE BACK OF THE HOTEL
WILL BE A TWO FLOOR STORAGE AND TRUCK LOADING / UNLOADING
DOCKS FOR THE SUPPLIERS / VENDERS / TRAVELING ENTERTAINMENT
GROUPS. THE TRUCK ACCESS WILL COME IN AND OUT OF THE HOTEL
FROM FERRY AVENUE.

ABOVE THE LOADING DOCKS WILL BE THE LOCATION OF THE
CONVENTION SPACE. EACH CONVENTION HALL WILL BE DIVIDED INTO
TWO SECTIONS; SECTION ONE; "THE MAIN HALL" WILL BE AN OPEN TWO
FLOOR TALL ROOM APPROXIMATELY SIXTY FEET WIDE AND THE SECOND
SECTION WILL BE TWO FLOORS CONNECTED BY BALCONY STAIRS /
BALCONY RAMPS / AND GLASSED IN ELEVATORS. THE SECOND SECTION IS
TO APPROXIMATELY SIXTY FEET WIDE. OR THE SUM OF THE TWO
CONVENTION SECTIONS ARE TO BE AS WIDE AS THE PARKING RAMPS. THE
LENGTH OF THE CONVENTION HALLS IS TO BE DETERMINED BY THE

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BY DAVID M. METRO

LENGTH OF THE HOTEL AND THE TWO PARKING RAMPS. A MINIMUM LENGTH OF ONE HUNDRED AND TWENTY FEET. THE NUMBER OF CONVENTION HALL UNITS CAN NOT EXCEED TWELVE STORIES (TWO STORIES ABOVE PARKING RAMPS). THEIR WILL BE ACCESS TO THE CONVENTION SPACE FROM EACH OF THE PARKING RAMPS FOR AUTOMOTIVE / LARGE DISPLAYS.

THE BROADWAY STAGE THEATER MAIN ENTRANCE WILL BE ON FOURTH STREET. THE STAGE WILL FACE FOURTH STREET. BACK STAGE WILL HAVE ACCESS TO THE LOADING DOCKS - CENTRAL ACCESS HALLWAY - FROM THE LOADING DOCKS TO CENTRAL DISTRIBUTION. ON THE EAST SIDE OF THE CENTRAL ACCESS HALLWAY IS THE BACK STAGE FOR THE MUSIC STAGE THEATER. THE MUSIC STAGE WILL FACE EAST AND THE MAIN ENTRANCE TO THE MUSIC THEATER WILL BE ON THE EAST SIDE OF THE HOTEL (APPROXIMATELY MIRRORING EACH THEATER.).

ON THE SOUTH SIDE OF THE TWO THEATERS WILL BE THE MAIN ROOM CLUSTER OF THE COMPLEX. WHICH WILL STRETCH THE WHOLE LENGTH OF THE HOTEL FROM THE STREET SET BACK DISTANCE ON FOURTH STREET TO THE SET BACK DISTANCE ON THE SIDE STREET TO BE DETERMINED. THE BASE STRUCTURE WILL BE FOR THE RESTAURANTS, THE SKI LODGE(S) (ONE SKI LODGE LOCATED ON TOP OF TOWER NUMBER ONE), WINTER RELATED STORES, THE GENERAL TRAVELERS SUPPLY STORE, THE HEALTH SPA (HOT SPRINGS); THE GYM, SANTA'S SECRET SHOP(LOCATED ON THE TOP OF TOWER NUMBER TWO), BANQUET HALL(S)(ONE BANQUET HALL LOCATED ON THE TOP OF TOWER NUMBER THREE), AND A RINK WITH TWENTY ROWS OF SEATING, PLUS LUXURY SUITES, MEDIA BOX, ETC.(WHAT EVER IS REQUIRED TO GET THE TEAM HERE) FOR THE JUNIOR SABRES HOCKEY / CURLING.

THERE ARE THREE ELLIPTICAL HOTEL ROOM TOWERS WHICH APPROXIMATELY START ON THE TENTH FLOOR UP TO THE HOTEL. THE LONG SECTION OF THE ELLIPTICAL TOWERS WILL BE END TO END TO END, FROM WEST TO EAST. THE HEIGHT OF THESE TOWERS WILL BE DETERMINED BY THE NUMBER OF SUITES PER TOWER (APPROXIMATELY EQUAL NUMBER OF HOTEL ROOMS PER TOWER), THE LENGTH AND THE ANGULAR DEGREES OF THE SKI SLOPES (LONG; TOP OF TOWER NUMBER ONE, MEDIUM; SOMEWHERE IN THE MIDDLE OF TOWER NUMBER THREE, SHORT; SOMEWHERE WITH IN THE LOWER TEN FLOORS).

SKI SLOPE CONCEPT HAS THE LONG SLOPE STARTING ON THE BACK SIDE (NORTH SIDE) AT THE TOP OF TOWER NUMBER ONE. THE SLOPE DOWN AND THE DOG LEG'S AROUND THE FRONT SIDE OF TOWER NUMBER TWO. THEN DOG LEG'S AROUND TO THE NORTH SIDE OF TOWER NUMBER THREE. THE SLOPE TAKES A HARD RIGHT TURN AROUND THE FRONT(SOUTH SIDE) OF TOWER NUMBER THREE, THEN DOG LEG'S AROUND THE NORTH SIDE OF TOWER NUMBER TWO, THEN A DOG LEG AROUND TOWER NUMBER ONE. (THE NUMBER OF DOG LEG'S IN DETERMINED BY THE HEIGHT OF THE TOWERS, WHICH TOWER BASE YOU WOULD LIKE THE SKI

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SLOPE TO END (AT THE BASE OF TOWER NUMBER ONE OR AT THE BASE OF TOWER NUMBER THREE; THE LONG SLOPE AND SHORT SLOPE FINISH AT THE SAME TOWER, WHILE THE MEDIUM SLOPE ENDS AT THE OTHER TOWER.) (NOTE: THE HOCKEY RINK IS LOCATED AT BASE OF TOWER NUMBER TWO).

SUITES THAT ARE IN CONTACT WITH THE SKI SLOPE ARE YOUR PRIME ROOMS. EACH SUITE WILL HAVE A FACADE OF AN APPALACHIAN HILLSIDE LOG HOME.(A SERIES INTERCONNECTED STRUCTURES BUILT DOWN THE SIDE OF A STEP SLOPE). THESE SUITES WILL HAVE STAIRS AND DECKS ON THEM WITH DIRECT ACCESS TO THE SLOPES; JUST LIKE THEY HAVE DIRECT ACCESS TO THE SKI SLOPES AT ANY MAJOR SKI RESORT. THESE SUITES WILL BE MULTIPLE ROOM SUITES WITH MULTIPLE BEDROOMS FOR GROUPS AND FAMILIES.(TWO OR THREE FLOORS(EQUAL TO THE HEIGHT OF THE SKI SLOPE BAY); LIVING ROOM, KITCHEN, DINING ROOM, MASTER SUITE, THREE PLUS BEDROOMS, TWO AND A HALF BATHROOMS, LOFT, STORAGE ROOM; FOR SKI'S, FIRE PLACE, HOT TUBE).

THE DOG LEG'S WILL BE LINED WITH BUSHES AND SHRUBS TO HELP FOR A SEAMLESS CONNECTION BETWEEN TOWERS AND ALSO FOR SAFETY PURPOSES.

FROSTED GLASS WILL BE ON THE CEILING AND THE SIDE OPPOSITE SIDE OF THE LOG STRUCTURES. THE FROSTED GLASS WILL BE ON BOTH SIDES OF THE DOG LEG'S. THE REASON FOR THE FROSTED GLASS IS FOR NIGHT AND DAY SKI RUNS, IN WHICH YOU CAN LIGHT UP THE SKI RUNS AT NIGHT. THE SKI LIFT IS TO BE ON THE FAR SIDE OF THE SLOPE NEXT TO THE FROSTED WINDOWS, FOR PRIVACY PURPOSES OF THOSE IN THE SUITES AND CROSSES OVER THE SKIERS AT THE DOG LEG'S. OR THEY CAN JUST TAKE THE ELEVATORS UP TO THE TOP OF THE SLOPE. THE FROSTED GLASS ALSO KEEPS THE PEOPLE ON THE SKI LIFT UNAWARE OF HOW HIGH UP THEY ACTUALLY ARE, WHICH INCREASES THEIR COMFORT LEVEL.

THE SOUTH SIDE OF THE HOTEL WILL BE THE WINTER FUN PLAZA SECTION. THE PLAZA WILL HAVE A RETRACTABLE ROOF ON IT WHEN IDEAL CONDITIONS OUTSIDE ALLOW. THE ROOF IS ARCHED WITH THE APEX OF ARCH WHICH FACES SOUTH AND RETRACTS NORTHWARD INTO BUILDING). THIS SECTION WILL INCLUDE TWO STRAIGHT NARROW TOBOGGAN RUNS, LIKE THE ONES AT CHESTNUT RIDGE STATE PARK. THERE WILL BE ONE SECTION OF STRAIGHT DOWN HILL RUNS WITH SMALL HILLS FOR THE INFLATABLE TUBES RIDES. THERE WILL BE ONE SECTION FOR A TWISTED DOWN HILL RUNS WITH SMALL HILLS FOR INFLATABLE TUBE RIDES. THE ICE SKATING RINK FOR GENERAL USE WILL BE AT THE SOUTH WEST END OF THE PLAZA. WE WILL LOCATE THE SNOW BOARDER HALF PIKE AT THE SOUTH EAST SIDE OF THE PLAZA.

THE BIG DRAW WILL BE THE OLYMPIC BOBSLED RIDE "SHOOT THE TUBE". THIS RIDE WILL START IN ONE OF THE TOWERS GO THROUGH AND AROUND SOME OF THE RESTAURANTS STORE SECTIONS OF THE HOTEL INTO THE PLAZA SECTION OVER THE HALF PIKE START GATE, UNDER THE

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NARROW TOBOGGAN AND TUBE RIDE START GATES(HALF GLASSED TUNNEL FOR VIEWING STATION HALLWAY/ RESTAURANT), DOWN AND AROUND THE PERIMETER OF THE ICE RINK TO UNLOADING STATION AT BASE OF PLAZA. AFTER UNLOADING THE BOBSLED, THE BOBSLED ENTERS ITS OWN ELEVATOR LIFT TO BRING BOBSLED BACK TO THE TOP OF THE BOBSLED TRACK.

TO MAKE THIS BOBSLED SAFE, WE HAVE TO PUT AN INFLATABLE SERIES OF RUBBER CHANNEL (THREE SIDED CLAMP; TOP, BOTTOM, INSIDE RAIL) ON EACH SIDE OF THE BOBSLED TO KEEP THE SLED ON THE TRACK THE TONGUE WHICH FITS INSIDE THE CHANNEL IS ICED OVER ON ITS THREE SIDES WHICH ARE CONTACT WITH THE INFLATABLE TUBES FOR A FRICTION LESS SURFACE (WHICH MEANS A FAST RIDE). AS FOR THE SAFETY CHANNELS BEING INFLATABLE TUBES IS TO ALSO CREATE AIR CUSHIONS WHEN THE BOBSLED IS GOING THROUGH THE TURNS. MAGNETIC BREAKS WILL BE INSTALLED ON THE FRONT AND BACK SECTIONS OF EACH END OF THE CHANNEL IN ORDER TO STOP AND START THE BOBSLED. THE BOBSLED RIDER ENTRANCE AND EXIT (DOOR) WILL BE FROM THE BACK OF THE BOBSLED, FOUR TO FIVE CHAIR BACKS PER BOBSLED, FOUR POINT SEAT BELT RESTRAINT SYSTEM TO BE USED. THE BOBSLED MOVES UNDER IT'S OWN WEIGHT AND MOMENTUM.

THE WINTER WONDER LAND MASCOT WILL BE "THE COLD MISER" FROM THE OLD CHRISTMAS CARTOONS. THE JUSTIFICATION FOR HAVING THE COLD MISER AS THE MASCOT ALLOWS FOR SOMEONE ELSE TO BUILD TO NEXT HIGH RISE HOTEL ATTRACTION NEXT DOOR. WHICH WILL BE THE INDOOR TROPICAL WATER PARK; LIKE THE ONE IN NIAGARA FALLS, ONTARIO CANADA AND THE ONE IN ERIE, PENNSYLVANIA. BY HAVING THE MASCOT "THE HEAT MISER" AS A PERFECT PLAY OFF OF THE COLD MISER. CREATING A REASON TO BUILD THE NEXT HIGH RISE HOTEL ATTRACTION.

NIAGARA COUNTY IMPROVEMENTS

12/2/2008

BY

DAVID M. METRO

TOPIC:

HIGH ENGINE GAS PRICES IN WESTERN NEW YORK, USA.

CAUSE OF PROBLEM:

1.) CLOSED DOWN OIL REFINERY IN CANADA.
2.) THE OIL PIPE LINE START POINT IS IN THE GULF OF MEXICO
3.) OIL FLOW IS FIVE MILES PER HOUR
4.) PIPE LINE FOLLOWS MISSISSIPPI RIVER BASIN (INTERSTATE 390 ?)

PROACTIVE SOLUTION:

CREATE AN OIL REFINERY IN NIAGARA COUNTY.

STEP 1: COUNTY PURCHASE OF PROPERTY IN TOWN OF SOMERSET ALONG ROUTE 18 FROM THE TRAIN TRACKS TO A.E.S. GENERATING STATION; WEST TO TOWN OF SOMERSET BORDER LINE . AND SOUTH TO WHERE THE TRAIN TRACKS TURNS EAST / WEST.

THE LOCATION JUSTIFICATION FOR THIS SITE IS AS FOLLOWS: NUMBER ONE; THE LOCATION IS PROXIMATE TO THE A.E.S. POWER PLANT WHICH WOULD SUPPLY POWER TO THE REFINERY. NUMBER TWO; LOCATION OF THE TRAIN TRACKS TO THE SITE. THIS IS CRITICAL TO THE CONSTRUCTION AND CAPACITY EXPANSION OF THE OF THE FACILITY WHICH WILL BE THE MAIN SUPPLY ROUTE FOR THE PRESSURE VESSEL TOWERS REQUIRED FOR THE PROCESS. WHICH CAN BE MADE LOCALLY IN WESTERN NEW YORK. NUMBER THREE; ACCESS TO WATER; OIL REFINING IS A WATER EXTENSIVE PROCESS REQUIRING HEATING AND COOLING OF THE PROCESS FLUID MANY TIMES OVER. NUMBER FOUR; CLOSE ACCESS TO THE WASTE WATER TREATMENT PLANT ON LOWER LAKE AND QUAKER ROADS. WITH ROOM TO EXPAND. NUMBER FIVE; HIGHWAY ACCESS; ROUTE 18 TO HESS ROAD TO ROUTE 104 (RIDGE ROAD) TO LAKE AVENUE (ROUTE 78) TO MILLERSPORT HIGHWAY TO THE INTERSTATE ROUTE 290 OR CONTINUE SOUTH DOWN ROUTE 78 TO THE INTERSTATE ROUTE 90 INTERCHANGE.

STEP 2: REZONE ACQUIRED AREA FOR OIL REFINERY PRODUCTION. A NEW OIL REFINERY HAS NOT BE CONSTRUCTED IN THE UNITED STATES OF AMERICA IN THIRTY YEARS. REZONING THIS AREA FOR AN OIL REFINERY WILL CAUSE THE OIL REFINING COMPANIES TO VIGOROUSLY PURSUE THIS OPPORTUNITY.

STEP 3: SETUP PROPERTY TAX ELIMINATION PROGRAM FOR SITE AND ANY OTHER PROGRAMS IN ORDER TO INCREASE THE NUMBER OF BIDDERS. THIS INCLUDES ALL THE UNION CONTRACTS.

STEP 4: SECURE PIPE LINE EXTENSION CONSTRUCTION TO LOCATION FROM MAIN PIPE LINE USING BUNKER - TUNNEL STYLE CONSTRUCTION. THE

NIAGARA COUNTY IMPROVEMENTS

12/2/2008

BY

DAVID M. METRO

JUSTIFICATION FOR THIS STYLE OF CONSTRUCTION REMOVES THE EXPOSURE TO THE WEATHER AND GROUND WATER SEEPAGE. THE TUNNEL WILL HAVE A BUILT-IN OIL RECOVERY DRAINAGE SYSTEM, A ROAD DOWN TIME CENTER OF THE TUNNEL FOR MAINTENANCE AND CONSTRUCTION. A PORTABLE RAIL CRANE CAN BE SET ON A PERMANENT CONTINUOUS SUPPORT RAIL SYSTEM BUILT INTO THE SIDE WALLS OF THE TUNNEL. PIPE LINE OPERATIONAL AND CONTROL STATIONS WILL BE CONSTRUCTED ALONG BUNKER - TUNNEL PIPE LINE(S). THESE STATIONS WILL CONSIST OF A OIL RECOVERY PROCESS FOR LEAKS AND DRAINAGE FOR REPLACEMENT OF THE LINE, ROAD ACCESS CONSTRUCTION AND MAINTENANCE EQUIPMENT, AN ELECTRICAL SUB-STATION, FIRE SUPPRESSION PROCESS UNIT, HOLDING TANKS, AND MOBILE FIRE SUPPRESSION EQUIPMENT, EMERGENCY FIRST AID CENTER. ETC.

THE TUNNEL CAN ALSO BE USED FOR INTERNET CABLE LINES, NATURAL GAS LINES, TELEPHONE LINES, AND HIGH VOLTAGE ELECTRICAL LINES. PARALLEL TUNNELS CAN BE CONSTRUCTED, SEPARATING THE INTERNET AND TELEPHONES IN ONE TUNNEL, OIL AND NATURAL GAS IN THE MIDDLE TUNNEL, AND THE HIGH VOLTAGE ELECTRICAL LINES IN THE OTHER TUNNEL. OR EACH RESOURCE HAS THEIR OWN TUNNEL.

STEP 5: ADD ADDITIONAL ACCESS POINTS FOR FOREIGN OIL IMPORT STATIONS ALONG THE ATLANTIC COAST LINE. TO IMPROVE EFFICIENCY IN THE DELIVERY OF THE FOREIGN OIL. THE ONE THAT WILL EFFECT NIAGARA COUNTY IS THE PIPE LINE ACCESS POINT OFF THE COAST OF MASSACHUSETTS PARALLELING THE INTERSTATE 90 HIGHWAY FROM BOSTON, MASSACHUSETTS TO AND THROUGH WESTERN NEW YORK TO SOUTHERN ONTARIO, CANADA BY WAY OF AN UPPER NIAGARA RIVER BRIDGES TO CANADA, EITHER THE SHERIDAN DRIVE BRIDGE / TUNNEL, THE INTERNATIONAL TRAIN BRIDGE, OR THE PEACE BRIDGE. BY HAVING A OIL TANKER ACCESS POINT IN MASSACHUSETTS GIVES US A SHORTER GEOGRAPHICAL STRAIGHT RUN OF THE PIPE LINE. AND THE PIPE LINE ACCESS THE CANADIAN OIL FIELDS TO THE NORTH AND WEST OF US.

STEP 6: PLACE LAND WITH TAX PROGRAMS UP FOR AUCTION TO THE OIL PROCESSING COMPANIES.

PROJECT JUSTIFICATION:

THIS SOLVES THE PROBLEM OF REGIONALLY HIGH GASOLINE PRICES IN WESTERN NEW YORK. AND CREATING A PIPE LINE FROM BOSTON, MASSACHUSETTS REDUCES TRAVEL TIME AND COST OF DELIVERY OF THE OIL THROUGH THE PIPE LINE AND HAVING THE REFINING PROCESS SO GEOGRAPHICAL CLOSE TO THE REGION ALLOWS FOR LOWER GASOLINE PRICES. HAVING A MAJOR REFINERY IN OUR COUNTY CREATES DESIGN (ENGINEERING) JOBS, PRESSURE VESSEL FABRICATION JOBS, VESSEL DELIVERY / TRANSPORTATION JOBS, CONSTRUCTION AND MAINTENANCE

NIAGARA COUNTY IMPROVEMENTS

12/2/2008

BY

DAVID M. METRO

JOBS, OPERATIONAL JOBS (PRODUCTION, ACCOUNTING, PURCHASING, HUMAN RESOURCES, MANAGEMENT, ETC.), AND THE WEALTH EFFECT OF THE FAMILIES OF THE WORKERS. GAINING THE SALES TAXES THAT WILL BE CREATED BY THE SALES OF THE OIL PRODUCTS. RESULTING IN LOWER PROPERTY TAXES FOR THE COUNTY RESIDENTS. MEETING A NEEDS OF THE COMMUNITY WITH LOWER GAS PRICES, LOWER COSTS OF LIVING. CREATING JOBS, AND PROSPERITY TO NIAGARA COUNTY AND ALL OF WESTERN NEW YORK.

CITY OF NIAGARA FALLS IMPROVEMENTS

2/5/2009

BY DAVID M. METRO

NEW DOMED N.F.L. STADIUM IN NIAGARA FALLS, NEW YORK

LOCATION:

BETWEEN JOHN DALY BLVD., PORTAGE ROAD, NIAGARA STREET, AND
BUFFALO AVENUE.

RELOCATE CURRENTLY PLANNED PROJECTS IN THE ABOVE
LOCATION TO OTHER PARTS OF THE CITY. THE EXACT LOCATIONS OF THE
OTHER PROJECTS WILL BE DETERMINED AT A LATER DATE.

REFERRING TO THE ATTACHED DRAWING THE NEW STADIUM FITS
IN PERFECT WITH THE PREVIOUS INFRASTRUCTURE PLANS (ROADS,
BRIDGES, POWER LINES, WATER LINES, SEWER LINES, ZONING
SPECIFICATIONS) LAID OUT EARLIER.

THE SITE LOCATION LENDS ITSELF FOR EASY ACCESS FROM THE
LEWISTON-QUEENSTON, WHIRLPOOL, RAINBOW, AND THE NIAGARA
FALLS-CHIPPAWA BRIDGES. EASY HIGHWAY ACCESS FROM THE I-190 AND
THE ROBERT MOSES EXTENSION, BUFFALO AVENUE, NIAGARA STREET,
AND MAIN STREET (ROUTE 104) (A.K.A. JOHN DALY BLVD.) IT ALSO IDEAL
THAT THE 100% RAISED MAG-LEV TRAIN FROM DOWN TOWN BUFFALO
TERMINAL AT HSBC ARENA FROM DELAWARE AVENUE, BUFFALO TO
NIAGARA STREET, NIAGARA FALLS. AND IS ATTACHED TO BOTH
AIRPORTS. AND INTERSECTS THE TRAIN STATION AT LOCKPORT ROAD
AND MAIN STREET. REDUCING CAR CONGESTION. RESULTING IN
INCREASED FOOT TRAFFIC DOWN TOWN. NOT TO MENTION THE WHEELED
TROLLEY ACCESS.

THE RESTAURANTS LOCATED ON THE BOTTOM FLOORS IN THE HIGH
RISE HOTELS/OFFICE BUILDINGS ALONG THE NORTH SIDE OF NIAGARA
STREET WILL BENEFIT MOST FROM 70,000+ PEOPLE AT ONE TIME IN DOWN
TOWN NIAGARA FALLS, NEW YORK FOR 16+ WEEKS A YEAR. FOR THE
REST OF THE YEAR THE STADIUM CAN BE USED AS CONVENTION SPACE,
CONCERTS, WRESTLING, PAINT BALL, BOXING, OLYMPIC EVENTS, ETC..

THE LAND SPECULATORS (A.K.A. NIAGARA FALLS REDEVELOPMENT)
WILL FINALLY GET PAID AND LEAVE THE CITY AND NEVER COME BACK.

THE EVOLUTION OF THE TEAM NAME:
THE BUFFALO BILLS = THE NIAGARA BILLS =
THE NIAGARA FALLS NORTH STARS

THE JUSTIFICATION FOR THE NAME CHANGE IS TO REGIONAL HISTORICAL
MEANING TO THE TEAM. THE NEW ENGLAND PATRIOTS HAVE A

CITY OF NIAGARA FALLS IMPROVEMENTS

2/5/2009

BY DAVID M. METRO

HISTORICAL CONNECTION TO THE PEOPLE IN THERE REGION IS THE REVOLUTIONARY WAR. THE BUFFALO BILLS WERE BASED ON A WILD WEST SHOW THAT THE ORIGINAL OWNER SAW WHEN HE WAS A KID. THE NORTH STAR HAS HISTORICAL MEANING TO THIS REGION BECAUSE OF THE UNDERGROUND RAILROAD. AND BY RENAMING THE TEAM "THE NIAGARA FALLS NORTH STARS" THEY ARE NOW ATTACHED TO THE GREATNESS TO THE FALLS ITSELF AND BY HAVING NIAGARA FALLS IN THE TEAM NAME ALLOWS THE CANADIAN AND THE AMERICAN FANS TO SUPPORT THE TEAM BECAUSE THERE IS A NIAGARA FALLS, ONTARIO, CANADA AND A NIAGARA FALLS, NEW YORK, USA. THUS, EFFECTIVELY MARKETING THE FRANCHISE TO LARGER GROUP OF FANS.

BUILDING DESCRIPTION:

THE NORTH SIDE, WEST SIDE (GABLE END), AND THE SOUTH SIDE OF THE FIELD HOUSE WILL HAVE A STRUCTURAL STEEL BAYS OF 30' x 20'; THE 30' CENTERS ALIGN NORTH AND SOUTH, AND 20' CENTERS ALIGN EAST AND WEST. THE GABLE PEAK WIDTH DIMENSIONS WILL BE 30', PLUS THE WIDTH OF PRACTICE FIELD (80' APPROX.), PLUS 30' (10' WIDE HALLWAYS AND 20' WIDE OFFICES). ONLY THE ROOF OVER THE PRACTICE FIELD WILL RETRACT. FULL SIZE PRACTICE FIELD. PLUS 10 YARDS BEHIND END ZONES. OFFICES, TRAINING MAIN MEETING ROOM, WEIGHT ROOMS, SWIMMING POOL, HEALTH FACILITIES, KITCHEN, PLAYER DINNING HALL, EQUIPMENT ROOMS, ETC. ALL THINGS AND SPACE REQUIRED FOR FOOTBALL OPERATIONS.

THE TEAM STORE WILL BE ATTACHED TO THE NORTH SIDE OF THE FIELD HOUSE AND TO THE WEST SIDE OF THE MAIN ENTRANCE AND TICKET OFFICE IN THE OFFICE TOWER. TEMPORARY PARKING LOT FOR TICKET PICKUP AND STORE PURCHASES ON NON-EVENT DAYS. AND ON EVENT DAYS WILL BE FOR PATROL CARS AND EMERGENCY VEHICLES.

THE TEAM FRONT OFFICE AND BUILDING OPERATIONS FRONT OFFICE TOWER WILL HAVE A RECTANGULAR FOOTPRINT BETWEEN THE PRACTICE FIELD AND THE STADIUM. I VISUALIZING A TRAPEZOID OFFICE BUILDING OR A VERTICAL RECTANGULAR BUILDING WITH A GABLED GLASS ROOF, THE GABLE PEAKS WILL FACE NORTH AND SOUTH. THE SOUTH GABLE END OF THE BUILDING WILL EXTEND SOUTH TO THE FLUSH SIDE END OF THE SOUTH SIDE OF THE ENCLOSED EMPLOYEE PARKING RAMP, WHICH WILL BE ATTACHED TO THE WEST SIDE OF THE OFFICE TOWER NEXT TO THE SOUTH SIDE OF THE FIELD HOUSE. THE EMPLOYEE PARKING RAMP WILL STOP SHORT OF THE WEST SIDE OF THE FIELD HOUSE GABLE PEAK FOR ENTRY TO THE VISITING PLAYERS SURFACE PARKING LOT AND THE MEDIA SURFACE PARKING LOT.

CITY OF NIAGARA FALLS IMPROVEMENTS

2/5/2009

BY DAVID M. METRO

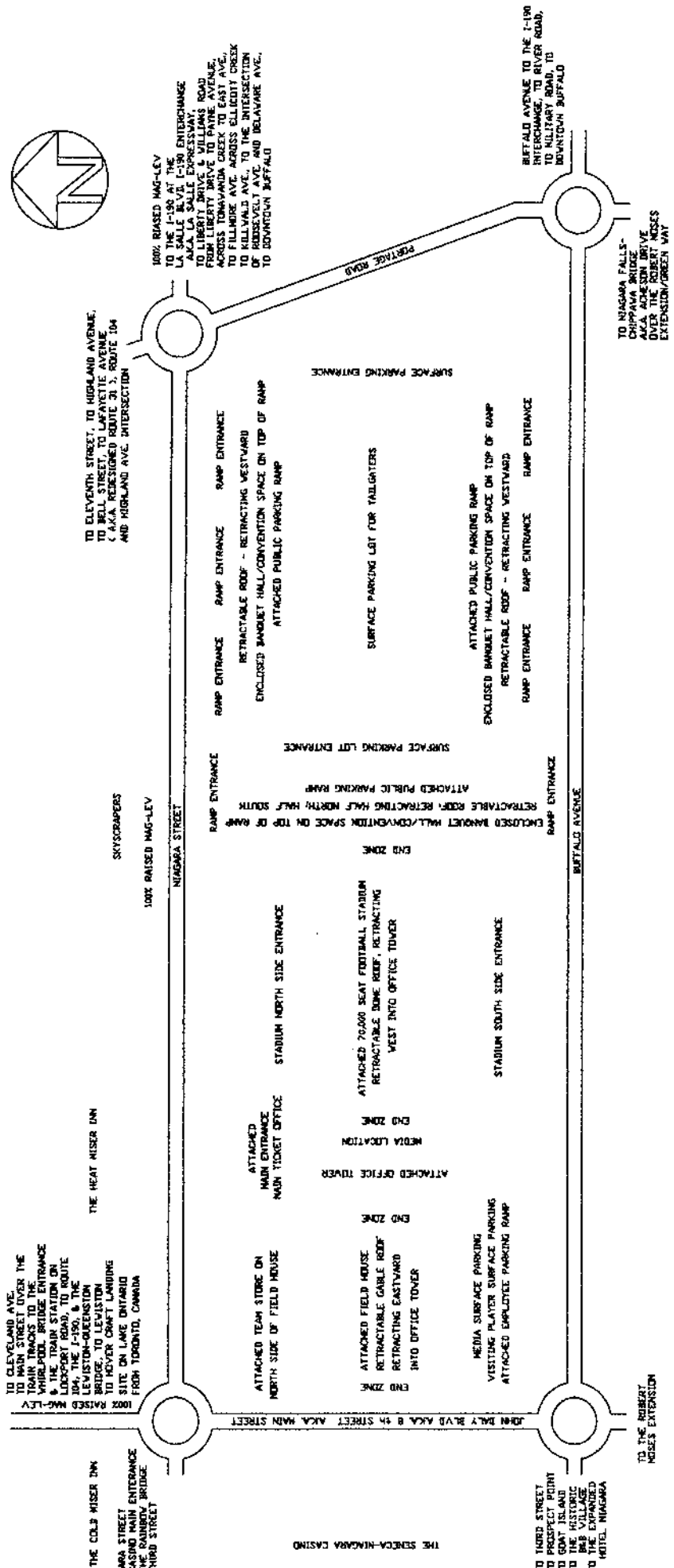
THE MAIN TICKET OFFICE AND THE MAIN ENTRANCE TO THE OFFICE BUILDING WILL BE AN OFFSHOOT STRUCTURE OF THE OFFICE. THE SIZE AND SHAPE THE MAIN ENTRANCE AND TICKET OFFICE WILL BE DETERMINED AT LATER DATE. ATTACHED INDOOR ACCESS TO THE STADIUM SEATING FROM THE MAIN OFFICE ENTRANCE AND TICKET OFFICE SECTION.

THE NORTH SIDE STADIUM ENTRANCE WILL PROJECT OUT OF THE STADIUM'S MAIN VERTICAL WALL WITH TWO HALF CYLINDRICAL TOWERS ON EACH END OF THE NORTH SIDE ENTRANCE TO HOLD THE EXIT/ENTRANCE RAMPS TO UPPER FLOORS. THE MAG-LEV STATION ON THE UPPER ENTRANCE OF THE NORTH SIDE ENTRANCE CAN BE PROVIDED DEPENDING ON WHICH SIDE OF NIAGARA STREET WE PLACE THE RAILS. IF THE MAG-LEV IS BUILT PRIOR TO THE STADIUM, THEN THE STATION WILL BE DESIGNED WITH THE ANTICIPATION THAT THE STADIUM WILL BE CONNECTED WHEN THE STADIUM WILL BE BUILT ON THAT SITE.

THE SOUTH SIDE STADIUM ENTRANCE WILL THE SAME HALF CYLINDRICAL TOWERS ON EACH END OF THE ENTRANCE PROJECTION, BUT WILL RISE HIGHER BETWEEN THE TWO RAMP TOWERS FOR THE RESTAURANTS IN THAT AREA TO HAVE A VIEW OF THE NIAGARA RIVER. A SLOPED GLASSED SHED ROOF WILL KEEP THE SNOW OFF THE STRUCTURE. HIGH LEVEL ACCESS FROM THE OFFICE TOWER WILL BE ATTACHED TO THE SOUTH WEST HALF CYLINDRICAL RAMP TOWER FOR ACCESS TO THE RESTAURANTS AND AT THAT SAME ELEVATION ACCESS FROM PUBLIC PARKING RAMPS ON THE EAST SIDE WILL BE ATTACHED TO THE SOUTH-EAST HALF CYLINDRICAL RAMP.

THE OWNER'S BOX WILL BE LOCATED ABOVE OR BELOW THE MEDIA LOCATION IN THE STADIUM. FOUR JUMBO TELEVISION SCREENS WILL BE LOCATED AT FORTY-FIVE DEGREES IN THE TOP CORNERS OF THE STADIUM. CAMERA LOCATIONS WILL BE LOCATED ABOVE THE TELEVISION SCREENS FOR ALL AROUND CAMERA ANGLES. TWO ROWS OF THREE HUNDRED AND SIXTY DEGREES OF LUXURY BOXES AT THE MEDIA BOX ELEVATION AND AT THE OWNER'S BOX ELEVATION.

THE PUBLIC PARKING RAMPS WILL ALL BE ENCLOSED. EXITS AND ENTRANCES WILL EXTRUDE FROM PARKING RAMPS. GABLED RETRACTABLE GLASSED IN ROOFS. EACH SLOPE OF THE ROOF CAN BE INDEPENDENTLY OPENED AND CLOSED DEPENDING ON THE WIND DIRECTION AND INTENSE SUN LIGHT GLARE. IF POSSIBLE SOLAR PANEL SHADES ON THE INSIDES OF THE ROOF CAN BE AUTOMATICALLY AND MANUALLY ADJUSTED. FOR THE PEOPLE THAT PARK IN THE PUBLIC



HARRIS EnvEd

Mary Ellen Harris, PhD

Environmental and Educational Consulting

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MAY 11 2009

NIAGARA CO. ECONOMIC DEV.

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May 7, 2009

Benjamin A. Bidell, Senior Planner
Niagara County Department of Economic Development
6311 Inducon Corporate Drive
Sanborn, NY 14132

RE: Comments on Draft Niagara Communities Comprehensive Plan

I'm a local environmental consultant with significant expertise in NEPA/SEQRA. I would like to bring your attention to two issues regarding your section on "SEQRA Compliance" (Chpt. II, p. 3):

1. The statements in the paragraph on SEQRA compliance are incorrect. (a) The Comprehensive Plan **cannot** serve as the Generic Environmental Impact Statement (GEIS). A GEIS must be a complete and separate document from any plan. Sections of the Comprehensive Plan can be used for the GEIS, however, such as for "Environmental Setting and Existing Conditions." From my cursory review, I do not think the Comprehensive Plan document produced so far would satisfy the level of detail required in some sections of an EIS. (b) No further environmental reviews would be required for subsequent site-specific county actions **only if** adequate thresholds, impacts and mitigation measures have been identified in the GEIS. The suitability analyses and maps for development or redevelopment of lands are very general. Actual site studies and further environmental reviews for specific proposed activities will still need to be completed and this should be stated.
2. The SEQRA review process **must be closed out** before the County can legally adopt the Comprehensive Plan. I have reviewed the NYSDEC's Environmental Notice Bulletin and have not seen any recent "Positive Declaration" to prepare a GEIS. If the County does not have a GEIS at this point, I suggest that the proposed deadline of adopting the

plan on July 28 cannot be met. I would like to summarize for you the key SEQRA milestones that are required:

- Positive Declaration—published in the NYSDEC Environmental Notice Bulletin, after which 60 days are allowed for agencies and the public to create draft and final scopes of the GEIS (i.e., a detailed outline of a document and issues that will satisfy SEQRA).
- Draft GEIS—Once a draft GEIS is completed, the lead agency (the County) has 45 days to decide if the GEIS is ready for public review (internal adequacy determination—does the GEIS include all the topics required by SEQRA and scoped by the agencies and the public?). Once circulated, the public has a minimum of 30 days to review the GEIS and submit comments.
- Public Hearing—There is usually a public hearing on the GEIS, which cannot be held until 15 days after the Notification of Hearing, and within 60 days after filing the Draft GEIS Notice of Completion in the NYSDEC Environmental Notice Bulletin.
- Final GEIS—The final GEIS is prepared within 45 days after a hearing, or within 60 days after filing the Draft GEIS Notice of Completion. A Notice of Completion of the Final GEIS must be submitted.
- Findings—A Findings Statement cannot be filed sooner than 10 days after the Notice of Completion of the Final GEIS, or within 30 days of the filing date.

Please feel free to have your consultants or staff talk to me about any of the above.

Yours truly,



Mary Ellen Harris, PhD
Principal, Harris EnvEd

Cc: Gregory D. Lewis



*Environment is around us.
Education is within us.™*

300 South Fifth Street
Lewiston, New York 14092
May 9, 2009

RE: N.C. Communities Comprehensive
Plan

To: Niagara County Dept. of Economics and Planning

Regarding the outreach survey presented for the Niagara Communities Comprehensive Plan during its individual outreach meetings, I chose not to fill it out, as it is statistic-driven; lacks goals and purpose for the county as a WHOLE; only applicable to the status-quo; and gives no action, no progressive action that addresses the responsibility to the statutory policy and laws of N.Y.S. or its regional, county and local governments.

It virtually ignores the county's prime natural resource and industry--farmland and agriculture, and treats this landuse as a continuing "impermanence syndrome".

The plan is an offering of "tea & crumpets" to a "backyard" region in N.Y.S. that will continue to promote this "frontier mentality", as it has for 100 years.

To me, the N.C. Comprehensive Plan is 4-plus decades late. On the other hand, if there had been a county comprehensive plan back then, I strongly doubt things would have been different than what has transpired in the county and western New York, to this day. Historically, local governments have run the show, wreaking havoc with the "local initiative" (the zoning power) and intentionally ignore the rule of law. The "Home Rule" law is archaic and further allows local administrations to act arbitrarily with "free license" in making landuse decisions.

Four clues alone give notice to this disregard for a county comprehensive plan:

1. The evolved plan (for months), has been reported to be on the Web Site and hard copies in public buildings, libraries. On 4/25/09, it was not in the Lewiston Library nor other public places in the county except Niagara Falls. (5 days before the L-P Outreach Mtg.)!
2. Attendance at these outreach meetings has been dismal. Nine people attended the Lewport meeting.
3. The general public has little awareness or understanding that their local government is responsible for legislating and exercising the planning/zoning power and laws--NOT the county; NOT the region; NOT the state; NOT the arbitrary, ad hoc decisions of the local administration.
4. Historically, the communities in Niagara County are politically "little fiefdoms"; county government is a "little fiefdom" (22 in all); the county's comprehensive plan is segregated into regions, denying coordination and cohesiveness.

Unlike a community's comprehensive plan which is NOT a guideline ONLY as it REQUIRES adoption of plan and enabling ordinance (code) that "must be in conformance with the plan" to exercise, the county comprehensive plan IS a guideline only and necessitates coordinating and developing broad standards in significant areas that address the county

as a WHOLE. Unfortunately, the plan is not only^{not} comprehensive, it is it's a study plan (an exercise in numbers), and not an action plan. Its review factors ignore efficient landuse planning, are fractured in content, and not pro-active. The N.C. proposed plan is a report; not a plan.

Noting the stats in the proposed plan under LANDUSE, N.C. lists now 34% Residential Use; 30% Agricultural Use; Vacant Land (likely past agricultural lands) at 16%.

Vacant land is the third highest category of landuse in the county. Every year, these lands are being developed for non-agricultural purposes at twice the amount of farmland being protected!

In the same years that the county population has declined by 50% plus, residential landuse has tripled!!

One would think the light bulb would go on. Alas, the county plan continues to accomodate the "status quo", developing its finite resources; extending water and sewer lines to accomodate development and local governments' lacking accountability; ignores city and urban needs in favor of suburban desires and taking for granted, the rural, farming resource and economy, and lifestyle. Makes no sense:

- inversely proportional to progress
- waste and loss of resources
- lacks an environmental conservation policy that continues to "use" them instead of protecting, maintaing them
- no pro-active goals or purpose
- not sustainable in the short or long term that condones more sprawl
- paraochial in character like its municipalities--an old industrial core now gone and a valuable, retreating agricultural base, economically and environmentally--that is not promoting, pursuing farming or its related industries and products. An entire industry is being ignored along with its resources, economy, environment and quality of life.
- a regressive tax base (an arbitrary property assessment) based on home, land ownership...instead of USE. "Cows don't go to school".

The proposed N.C. Comprehensive Plan attempts to work around the present situation and statistics that exist by encouraging cooperation and corroboration among municipalities. In our bureaucratic, political county, that's a hard sell. In our county where municipalities historically compete with each other and avoid exercising the legitimate process (planning/zoning), both procedurally and substantively, we suffer a 19th Century disease, well instilled to this day. It has been said that the definition of insanity "is doing the same thing over and over again, and expecting a different result".

As you may have guessed by now, I am a resident of Lewiston; have over 40 years in community planning/landuse law; preferential assessment of farmland/forestland, development rights' programs; am a 14-plus year member of the Niagra County Agricultural and Farmland Protection Board (N.Y.S. Art. 25AA) representing land preservation with local, state and national level programs, specifically the American Farmland Trust in recent years; and 30 years with local, state, and county governments (Pa.) in developing and initiating farmland protection

through comprehensive plans, zoning and development rights--local, state and county, which included all resources in addition to farmland: forest, open space, floodplains, environmentally-sensitive land.

According to the N.C. Comprehensive Plan 2008, the county has 101,280 acres in agricultural use. This is a drastic difference from the stats reported by the NCAFPB in 1997 and still viable today (176,277 ac. 52%) in agricultural use, in agricultural districts alone. There are 9 districts, some combined. All county towns have a major portion of their lands in a district except the Town of Niagara which has one major farm; the program to owner is voluntary even tho' the state's purpose and policy is obvious for the protection of these resources while towns are unresponsive, looking at agricultural preservation and resource protection waiting to be developed -- the impermanence syndrome.

State law developed in 1974 and updated, strengthened in 1992 and 1996, is virtually ignored by the towns--although an integrated part of their planning/zoning process--and unknown to residents. The NCAFPB has been complacent in promoting the purpose of ~~the purpose of~~ this law, deferring to town politics and county innuendos which include rubber-stamping farms for residential and commercial development, sometimes in contradiction with residents and zoning who defend the local plan and law when their town administration doesn't, but fall victims to SPRAWL: increased school taxes, increased local taxes; added infrastructure and maintenance; services; (remember the "costs of community services"); add the conservation of the environment; food, water, wildlife habitats and the very character and quality of life. Art. 25 AA also addresses urban living.

If a country like Niagara where population has and is decreasing and the dispersion of people within the county increases as it has, the long term mass is critical--and all with the loss of its viable, economic, environmental resources, increased taxes, degraded maintenance and services, AND the impact of negative change: which towns and villages call "progress". The proposed comprehensive plan feeds all these outdated philosophies and treat its top industry with neglect--a direct contradiction of N.V.S. Agricultural District Law, Art. 25AA.

It is now 2009: the county has apparently lost (accordingly to your figures), 74, 997 agricultural ~~acres~~ acres to non-farm development! Wheatfield sawered 7000 acres of the best farmland in the county, which was half an agricultural district! They called it PROGRESS; farms and farmers abided. The other 65,000 acres apparently went to non-agricultural use or vacant land because the town governments promoted, fostered--and still do--non-agricultural use. a non-conservation policy in favor of development; ignore the legitimate purpose of the planning/zoning initiative while farmers and local gov't. look to developing this resource.

Along with the intentionally weak planning/zoning process of the municipalities that ~~does~~ does not conform with their comprehensive plans and goals as defined by statutory law, the county joins the ranks.

Where is the higher purpose? As stated, the county plan proposal is a report; not an action plan.

Respectfully,

 Gretchen P. Morgan

**COMMENTS ON DISPLAY BOARDS FROM NIAGARA COMMUNITIES COMPREHENSIVE PLAN
COMMUNITY OUTREACH MEETINGS ORGANIZED BY PLANNING SUBREGION
[FROM MEETINGS HELD APRIL 2009]**

NATURAL RESOURCES & DEVELOPMENT/REDEVELOPMENT SUITABILITY (FIGURE V.5)

General Comments

- Consider renaming map to “Natural Resources/Development/Redevelopment Suitability” or
- Remove "Dev/Redev Score" sub-heading from the legend
- Eliminate the scores and instead note the low end of the scale as “Natural Resources Concentration” and the high end of the scale as “Community Resources Concentration”
- If possible, consider using a gradient symbology for the map using the same colors

ONGOING INITIATIVES MAP (FIGURE V. 20)

General comments

- Show the boundary of the Niagara River Greenway as it extends into Erie County.
- Add the Niagara Falls National Heritage Area

DESTINATIONS MAP (FIGURE V.21):

General comments

- Consider merging this map with the Destinations map to create a “Destination Corridor Concepts” map; remove destinations and add conceptual growth areas from local plans
- Include restaurants throughout county
- Include “bed and breakfasts” throughout county
- Include wineries throughout county
- Include farmers markets throughout county
- In the Niagara Escarpment callout, remove “Day Peckinpaugh Canal Motorship” as it is a transient vessel; not a permanent destination, no longer stationed in Lockport
- Identify other destination points in the villages or identify villages as destinations in and of themselves
- Include harbors, marinas, and boat launches (boating amenities) throughout the county; uniquely symbolize these features on the map and in the legend
- Add an Erie Canalway Scenic Corridor with a callout box noting attractions

Upper River Communities

- Include proposed Oz site
- Include Oppenheim County Park
- Include Daus Haus German Museum
- Add Military Road as a commercial corridor
- Include the Alcliff plaza, Hills plaza, Prime Outlets, and Military Square Plaza in a callout box for the Military Road Commercial Corridor, not Niagara Falls Boulevard Commercial Corridor
- Remove “Factory Outlet Mall” from the Niagara Falls Boulevard Commercial Corridor as this is now the “Prime Outlets”
- Add other shopping plazas in the callout box for the Niagara Falls Boulevard Commercial Corridor and Military Road Commercial Corridor

- Note businesses along Niagara Falls Boulevard in the Town of Wheatfield
- Remove the “Native American Center” from the Upper Niagara Scenic Corridor as it no longer exists and the building is currently vacant
- Extend Erie Canalway Corridor all the way through the City of North Tonawanda
- Make sure Fisherman, Gratwick Riverside, and Canalway Harbor Parks in the City of North Tonawanda are on the map

Central Communities

- Include the Erie Canalway Corridor and destinations therein
- Note the deep cut engineering along the Erie Canal
- Remove the businesses noted in the callout box for the Transit Road Commercial Corridor and replace them with a list of shopping plazas along Transit Road

Lakefront Communities

- Comment received that NYSDEC regulations involving shoreline protection impede development of and access to waterfront by property owners and residents
- Include “proposed fish hatchery” in the Lakefront Scenic Corridor

ROADS, TRAILS, & TRANSIT CONNECTIONS MAP (FIGURE V.22)

Central Communities

- Include existing multi-use trail system in Pendleton; Rails-to-Trails project already completed along half of old Erie-Lackawanna Railroad right-of-way in Pendleton

Upper/Lower River Communities

- Comment received that all four lanes of Robert Moses Parkway should be opened up in the City of Niagara Falls
- Comment received that all four lanes of Robert Moses Parkway should be removed in order to restore the area around the Niagara Gorge into an international tourist destination
- Propose a trolley line from U.S. Route 62/Military Road to NYS Route 31 to NYS Route 98 to NYS Route 104 to NYS Route 18
- Propose a trolley line from 4th Street/Niagara Street to 1st Street to Main Street to NYS Route 104 to Center Street
- Propose a trolley line along NYS Route 18 to Fort Niagara to NYS Route 18F to Center Street
- Propose trolley terminals at: #1 Niagara Falls International Airport; #2 Old Media Play; #3 Center Street; and #4 Fort Niagara

Upper River Communities

- Check to see if there is an Outlying Area Reporting Station (OARS) in the City of North Tonawanda and add if necessary

PROPOSED INITIATIVES MAP (FIGURE V. 23)

General comments

- Consider merging this map with the Destinations map to create a “Destination Corridor Concepts” map; remove destinations and add conceptual growth areas from local plans

- Include Tonawanda Creek as a natural corridor similar to Niagara Escarpment; note characteristics such as environmental sensitivity, recreation opportunities, and diversity (urban at westernmost point, natural resource protection area at easternmost point)
- Include a corridor along Youngstown-Lockport Road (Ransomville) as an important community linkage, trail linkage, and rural corridor

Lakefront/Lower River Communities

- Comment received that NYSDEC regulations involving shoreline protection impede development of and access to waterfront by property owners and residents

Upper River Communities

- Comment received that Niagara County Public Works project along Shawnee road should include widening of shoulders to provide bike access and improve connectivity with other bike routes and trail systems

Central Communities

- Comment received about need for increased and aggressive support for completion of the Canalway trail, which is interrupted between Lockport and Amherst
- Comment received that additional shoulder width is needed along Robinson Road/Lockport Road to accommodate continuous bike connection
- Comment received about improving connectivity of bike lanes and trails to provide access to West Canal Marina and Country Cottage
- Comment received regarding need to provide cross-county bike route access from Canalway trail; north-south and east-west connections between trail systems
- Note that Pendleton Rails-to-Trails is halfway completed and consists of two paths, one motorized and one non-motorized.

LAND USE CONCEPTS MAP (FIGURE V.24):

General comments

- Comment received about “intermingled diversity of agriculture” - agriculture is not confined to rural areas, but can be compatible in suburban areas

Upper River/Central Communities

- Need to market area, including heritage, through consistent signage, architecture, and public events

Lakefront Communities

- Note proposed fish hatchery and proposed improvements to Krull County Park, Olcott, etc.



RECEIVED
APR 30 2009
NIAGARA CO. ECONOMIC DEV.

Ben Bidell
Niagara County Dept. of Economic Development
6211 Inducan Corporate Drive
Sanborn, NY 14132-9099

Dear Ben:

Thank you for your presentation last night of the Draft County Master Plan. I know hours of work went into the plan. As I said, however, I am concerned about the lack of direct attention to the preservation and support of the many cultural attractions in Niagara County.

As a 20 year trustee of the Carrousel Museum, a 20 year member of the Cultural Alliance of Niagara, and the Chair of the Tonawandas Chamber of Commerce Tourism Committee, I am very much aware of the difficult financial situation in which our cultural attractions find themselves. Niagara County has historically done little to support these attractions. Yet it proposes to be a tourist destination. Numerous studies have concluded that Niagara Falls and the State Park system attract millions of visitors, but the full economic benefit of these visitors can not be realized unless there are reasons for visitors to stay for more than one day and to travel throughout the county.

In the Tonawandas we have been working diligently to create a tourist destination. The historic Rivera Theatre, the Herschell Carrousel Factory Museum, Carnegie Art Center, Ghostlight Theatre, and our new NT History Museum are permanent attractions. Throughout the summer visitors can enjoy concerts on the Erie Canal every Wednesday, Friday and Saturday evenings. New restaurants are bringing people from all across Western New York and more to come. The attraction of the water cannot be dismissed.

Supporting the efforts of the NTCC to promote the county for tourists is not sufficient. Efforts must be made to support the cultural attractions that can encourage visitors to extend their stay. If this concern is not addressed in the county master plan, it will never be on the radar of our legislators and planners. Please give serious consideration to this concern and include a targeted action in the master plan.

Sincerely,

Cc: Peter Smolinski, Andrea McNulty, Paul Wotaszek

Po Box 672, 180 Thompson St., North Tonawanda, NY 14120, Phone (716) 693-1885, Fax (716) 743-9018

"Once Around is Never Enough"

www.carrouselmuseum.org



Niagara County Arts & Cultural

NEEDS ASSESSMENT REPORT

2006



Tonawandas' Council on the Arts
Carnegie Art Center

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ACKNOWLEDGEMENTS

This report was commissioned by the Tonawandas' Council on the Arts / Carnegie Art (TCA/CAC). Arts management consultant, Lawrence Cook, conducted the project and authored this report. Additional administrative support was provided by Claire Aubrey, Decentralization Coordinator, Arts Niagara Program and Ellen Ryan, Executive Director of the TCA/CAC. Funding was provided by the State and Local Partnership Program at the New York State Council on the Arts and Advancing Arts and Culture Buffalo-Niagara.

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INTRODUCTION



Needs assessments are a means to identify and analyze the complex needs in changing environments. A much more academic definition is:

A systematic set of procedures undertaken for the purpose of setting priorities and making decisions about programs or organizational improvements and allocation of resources. The priorities are based on identified needs. A need is generally considered to be a discrepancy between "what is" or the present state of affairs in regard to the group and situation of interest, and "what should be" or a desired state of affairs. [1]

The purpose of this project was to assess the current status of arts and cultural organizations within Niagara County. Information was collected from December 2005 through May 2006. This information included the total number and programmatic diversity of organizations, staff size, financial status, and audience impact, among other things. This project also identified asset development or management support needs of arts and culturals. Recommendations for professional development strategies to meet these needs appear later in the report.

Needs assessments are conducted for various reasons including the measurement or impact of

change on a system or community.

The timing for this particular management needs assessment survey is a reflection of many changes within our own region.

As with any environment, there has been a continuum of change within the Niagara County arts and cultural community over several years. Some of these changes have had greater impact than others. Significant changes have included an increasingly unpredictable funding environment as exemplified by the decision to discontinue funding culturals by the Niagara County Legislature as well as the Erie County Budget crisis in 2005 which placed a larger burden on foundations serving Western New York counties as scores of culturals lost all funding from the Erie County Legislature.

Other significant changes involved the formation and dissolution of key cultural organizations. Introduction of new organizations has necessarily affected a change in resource allocation as has the dissolution of other organizations. Some of these organizational "gains and losses" have had greater impact than others.

[1] Witkin, Belle Ruth & Altschuld, James W., 1995. Planning and conducting needs assessments: A practical guide. Thousand Oaks, CA.

A need is generally considered to be a discrepancy between “what is” or the present state of affairs in regard to the group and situation of interest, and “what should be” or a desired state of affairs.

Among these was the dissolution of the Niagara Arts Council in 2004, an organization which served the Niagara County arts and cultural community for over thirty years.

Although their New York State Council on the Arts (NYSCA) regrant programs remain in Niagara County, now administered by the Tonawandas’ Council on the Arts / Carnegie Art Center, the institution that was the county’s arts council no longer remains. Consequently, any additional technical support services that were provided to the arts and cultural community no longer exist. Shifts in the delivery of management services to arts and cultural are being felt in other communities as well. The closure of Niagara County’s arts council does not stand alone. Other arts councils across the state have dissolved and many are struggling.

The Niagara County cultural community offers vital and diverse programmatic services to their constituents. Asset development is a critical need in order to stabilize and maintain existing services as well as to support further organizational development.

We hope that the findings in this report, and subsequent recommendations for technical management assistance, are instrumental in moving the Niagara County arts and cultural community forward.

We would like to thank the participating organizations for taking the time to complete the online survey. We also thank the organizations that participated in the interview process. Their insights and recommendations were extremely valuable in assessing the information collected. Thanks also go to Lawrence Cook, the consultant for this project; to Claire Aubrey, Decentralization Coordinator for the Arts Niagara Program at the Tonawandas’ Council on the Arts / Carnegie Art

Center; and to Joanna Raczynska, Media Director, Hallwalls Contemporary Arts Center, for her technical assistance.

Finally, we must thank the funders of this project. Without their support, it would not have been possible. Thanks to Advancing Arts and Culture Buffalo-Niagara and to the State and Local Partnership Program at the New York State Council on the Arts.

Ellen Ryan
Executive Director
Tonawandas’ Council on the Arts /
Carnegie Art Center

Needs assessments are conducted for various reasons including the measurement or impact of change on a system or community.

METHODOLOGY

The goal of the Niagara County arts and cultural needs assessment survey was to identify needs and status of arts and cultural organizations within Niagara County.

The process consisted of two phases. The first was the development of a quantitative survey which collected demographic information from each organization. Data collected provided a base-line of information for analysis and also described the operational state of each participating organization.

Once this base-line information was compiled, the second part of the project consisted of collecting qualitative data from participating organizations

internet access, hard copies of the survey were sent upon request.

The survey consisted of fifty-six questions that addressed issues of basic organizational operation and structure. These questions covered topics such as staffing, facilities, finance, audience, programming, promotion and outreach, technology, and operational issues.

Following the collection of information from the survey, the participants in the second phase of the project provided detailed qualitative information about operations within their own organizations. This included specific management

This report is based on data collected from twenty-six respondents, 32%, in the first phase of the project and nine interviews at various organizations within the second phase of the project.

through individual interviews. This additional information was required to supplement the statistical data and provide a more comprehensive overview of the state of the arts and cultural in Niagara County.

This report is based on data collected from twenty-six respondents, 32%, in the first phase of the project and nine interviews at various organizations within the second phase of the project.

The process was initiated by a letter addressed to Niagara County cultural organizations about the purpose of the project and the importance of completing the survey. This letter of invitation was mailed to eighty-one cultural organizations.

Participating organizations were directed to complete an online survey. If they did not have

philosophies or organizational visions along with insights regarding broad-based, long-term issues facing the cultural community as a whole.

From the data collected, an assessment was made about the range of organizational development represented by respondents and what areas of technical management support would be of greatest benefit to the most recipients.

A number of trends or management needs were identified within the overall cultural community. Analysis of each part of this project resulted in recommendations of technical assistance that address needs which would enhance organizational ability to provide quality programs and services and allow for stabilization and growth.

NIAGARA COUNTY ARTS & CULTURAL NEEDS ASSESSMENT: SURVEY

Characteristics of Respondents

Organizations surveyed ranged from entities easily identified as cultural anchors to very small associations focused around a specific ethnic heritage. Respondents exemplified a diverse sampling of overall organizations. Identification was determined by size, geographic location, program types and disciplines.

Respondents represented rural areas such as Burt and Newfane along with the primary cities of the County - Niagara Falls, Lockport and

North Tonawanda. They ranged from smaller more community based organizations such as Starry Night Theatre to larger regional draws such as Old Fort Niagara. The types of programs offered by these organizations encompassed all disciplines from the performances to visual and literary arts as well as other offerings including professional development workshops and lectures.

Facilities

Of the respondents, 44% owned their own space and nearly 35% had sought temporary satellite space for specific programs. The facilities utilized by respondents, whether owned, leased or rented, were over 77% ADA compliant. The vast majority of respondents, 76%, stated that they

were not looking to identify a new space.

However, it was stated in several one-on-one interviews and determined by information collected by the survey regarding capital campaigns, there is a need for some of these organizations to enhance their current space.

Respondents exemplified a diverse sampling of overall organizations. Identification was determined by size, geographic location, program types and disciplines.

Fiscal Standing

Operational budgets of organizations ranged from under \$25,000 to over one million dollars. Approximately 50% of the organizations fell below \$150,000 with the majority of that grouping having budgets under \$25,000. This was approximately 27% of the overall total. Those organizations with budgets of \$150,000 or higher, were predominately between \$500,000 and one million at 15% with the next largest categories at

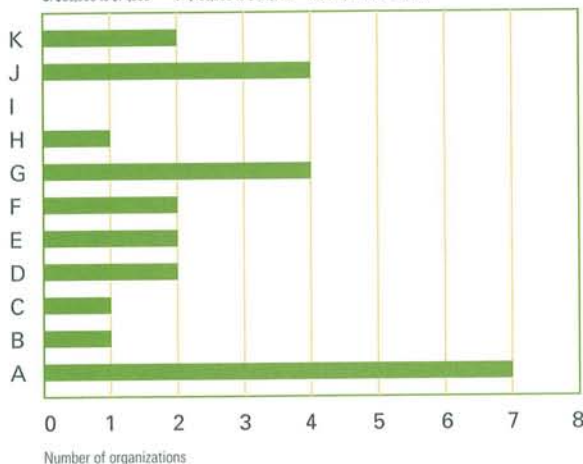
\$150,000 to \$200,000 and \$200,000 to \$300,000 both at approximately 12% respectively of the overall total.

A fourth of the respondents identified that their organization had an endowment in place. A majority of the respondents, 64%, did not conduct any type of annual fund drive. The majority of respondents, 77%, had a membership program in place.

Question 30

Please identify the size of your operating budget in its last completed fiscal year:

A: 0 to \$24,999 D: \$75,000 to \$99,999 G: \$200,000 to \$299,999 J: \$500,000 to \$999,999
B: \$25,000 to \$49,999 E: \$100,000 to \$149,999 H: \$300,000 to \$399,999 K: \$1,000,000 +
C: \$50,000 to \$74,999 F: \$150,000 to \$199,999 I: \$400,000 to \$499,999



Staffing

The total number of staff employed by respondents were: 79 full-time, 111 part-time, and 380 seasonal employees. Niagara County's cultural community employs a total of 491 individuals in some manner throughout the year. That figure is approximately 39% of the Niagara Falls School District, the County's fifth largest employer, and 65% of Niagara County's tenth largest employer, Mount St. Mary's Hospital.*

Only six organizations out of twenty-six had at least five or more full-time employees. This represents 79% of the 190 full-time workers reported. These organizations included Artpark

& Company, Castellani Art Museum of Niagara University, Kenan Center, Niagara Aquarium, Niagara Arts and Cultural Center, and Old Fort Niagara.

Approximately 58% of overall respondents have five or fewer full-time and/or part-time employees. Overall, 18 organizations have two or fewer full-time administrative staff members. The importance of available volunteers to assist management of activities and programs is critical to the majority of organizations.

*Employment data from the Niagara County Center for Economic Development.

Although Niagara County is the primary county served by the respondents, nearly every Western New York County is served by the Niagara County arts and cultural community with an emphasis on Southern Ontario and Western and Northern Pennsylvania.

Audience

Total audience served by the survey respondents was over 900,000 individuals. Given a certain degree of duplication within that figure, it is an impressive number of people served in a county of just over 219,000 residents.

Although Niagara County is the primary county served by the respondents, nearly every Western New York County is served by the Niagara County arts and cultural community with an emphasis on

Southern Ontario and Western and Northern Pennsylvania. Due to the international attraction of Niagara Falls, several organizations view individuals from Europe and Asia as part of their primary audience.

Audience diversity is not evident. This is in large part due to the fact that Niagara County is over 90% Euro-American as of the last census figures.

Technology

Regarding the use of technology, organizations appear to be well equipped to meet their basic needs. Overall, or 88%, of the respondents had internet access and 79% had their own website. Most had basic office equipment such as computers, copy machines, printers, etc. Several organizations had DVD players, digital cameras and camcorders.

Though office equipment didn't seem to be an overwhelming need, there was a strong interest in identifying tech support for their equipment and technology issues. Quite a few organizations expressed interest for support ranging from maintenance of their computer systems and websites to intellectual property laws concerning information posted on their sites. Also expressed, was an interest in learning about new technologies or innovations that exist which could be utilized in order to help them meet their missions.

Organizations expressed interest for support ranging from maintenance of their computer systems and websites to intellectual property laws concerning information posted on their sites. Also expressed, was an interest in learning about new technologies or innovations that exist which could be utilized in order to help them meet their missions.

Organizational Development

7

Some of the most illuminating data collected dealt with overall organizational development. In assessing developmental levels, several questions were asked to determine organizational capacity.

In response to the question, “has your organization conducted an internal assessment”, regarding some type of strengths, weaknesses, opportunities and threats analysis; 16% of respondents hadn’t conducted one in four years or more and 36% had never conducted an internal analysis. When asked whether their organization had gone through a strategic planning process; 24% of the respondents hadn’t conducted one in four years or more; and 32% had never completed a strategic planning process. When asked whether their organization had conducted a planning process involving board development, 27% of the respondents hadn’t conducted one in four years or more and nearly 41% had never conducted one.

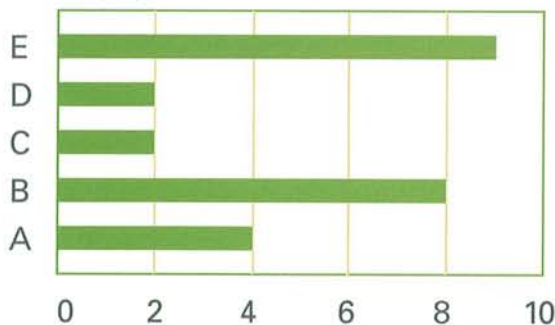
Currently, a principle concern for all Niagara County cultural organizations is fundraising and identifying additional sources of revenue. Few of the survey questions were focused on finances or fundraising but there was a question that asked, “Please identify if your organization has a structured fundraising process in place”. Responses yielded that nearly 61% said they had no structured fundraising process in place.

Understanding that identifying revenue, both operational and programmatic, along with presenting quality programs are critical aspects to running a cultural organization, success and survival relies upon a solid organizational infra-structure. Overall, responses speak to needs in key areas of support and assistance that these organizations require to maintain stability and promote growth.

Question 51

Has your organization conducted an internal assessment?

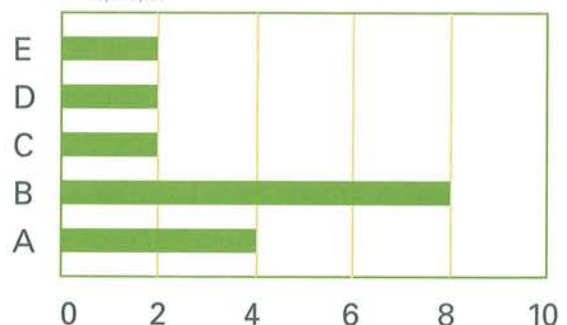
- A: In the past year D: Over 5 years
B: In the past 3 years E: Never
C: In the past 5 years



Question 52

Has your organization gone through a strategic planning process?

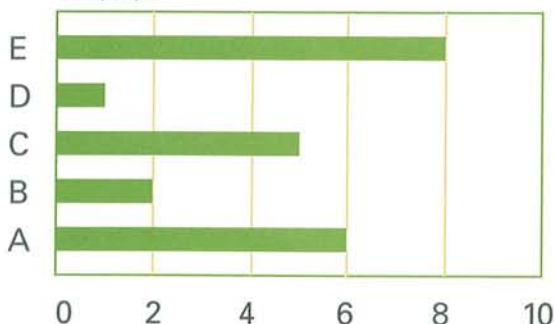
- A: In the past year D: Over 5 years
B: In the past 3 years E: Never
C: In the past 5 years



Question 53

Has your organization gone through a board development process?

- A: In the past year D: Over 5 years
B: In the past 3 years E: Never
C: In the past 5 years



Note: All x axis = Number of organizations

Organizational Needs

In the survey, there was a question that asked participants to prioritize twelve different areas of needs including Legal support, Managerial support, Collaborations/Shared services, Bookkeeping/Financial support, Identification of Board Members, Identification of volunteers, Visibility, Health Insurance, Liability Insurance, Board Insurance, Facility/Space, and Planning.

From responses collected, primary areas of need were identified and prioritized as the following: Visibility, Identifying board members, Planning, and Collaborations/shared services.

Prioritized needs: Visibility, Identification of board members, Planning, and Collaborations/shared services.

... the majority of the respondents either didn't utilize management services or were unaware of available services.

When asked what management services Niagara County culturals utilized to address some of their organizational needs, some respondents identified area colleges and universities such as Niagara University, Niagara County Community College, The University at Buffalo, and Canisius College. Some identified a few alliances and associations but the majority of the respondents either didn't utilize management services or were unaware of available services.

Conclusions from the Survey

Niagara County has a significant representation of cultural organizations that provide programs in a broad array of historic and artistic disciplines.

These organizations are dispersed geographically throughout the county as opposed to concentrated at one specific site or city within the county.

Of the respondents, a large number provided a variety of programs in various disciplines and constantly worked towards being responsive to their constituencies.

- An impressive number of the organizations have addressed facilities issues such as accessibility for the physically disabled. This is notable since a significant number of facilities are historic sites.
- Many Niagara County arts and cultural organizations display good outreach efforts

throughout the county and work diligently to expand their reach to neighboring areas including surrounding counties, some areas of Pennsylvania and particularly Southern Ontario.

- Organizations work towards maximizing the usage of indigenous resources such as Niagara Falls; connections to history through the Underground Railroad or the Erie Canal; as well as collaborative relationships with each other and area educational institutions.

There are legitimate concerns regarding the availability of financial resources for these organizations. Without the presence of a prominent private sector or foundation community in Niagara County, these cultural institutions have to compete

with the vast array of principal cultural organizations in Erie County for support from those sectors.

With the exception of a limited few organizations, the vast majority of cultural organizations

receive no public funding from Niagara County. Thus, the identification of additional revenues, in whatever form, is a primary concern for these groups.

There are legitimate concerns regarding the availability of financial resources for these organizations. Without the presence of a prominent private sector or foundation community in Niagara County, these cultural institutions have to compete with the vast array of principal cultural organizations in Erie County for support from those sectors.

NIAGARA COUNTY ARTS & CULTURAL NEEDS ASSESSMENT: INTERVIEWS

Interview Process

The second phase of this project included one-on-one interviews with selected participants who completed initial survey. The interviews consisted of questions regarding programming, marketing, and technical assistance needs. Questions also addressed participant's opinions about a variety of factors that impact and affect the cultural community as a whole. Participating organizations included: Carousel Society of the Niagara

Frontier, Castellani Art Museum of Niagara University, The Greater Niagara Ballet Company, Kenan Center, Inc., Lewiston Council on the Arts, Inc, Niagara Arts and Cultural Center, Old Fort Niagara Association, Inc., Starry Night Theatre, Inc., and Tonawandas' Council on the Arts / Carnegie Art Center.

Programming

Within these discussions, organizations were asked about their programmatic offerings and what the deciding factors were in presenting them. The primary factor for what programs were offered focused on how organizations could best fulfill their missions.

“It is the responsibility of this organization to provide quality programming and to educate the community. The public may say they want to see more of a specific type of performance but we try to present new and different experiences for them to enjoy and to learn from.”

Most organizations had a variety of assessment procedures in place in order to gauge how responsive they were being to the interests of their constituents. While identifying the importance of patron feedback, it wasn't the main reason for programming decisions. As an interview participant stated, “It is the responsibility of this organization to provide quality programming and to educate the community. The public may say they want to see more of a specific type of performance but we try to present new and different experiences for them to enjoy and to learn from.”

Many organizations depend on the expertise of their staff and board to determine what programs are offered. Organizations expressed the need to keep their programs as affordable as possible with the understanding that disposable income is decreasing while the number of alternative activities, whether arts related or not, continue to increase.

There is a wealth of cultural programming offered throughout Niagara County. Surprisingly, most of the county's organizations, which may be considered a visual arts organization or a historical museum, provide programs across multiple disciplines. This multi-disciplinary programming approach is reflective of the disparate geographic placement of cultural organizations across a largely

rural county as well as a reflection of a scarcity of resources. Diverse program offerings from one or more organization within a geographic area serves the needs of constituents in the absence of a larger number of single disciplinary arts and cultural organizations.

Diverse program offerings from one or more organization within a geographic area serves the needs of constituents in the absence of a larger number of single disciplinary arts and cultural organizations.

Organizations ranging from more prominent entities in the region such as the Castellani Art Museum and the Kenan Center to more community based organizations such as the Carnegie Art Center or the Herschell Carousel Museum offer a wide variety of programs and services to their constituents.

Most organizations stated that they are at capacity regarding the number of programs offered, the frequency at which they are offered, and in some cases how many people can be served. This does not indicate a lack of interest or desire to present additional programs or offer newer and more innovative programs to serve larger audiences.

Organizations expressed that the major obstacles to facilitating increased capacity is directly linked to the lack of identifiable revenue needed to bring on more staff which would allow them to manage an increase in programs and audiences. Several organizations indicated that they also needed additional space in order to accommodate an increase in programs.

Marketing

Next to the need for additional revenue, the subject of marketing drew the most insightful and enthusiastic discussion from interview participants. Although the majority of organizations performed some type of audience assessment and development, and/or marketing efforts, approaches varied in the level of sophistication and effectiveness from organization to organization. Some organizations, due to their small staff size and corresponding budget size, were unable to implement appropriate forms of marketing for their organizations. They concentrated primarily on less costly forms of publicity and promotion.

Several specific topics of interest continued to arise during discussions with interview participants regarding marketing, promotion and outreach within Niagara County. The most ardent discussions were centered on the Niagara Tourism and Convention Corporation (NTCC). Practically every cultural organization large and small viewed the NTCC to be a major asset in terms of getting the word out regarding all that Niagara County has to offer, including arts and cultural organizations.

The presence of an organization that is capable of marketing research, assisting with promotion and marketing for cultural organizations, in some cases with actual dollars, has been unprecedented in the County up to this time. In addition to marketing assistance, NTCC can also offer direction and guidance about how organizations can become more "visitor ready".

Practically every cultural organization large and small viewed the NTCC to be a major asset in terms of getting the word out regarding all that Niagara County has to offer, including arts and cultural organizations.

Cultural Leadership

The Cultural Alliance of Niagara (CAN), a coalition of the primary cultural entities in Niagara County, was another area of great interest within interview discussions. CAN's focus initially seemed to focus around promotion of organizations and advocacy for cultural funding, particularly funding from the County.

it would be an appropriate entity which could address issues of how various media outlets recognize Niagara County culturals.

Currently, members of CAN feel the organization is very worthwhile but have seen the effectiveness of the coalition strained. As previously stated, it has become more of an opportunity to

“The hand to mouth cycle that organizations are just trying to keep the wolf from the door robs us of the time we need to be proactive.”

As funding from Niagara County began to diminish, the focus and efforts of CAN began to evolve into more of a networking opportunity for its participants. The current perception of CAN varies from organization to organization whether they are members of the coalition or not.

Smaller neighborhood-based organizations, which are not CAN members but are aware of the coalition, perceive it as being an entity which serves as the primary concentration of leadership for Niagara County's cultural community. The perception is that CAN has the potential to affect funding, legislation and promote understanding of area culturals to legislators, businesses and residents in general. Organizations expressed that

network and share ideas and support. However, members found that the demands of their own organizations made it difficult to manage the coalition itself. As expressed in one interview, “The hand to mouth cycle that organizations are just trying to keep the wolf from the door robs us of the time we need to be proactive.”

Previously, CAN had a hierarchy in place that maintained the direction and efforts of the coalition. It is now being managed from member to member as each group takes on the responsibility of conducting monthly meetings and setting the agenda. Participants are concerned about a lack of continuity in CAN's structure and direction.

The overall consensus of interview participants

The overall consensus of interview participants, as members of CAN, feel that if there was some designated administrative support in place to handle the logistics of running the meetings and managing the coalition, it would give the group the ability to address some of its original initiatives and take on the enhanced role of being the voice of the cultural community in Niagara County.

as members of CAN, feel that if there was some designated administrative support in place to handle the logistics of running the meetings and managing the coalition, it would give the group the

ability to address some of its original initiatives and take on the enhanced role of being the voice of the cultural community in Niagara County.

Communication & Message

Issues relating to communication and message were also voiced by interview participants. This theme was expressed by large and small groups alike. This should not be confused with communication among each other; the level of collaboration and partnerships that exist among organizations of various sizes, disciplines and localities strongly imply that successful communication happens among these groups.

These organizations want to communicate their value throughout the County to all its stakeholders. As one interview participant said, "We have a rich cultural history here and we should be

telling our stories." The opinion within these groups is that education about the value of Niagara County's cultural community is necessary in order ensure success in addressing other areas of need.

All acknowledged the need for a more advanced level of fundraising; that advocacy efforts should be a fundamental component of their activities; and that steps need to be taken to enhance their visibility. The concerns behind all these issues are exemplified by the paraphrase, "Are we relaying the right message about ourselves and are we communicating it appropriately?"

Conclusions from Interviews

There is a sense of community among these cultural organizations and they work towards

opportunity to participate in affordable, quality technical assistance at the local level is limited.

Although some opportunities exist regionally, the opportunity to participate in affordable, quality technical assistance at the local level is limited.

partnering with each other through programming and events which at times highlight their presence as a united entity.

Through these series of interviews it was also apparent that there is a void within Niagara County in terms of specific organizational development services to its cultural organizations. Although some opportunities exist regionally, the

There is also a need to provide different layers of support-based services to address distinct levels of organizational development within the Niagara County cultural community. Very few organizations fall into a category that can be defined as "mid-sized". There are a few large, well established organizations with significant support mechanism such as Old Fort Niagara, the Castellani Art

There is also a need to provide different layers of support-based services to address distinct levels of organizational development within the Niagara County cultural community.

Museum and the Kenan Center, as examples. However, there are a larger number of smaller more community-based organizations. Organizational development services needed by the entire community will differ greatly between larger and smaller organizations depending on the level of organizational development. The type of support offered would need to accommodate these differences.

The most significant information to come out of the interview process was that this community wants and requires a more significant level of recognition as a cultural destination within the region.

This community wants and requires a more significant level of recognition as a cultural destination within the region.

Recommendations

Although Niagara County has an impressive array of cultural institutions, there are underlying concerns which impact further needed organizational development in addition to preserving the health and stability of the overall cultural community. Within the initial survey, questions addressing issues that organizations had about generating revenue were purposely excluded so that the information gathered for the report could focus more specifically on other areas of organizational need.

A primary concern is the lack of significant funding sources for this community within Niagara County. The absence of a strong corporate and/or foundation presence necessitates that these groups seek funding from outside sources. This puts them in direct competition most often with Erie County arts and cultural organizations for the same funding dollars.

As far as available public funds are concerned, with the exception of a rare and limited few

Although Niagara County has an impressive array of cultural institutions, there are underlying concerns which impact further needed organizational development in addition to preserving the health and stability of the overall cultural community.

organizations, almost no cultural entity receives funding from the Niagara County Legislature. Though some select organizations are supported at the municipal level, the majority are not.

Therefore, the identification of additional revenue, in whatever form, is a primary need for these organizations.

Organizational development was an overall need within the community. One of the most important factors identified was the fundamental need for Planning. The fact that such a high percentage of organizations had not conducted some basic internal assessment in four years or more makes it difficult for them to successfully accom-

Therefore, the identification of additional revenue, in whatever form, is a primary need for these organizations.

plish primary goals in fundraising or recruitment of appropriate board members. Planning was an expressed concern for most of the participants of the survey.

- Technical assistance should be offered in areas of operational development. Addressing internal assessments, strategic planning, and volunteer development are current and growing needs for most organizations.
- Structured fundraising plans to effectively pursue funding opportunities is needed by area organizations as well. A large percentage of organizations reported that they are currently, or will soon, conduct a capital campaign. Yet for such an intensive process, the majority of respondents do not have the experience of conducting an annual fund drive and have no structured fundraising plan in place.
- As expressed by practically every respondent, visibility is one of the main concerns of organizations throughout the county. Initiatives are needed to develop area-wide market research that would allow a uniform marketing strategy. These initiatives should

Addressing internal assessments, strategic planning, and volunteer development are current and growing needs for most organizations.

include all groups with the development of opportunities for either smaller segments or individual organizations to develop their own visibility strategies.

- Board development is another important area of need for most organizations. This is a critical area for Niagara County organizations as the vast majority have varying levels of difficulty identifying board members for their organizations.

Identification of appropriate candidates from the business sector within and beyond Niagara County who could be tapped for board service at various organizations would be of great benefit. Although there is not a considerable corporate presence in Niagara County, efforts to enlist the skills of small private business owners and representatives from educational institutions are prime examples of areas which need to be explored further.

As previously mentioned, due to the differences in levels of organizational development as well as size, a tiered level of technical assistance is recommended. Needs of newer or smaller organizations vastly differ from larger, more evolved organizations.

Support services should be planned for each level with some services that will naturally cross-over, serving all. Workshops or classes conducted by management professionals that explain the processes of specific professional service areas would be useful as well as one-on-one consultancies, mentorships or possible shared administrative support.

Currently existing technical support services provided to the WNY non-profit community should also be promoted as resources to Niagara County arts and cultural. This includes services provided by members of the WNY Non-Profit service sector including: Canisius College External Business Programs, Community Counsel Services New York State (CCSNYS), UB Institute

for Nonprofit Agencies, United Way - Not for Profit Resource Center, WNY NYMAC / Carnegie Art Center. Accessing additional resources at colleges, universities and business service organizations are also recommended.

...due to the differences in levels of organizational development as well as size, a tiered level of technical assistance is recommended. Needs of newer or smaller organizations vastly differ from larger, more evolved organizations.

SURVEY PARTICIPANTS

Artpark & Company, Inc.
 Carousel Society of the Niagara Frontier
 Castellani Art Museum of Niagara University
 Historical Association of Lewiston
 Historical Society of North German Settlements in Western New York
 Kenan Center, Inc.
 Lewiston Council on the Arts
 Lockport Community Television
 Middleport Community Choir
 Native American Museum of Art
 New York Power Authority
 Niagara Aquarium Foundation
 Niagara Arts and Cultural Center
 Niagara County Historical Society, Inc.
 Niagara Falls Little Theatre d/b/a Niagara Regional Theatre Guild
 Niagara Summer Fine Arts Program, Inc.
 North Tonawanda History Museum
 Retired Men's Service Club Chorus
 Riviera Theatre & Organ Preservation Society
 Starry Night Theater
 The Greater Niagara Ballet Company
 The Lockport Chorale
 The McClellan Interpretive Center, Inc.
 The Seldom Herd Performers
 Tonawandas' Council on the Arts / Carnegie Art Center

INTERVIEW PARTICIPANTS

Castellani Art Museum of Niagara University
 Carousel Society of the Niagara Frontier
 Greater Niagara Ballet Company
 Kenan Center, Inc.
 Lewiston Council on the Arts
 Niagara Arts and Cultural Center
 Old Fort Niagara
 Starry Night Theater
 Tonawandas' Council on the Arts / Carnegie Art Center

NIAGARA COUNTY ARTS & CULTURAL NEEDS ASSESSMENT SURVEY

- 1) Please enter your organization's legal name.
- 2) If your organization is "doing business as" a name different than stated in question #1 please enter that name.
- 3) Please list the name of your organization's primary administrative contact.
- 4) Please list her/his position title.
- 5) Please list your organization's mailing address.
- 6) Please enter your organization's phone/fax numbers.
- 7) Please list the organizations principle staff's email address(es) and the organization's website address (if applicable).
- 8) Please list your level of nonprofit status (i.e. 501 (c) 3, NYS Charities Registration, etc.)
- 9) What year was your organization founded?
- 10) What year was your organization incorporated?
- 11) Please give a BRIEF description of your organization's mission statement.
- 12) Please list your total number of staff (full-time/part-time/seasonal) and (administrative/artistic).
- 13) Please identify how many staff your organization has and in what areas: administrative; artistic.
- 14) Please identify the number of dedicated staff members your organization has in the following areas if any: Operations; Development; Marketing/PR; Program/Education; Bookkeeping/Finance.
- 15) Does your organization utilize interns?
- 16) If yes, how many interns is your organization utilizing currently?
- 17) Please identify how many board members you have.
- 18) Please list the demographic breakout of your board (men/women/multicultural/physically challenged).
- 19) Please list the various areas that your board members have expertise in (legal/finance/marketing/arts/human resources/etc.)

- 20) Please state what are your Boards term limits.
- 21) Please identify what board committees your organization has (nominating/fundraising/personnel/marketing/program).
- 22) Does your organization own its space(s)?
- 23) Does your organization lease its space(s).
- 24) Does your organization have to identify temporary satellite space as per program/event?
- 25) Is your facility a historic site?
- 26) Is your facility ADA compliant?
- 27) Is the space(s) your organization rents, leases, or utilize ADA compliant?
- 28) Is your organization looking for a new facility?
- 29) Please identify the size of your operating budget in its last completed fiscal year.
- 30) In the following categories (earned revenue/corporate/private foundations/fundraisers/indiv. Giving/membership/gov't/other) what are the percentages that make up your total revenue? (please keep in mind the total of all areas should equal 100%).
- 31) Does your organization have an endowment?
- 32) Does your organization conduct an annual fund drive?
- 33) Is your organization currently conducting a capital campaign?
- 34) Will your organization conduct a capital campaign in the near future?
- 35) If your organization has a members program how many members do you have?
- 36) If you have a members program what are the range of your fees?
- 37) Please identify your organization's annual total audience served.
- 38) Please identify the percentages of the following areas for your organization's total audience (seniors 65 and over/adults 18 to 64/youth K-12).
- 39) Please identify what counties in Western New York State you serve (Niagara/Erie/Chautauqua/Cattaraugus/Orleans/etc.)
- 40) Please list what counties or areas outside of WNY do you serve? (i.e. Southern Canada, Western Pennsylvania, etc.)
- 41) Please identify what percentage in the following areas does your audience reside (rural/suburban/urban).

42) To the best of your knowledge determine the percentage of the economic status of the audience your organization serves (wealthy-upper middle income/middle income/low income-poverty).

43) Please identify the ethnic diversity by percentage in the following areas for your organization's total audience (African-American/American Indian/Asian/Caucasian/Euro-American/Hispanic).

44) Please identify how your organization promotes its programs and/or services.

45) Please indicate the number of programs your organizations offers in the following areas (dance/music/exhibitions/theatre/visual arts/literary/folk arts/professional development/Tech. Assistance/art education/lecture panel).

46) Please indicate what equipment your organization utilizes on a frequent to daily basis (computer/copy machine/printer/television/camcorder/video player/DVD player/CD player/etc.

47) Does your organization have internet access?

48) Does your organization have a website?

49) Who supports and addresses your organization's information technology needs and concerns (internal staff/professional consultant/other).

50) Does your organization have technological issues or concerns not addressed in the survey that you would like to identify?

51) Has your organization conducted an internal assessment and if so when?

52) Has your organization gone through a strategic planning process and if so when?

53) Has your organization gone through a board development process and if so when?

54) Please identify if your organization has a structured fundraising process in place?

55) Prioritize which of the following is the greatest need of your organization?

Legal Support	Members	Board Insurance
Managerial Support	Identifying non-board members	Facility / Space
Collaboration/Shared Services	Visibility	Planning
Bookkeeping	Health Insurance	
Identifying Board	Liability Insurance	

56) Please list what management services your organization is currently aware of or utilizes?



This project was made possible, in part, with support from Advancing Arts and Culture Buffalo-Niagara, the Tonawandas' Council on the Arts, the City of North Tonawanda, and with public funds from the New York State Council on the Arts, a state agency.

From: "Mary E. Borgognoni" <meb@niagara.edu>
To: "comprehensiveplan@niagaracounty.com"
Date: 5/13/2009 3:33 PM
Subject: comments regarding Comprehensive Plan
Attachments: Proposed revisions to Chapter VIII 051309.docx

Dear Ben Bidell,

Per our recent conversation, I have several suggested changes to the draft Comprehensive Plan that will clarify programming offered by Niagara University. All items refer to Chapter VIII of the report (Education) and are detailed on the attached file. I am submitting them for your consideration.

Please don't hesitate to contact me with any questions. Thank you for your assistance and for the great work being done to finalize this plan.

Sincerely,
Mary Borgognoni

Mary E. Borgognoni
Associate Vice President for Academic Affairs -
Operations & Outreach
Alumni Hall
Niagara University, NY 14109
(716) 286-8352
(716) 285-8349 (fax)

Chapter VIII – Education

1. Page 4, Paragraph 2 – under **Niagara University**

6th line

Currently: *Niagara University is a mid-size university*

Replace with: Niagara University is a comprehensive university

8th line

Currently: *...and community education programs. More information is*

Replace with: ...and community education programs. In addition, Niagara University offers bachelor's and master's degree programs at sites in the Toronto and York regions of Ontario. All programs operate with written consent from the Ministry of Training and enroll more than 300 students annually. More information is

2. Page 5, section entitled **Job Training/Adult Education**

Add the following:

Niagara University

Through the university's Family Literacy and Counseling Centers, job readiness programming and educational assistance in literacy and math skills are available. The Office of Continuing and Community Education at NU provides a number of workplace and professional development programs in areas such as computer applications, web graphics, personal enrichment and language. Professional certificates in Geographical Information Systems and Emergency Management are among program offerings. The Department of Nursing offers a bachelor of science nursing completion degree for registered nurses prepared in an accredited Associate Degree Program or Hospital School of Nursing as well as leadership workshops for nursing professionals.

3. Page 21, under Recommendations (at the top of the page)

3rd paragraph, 3rd line

Currently: *programs offered through Niagara County Community College*

Replace with: programs offered through Niagara County Community College and Niagara University.

4th paragraph, 3rd & 4th lines

Currently: *educators, including capitalizing on staff knowledge, resources and experience of NCCC in County efforts to attract and retain businesses and industry.*

Replace with: educators, including capitalizing on staff knowledge, resources, expertise and experience of NCCC and Niagara University in County efforts to attract and retain businesses and industry

Observations and Recommendations
Concerning the
Niagara Communities Comprehensive Plan

With specific focus on
Highways and Land Use

Peter Wendel

Private Citizen

May 9, 2009 - Updated May 21, 2009

Background - Community planning has been a passion of mine for over fifty years beginning when my dad was consultant to the Niagara County Planning Board. The board had no staff then so, working for my dad, I was 'staff.' I attended many of the meetings during the time when the Niagara County Comprehensive Plan was developed in the early 1960s.

Later, I worked with the City of Lockport Planning Board as consultant. I also prepared key aspects of the city comprehensive plan including the major traffic system recommendations,

I was a member of the Four Lanes to Lockport committee that was a driving force behind the Southwest Bypass, and the widening of Millersport Highway and Transit Road which linked the center of Niagara County to the I-990 and Metro Buffalo.

I served on the Erie Niagara Counties Regional Planning Board until its demise and have been a member of the Niagara Erie Regional Coalition since it was founded.

During all that time I have been a champion of regional planning – specifically the planning of highways and road systems and land use. For the past several decades, I have been concerned that Niagara County and its local municipalities have been growing in a random, uncoordinated way.

This has been especially true of their highway networks. Roads that might be parts of a network to move traffic safely and effectively through the region have remained as disconnected, disjointed segments that lead nowhere. Highway planning – or the lack of it – has always been my concern.

The county has never had a highway plan to follow. For years, the legislature allocated money for the reconstruction of particular highway segments – usually the construction dollars were distributed among the legislative districts on a 'it's your turn' basis. With very few exceptions (the extension of Beebe Road to Rt. 104 and the realignment of two

sections of Hosmer Rd and the Fisk-Fiegle bridge crossing come to mind) the focus was on improving segments, not building new highways and improving intersections to develop a 'system.'

Every building permit, every subdivision plan that is approved closes out our options and limits our future choices. As result development of the property frontage has choked the capacity of roads to move traffic. It's what has been describes as 'picking the low hanging fruit.'

So I was pleased to follow the development of the 'Framework for Regional Growth' and excited when Niagara County embarked on creation of its new Comprehensive Plan. Finally, I told myself, we will begin to plan and build a network of major highways and primary roads that will meet our current needs and plan for a changing future. I consider this to be an urgent need that has been ignored for too long.

Now that the Draft of the Comprehensive Plan is available, I have spent a considerable amount of time going over it. On the one hand, I extremely pleased to see the volumes of information that has been collected. On the other, I disappointed by the lack of specific plans and recommendations and the lack of urgency to develop plans for the future.

The Planning Process – Planning is a creative process. There are three key steps to creating: the Vision of what we want to create, and appraisal of our Current Reality – what is - where we are now – and choosing Action Steps to move from where we are to what we want to create. Every step we take will change our current reality but if we remain focused on our vision, we can refine our action steps to move closer to the vision.

It's important to know what our current reality is. The Comprehensive Plan does a great job on that score. And it does a good job of cataloging problems. In other words, it's great at describing 'what is,' and 'where we are.' The report points out the problems of urban sprawl – the results of poor planning (or no planning) in the past – and the danger to our environment, future life style and quality of life if past practices continue.

But I am disappointed in the sparseness of the vision for our future. I would like to see a richer description of what we want to create in the future – something akin to 'jumping forward and looking back' asking ourselves what we want to county to be like in the next generation – and generations beyond.

We have examples of successfully doing this in the past. The Four Lanes to Lockport effort is one example. We identified our vision – what we wanted as an outcome: a bypass around the City of Lockport from (then) Harrison Radiator and the Lockport industrial area to the I-990, and the widening of Transit Rd and Millersport Highway to connect Lockport and Eastern Niagara County to the Buffalo Metropolitan area. We focused our energies and achieved every aspect of that 'vision' (except the extension of the Southwest Bypass through Pendleton which was in the planning process when it was

beaten down by local opposition). We were able move projects up on the NYSDOT priority list, find financing for portions through our state representatives and get support from elected official at all governmental levels.

We were successful because we chose what we wanted to create, we had a clear picture of the desired outcome, and we were able to bring together the resources to make it happen.

It's important, once again, that we look ahead, choose what we want to create, and focus our energies on 'making it happen.' The county planning department is the fulcrum, the leader of the process – coordinating conversations between and offering professional planning expertise to local communities while communicating/promoting county and local priorities to the regional planning agencies such as GBNRTC and NYSDOT.

Elements of the transportation/land use plan – Every highway, road and street exists for two reasons: to move traffic from point to point and to serve the frontage. (The only exceptions are limited access highways.) The paradox is that we can't have both. The more a roadway does one, the less is it able to do the other. For instance, when the frontage of a particular section of road or street is developed, it is the less effective at moving traffic. We all know of roads that once moved traffic at 55 miles per hour but now, because of development along the frontage, have reduced speed limits and are more subject to accidents.

The general mind set doesn't seem to appreciate this concept. There is an eagerness to develop frontage, first, without appreciating the negative impact on the future ability of that roadway to move traffic – what has been called 'picking the low hanging fruit.'

I recently heard Fred Hansen, Transportation Director for Portland, Oregon, describe the goal this way: They want to develop a network of roadways that moves 'lots of cars long distances quickly.'

He went on to outline separating those roadways from 'neighborhood clusters' that had a healthy mix of residential, retail and commercial development along with schools and community buildings. People could move within those neighborhoods in a variety of 'modalities:' auto, bus, bike and walking, etc. His phrase was 'livable neighborhoods.' It is conceivable that an individual might live and work within the same neighborhood, thereby avoiding long commutes. The network of major roadways carried long distance traffic around these neighborhoods rather than through them

The Comprehensive Plan has recommended that growth be confined to certain areas so that other area can be reserved for open space, rural and agricultural areas. This is a major step forward. There are many good reasons for this recommendation and I totally support this concept.

The concept then raises two questions: how will we move traffic effectively and safely within each concentrated area and how will we move traffic from one developed region to another – and to areas through and outside the county?

This involves thinking about our current highway system, evaluating the future role/purpose of each highway segment (predominately to move traffic versus to serve frontage), designating major highways (sometimes called arterials in the report). In some instances, the construction of new roads to link segments into an integrated system may be required. Other times, major revisions to intersections may be needed to facilitate traffic flow and improve safety.

This is where ‘Leaping Forward and Looking Back’ is essential. It’s not enough to wait until the problem comes up and then fix it. Being in a reactive mode will always result in always being ‘behind the curve’ – ‘playing catch up.’ We need to look way into the future. We need to plan a highway network plan that anticipates both the development of local areas (neighborhoods) and the facilities needed to move traffic through out the region. This means identifying future highways and roadway links long before they must be built so that land can be zoned, rights of way can be designated and preserved before they are ‘chopped up’ by local development.

The process of building every new highway follows the same general pattern:

Planning – Property acquisition – Design – Construction

Throughout the process is Funding, which often can significantly speed up or delay the process. Waiting until the specific project is needed to begin the planning process can often result in either a project that is completed long after it is needed – or a project that can’t be built because the land is no longer available or a more expensive project because of land acquisition costs. And, of course, public opposition creates delays or can even ‘kill’ a project – such as in the extension of the Southwest Bypass example listed above.

Leaping ahead – in preparing a transportation and land use plan - can also provide much needed guidance to adjoining municipalities, property owners and developers.

Looking ahead is choosing and creating our future – a whole different mindset than fixing what we have and dealing with problems as they arise.

Specific comments relating to the Comprehensive Plan, Transportation and Land

Use - Our three key cities, NFIA and NCCC are all on the upper escarpment as is Inducon Industrial Park. So is the large piece of land once considered for an HSBC service center and, more recently, a Yahoo facility. This area is the closest to the Buffalo metropolitan area and, therefore, more likely to be subjected to development pressure. This southern part of the county stands between the lower escarpment/Lake Ontario municipalities and the rest of the Niagara Frontier. The decisions of the ‘southern communities’ concerning land use and transportation routes will impact the future ability of the northern communities to ‘connect’ with metropolitan Buffalo and Erie County.

Therefore, it is important to pay special attention to the future highway network of the southern parts of the county. If north-south corridors are not designated and set aside before more development takes place there is a danger that the movement of traffic will be choked off. Only far western section, where the Robert Moses Parkway (commercial traffic in restricted) and the I-190 are in place, is a partial solution to this problem. This is an urgent matter that is not addressed in the report!

There especially is an urgent need to develop routes to move traffic north and south around Lockport – both east and west of the city. These routes can serve a variety of needs: more efficiently move people and goods from between the northern (and eastern) communities and the Buffalo metropolitan area and reduce the ‘through traffic’ that doesn’t want to be in the city core and has no purpose there – traffic that negatively impacts the city’s quality of life.

RT 78 has been recommended as key tourism route through city, near the locks and other items of special interest. This is an excellent recommendation but it cannot effectively serve the goal of moving ‘traffic long distances quickly.’

These north south routes can be a combination of current and new rights of way, limited access in some sections where possible, planned with the local community planning boards, to move traffic through the areas designated for development in the comprehensive plan, thereby reducing unwanted traffic on more local roads and streets. This is a prime example of the need to separate through roadways from neighborhood clusters - a goal of Portland described earlier.

(The Town of Lockport has begun planning for a north-south on the east side of the City of Lockport but process has not been a high priority.)

Concerning the east-west flow of traffic, it is recommended in the report that the county work with NYSDOT and GBNRTC to plan improvements to State routes 31, and 104.

One map highlights RT 104 but not as a major arterial. Instead, it is designated as more of a touring route which seems appropriate – provided steps are taken to limit development of the frontage.

Relying on RT 31 as the main east west corridor on the upper escarpment across the county has several drawbacks. It goes through the heart of Lockport creating the same problems as described in the RT 78 discussion. In addition, much of the frontage is already developed which limits its ability to move traffic and makes it difficult to make major upgrades to improve traffic flow.

There is no mention of the Lockport –Robinson – Dysinger Roads corridor even though part of it is already a state route (93). Although some portions are built up, other long stretches are still mostly undeveloped. Focusing on this corridor and developing a plan in concert with the local communities can provide a basis for preserving the capacity and

assure the safe efficient movement of traffic all the way across the county – and further to the east.

Using the Lockport – Robinson – Dysinger corridor as an example, let me offer some ideas to plan its development. These ideas could also be integrated in different forms to the planning of other highways.

First, we need to determine the purpose – in this case as a main ‘through’ route to move traffic across the county from Niagara Falls to the ‘east.’ The ‘east’ in this case might be a continuation of RT 93 to the eastern part of the county and beyond into Erie County – perhaps even to a new interchange on the NY Thruway in the Akron area. Or it might be a connection to RT 77 and the Pembroke interchange. Or it might be extended– well into the future – to connect to RT 531 coming out of Rochester and Brockport.

The boldest move would be a limited access highway beginning with an interchange on I-190 and running across the county with interchanges at key locations – all on a new right of way. (Remember, the goal is to plan for future, not just solve current needs.)

In the planning process, some or all of the following elements might be integrated into the plan:

- Designate undeveloped sections, like those from the Canal west to Comstock Road and east of Raymond Road, for instance, as limited access with parallel service roads to serve the property on each side. Set backs could be included in the zoning to leave a future right of way wide enough to build a multi-lane highway with service roads.
- New sections could be built around some of the developed areas (such as those sections east and west of Shawnee Rd.) to separate the local traffic from the through traffic. Again, zoning could be used to preserve open land for the future highway
- Redesign of intersections to provide left and right turning lanes to keep traffic moving.
- Install turning lanes at key ‘T’ intersections (Nash Road and Bowmiller Road, for instance) to permit the smooth flow of through traffic and turning actions thereby reducing the potential for accidents.
- Where traffic signals are used, have left turn arrows.
- Where access is permitted along the frontage, require commercial operations to construct right turn lanes as part of their development. In larger developments, require left turn lanes, too.
- Where highway sections are planned through vacant land, preserve routes for future construction. Insure that these vacant corridors to be developed in the future are integrated with land development plans.
- Plan limited access highways to provide effective movement of traffic while removing the ability to develop the frontage along new highways. Limiting access, in combination with zoning can be a valuable tool to prevent urban sprawl.

These ideas can be applied in various forms when making plans for other highways and streets to create an integrated, efficient, safe means for our citizens to move about the region.

The focus on the planning process needs to be long term – creating an overall plan to serve future needs 20 and 30 plus years in the future. We're not just solving today's problems. We're planning the future to avoid problems while the solutions can be achieved economically.

We can't predict the available resources that might be available – we couldn't when we started Four Lanes to Lockport. Having a plan prepares us to generate and capitalize on unanticipated opportunities – including unpredictable funding sources. There is an old saying that 'Preparation plus Opportunity equals Luck.' Now is the time to prepare.

Conclusion – For the past several decades we in Western New York, like many other communities across the country, have just been 'bopping along' making decisions about our land and our highways without an overall plan to guide our decisions. Land has been developed on a piece by piece basis without thought about how these developments with impact each other or how they will impact our ability to move across the area.

'Bopping along' has created problems and squandered opportunities. We have paid a price for lack of planning: slow moving traffic, accidents, disconnected highways and too few through routes, resulting in unnecessary stops, starts and turns.

We need to replace this piecemeal thinking with a coordinated approach – a plan that looks far into the future to provide us with a basis for making coordinated decisions.

The Comprehensive Plan gives us a new beginning – a chance to choose the future we want to create, build consensus and work together to create a better future.

But it's just a beginning. We now know 'where we are' and we have a general direction and outline of what to do next – where to focus our energies to create a better future. But we can't stop here! There is an urgency to outline our vision and develop specific plans. Waiting or moving slowly will close out our options and limit our choices.

Now is the time to move ahead with all deliberate haste!

RECOMMENDATIONS ON *NIAGARA COMMUNITIES COMPREHENSIVE PLAN 2030*
FROM PAULETTE GLASGOW, NIAGARA COUNTY PLANNING BOARD MEMBER
JUNE 12, 2009

- a) All local municipalities review and amend their approved comprehensive plan and zoning codes every 3-5 years;
- b) All local municipalities enact Cell Tower and Wind Farm regulations and policy, and that said regulations and policy be reviewed and amended every 5 years;
- c) All local municipalities enact an Ethics Policy with regard to conduct of municipal officials and cell tower and wind farm officials regarding approval and siting;
- d) All local municipalities, where it applies, enact a Farmland Protection Policy;
- e) All local municipalities, where it applies, enact a Transfer of Development Rights Policy;
- f) A county wide Watershed Protection Policy and Plan;
- g) All local municipalities enact a Green Infrastructure policy;
- h) Intergovernmental agreement with regard to notification of enactment of SEQRA;
- i) Niagara Communities Comprehensive Plan be reviewed and amended every 3-5 years.

New Code of Ethics for Wind Energy Companies Doing Business in New York: A Back-Door Approach to Regulating Municipal Ethics

By Patricia E. Salkin



I. Introduction

The conduct of municipal officials in New York is regulated through a series of state statutes and local laws including Article 18 of the General Municipal Law, which is primarily called into play when the conduct in question involves a contract; the Legislative Law which addresses, in part, local lobbying; and the Penal Law which deals

with, among other things, bribery and rewards for official actions. Scattered provisions in at least 11 volumes of McKinney's also provide some guidance on certain ethics and conflicts situations.¹ In addition, municipalities are directed and/or empowered to adopt their own code of ethics to address the conduct of public officers within their own jurisdiction.² Despite the appearance of many ethics laws and rules governing the conduct of municipal officials, the fact remains that New York lacks a comprehensive code of ethics for local governments, and that Article 18 of the General Municipal Law is in need of reform.³

New York also lacks a state-level office or agency responsible for providing guidance for municipal officials on ethics issues, issuing model local laws, and/or conducting training for municipal officials on ethics-related topics. Rather, numerous state governmental entities play small and distinct roles in providing interpretation, guidance and rulemaking when it comes to municipal ethics. For example, the Office of the State Comptroller may issue informal opinions on General Municipal Law Article 18 questions from municipal attorneys, and the Attorney General's Office may also issue informal opinions on conflicts of interest issues and on questions of compatibility of dual office holding. The Commission on Public Integrity is responsible for training on and enforcement of the Legislative Law, which contains provisions on municipal lobbying, and while the New York State Department of State provides information and training to municipal officials on a wide range of local government topics, there is no mandated comprehensive local ethics training and education or clearinghouse function. The disorganized situation in New York often puts municipal attorneys on the front line of ethics education, but unfortunately,

legal counsel is most often sought after the questioned activity has occurred. Calls for focused attention and for reform of municipal ethics in New York date back at least as far as 1987 with the work of the State Commission on Government Integrity, followed in 1991 by the work of the Temporary State Commission on Local Government Ethics. The leadership of the Municipal Law Section of the State Bar, through the work of its Ethics Committee, has been a leading advocate for reform. Despite these pleas, neither the last three Governors nor the State Legislature has made municipal ethics reform a priority topic.

Given the history of a fragmented approach to municipal ethics resulting in gaps in statutory coverage and lack of state-level guidance, it is not surprising that recent actions by the Attorney General aimed at curbing alleged unethical and perhaps illegal conduct on the part of wind energy companies may in fact be an avenue for indirectly regulating the conduct of the municipal officials. Following alleged corruption in Upstate New York between wind energy companies and local government officials⁴ that include allegations of conflicts of interest and improper influence surfacing in about a dozen counties,⁵ Attorney General Andrew Cuomo commenced an investigation to determine "whether wind companies improperly influenced local officials to get permission to build wind towers, as well as whether different companies colluded to divide up territory and avoid bidding against one another for the same land."⁶ In launching the investigation, the Attorney General stated, "The use of wind power, like all renewable energy sources, should be encouraged to help clean our air and end our reliance on fossil fuels. However, public integrity remains a top priority of my office and if dirty tricks are used to facilitate even clean-energy projects, my office will put a stop to it."⁷ Recently, an appellate court dismissed a petition calling for removal of a town legislator that alleged that the legislator concealed a conflict of interest when he voted to approve a wind energy facility because the project would include a turbine on his property, finding that the petitioner failed to prove the existence of an actual conflict of interest.⁸

II. Voluntary Code of Conduct for Wind Farm Development

On the heels of an investigation, in October 2008 the Attorney General unveiled a voluntary code of

conduct for wind development companies (referred to hereafter as "Code" or "Wind Code") and announced that two companies that had been under investigation by the Attorney General (Noble and First Wind) had signed on to the Code, which is designed to make sure developers deal with local officials in a fair and transparent manner.⁹ The Code prohibits conflicts of interest between municipal officials and wind companies and establishes certain public disclosure requirements. Among other things, the Code bans wind companies from: hiring municipal employees or their relatives, giving gifts of more than \$10 during a one-year period, or providing any other form of compensation that is contingent on any action before a municipal agency. In addition, the Code prevents wind companies from soliciting, using, or knowingly receiving confidential information acquired by a municipal officer in the course of his or her official duties; requires wind companies to establish and maintain a public Web site to disclose the names of all municipal officers or their relatives who have a financial stake in wind farm development; requires wind companies to submit in writing to the municipal clerk for public inspection and to publish in the local newspaper the nature and scope of the municipal officer's financial interest; mandates that all wind easements and leases be in writing and filed with the County Clerk; and requires that within thirty days of signing the Wind Industry Ethics Code, companies must conduct a seminar for employees about identifying and preventing conflicts of interest when working with municipal employees.¹⁰ The Code also sets up a Task Force to provide oversight of wind farm development and to monitor compliance with the Code.¹¹ The wind companies who sign on to the Code are required to provide a proportional share of funding to cover the administrative work of the Task Force for a period of three years.¹²

While on its face, the Code is aimed at the conduct of wind energy companies and their employees (and in fact, only the wind energy companies are signatories to the voluntary Code), the reality is that this Code impacts not only the conduct of corporate employees, but through controlling corporate conduct it also impacts municipal officials in terms of their conduct, required disclosure and similar requirements on their family members. It is likely that the Attorney General recognized gaps in the manner in which municipal ethics are addressed at the state level and saw an opportunity to begin to fill in where the statutes fall short. In some areas covered in the Code, it is possible that the State Legislature has preempted the field of regulation. Further, in some instances there are inconsistencies between the new Code and existing statutes that could lead to confusion. Lastly, provisions in locally adopted codes of ethics enacted pursuant to the General Municipal Law may also address some of the

items covered in the new Code.¹³ The remainder of this article explores the intersection of the Code of Conduct for Wind Farm Development and existing municipal ethics regulations at the State level.

III. Comparing the Code of Conduct to Existing Municipal Ethics Provisions

Many provisions in the Wind Code are consistent with the General Municipal Law ethics provisions. For example, the prohibition on contingent compensation in General Municipal Law § 805-a(d) appears in the Wind Code in § I. This same section of the Code contains a prohibition on wind companies soliciting or knowingly receiving confidential information acquired by a municipal officer in the course of his or her duties. This prohibition is complementary to General Municipal Law § 805-a(b), which prohibits municipal officers from disclosing confidential information. The remaining sections of this article focus on a number of areas in the Wind Code where provisions may conflict with state or local law, where inconsistencies or ambiguities may arise or where new concepts and controls have been introduced that impact the conduct of municipal officials.

A. Disclosure of Interests

As a general matter, when the State Legislature enacted Article 18 of the General Municipal Law they clearly recognized that there are unique ethics issues that may arise in the local land development process. Specifically, § 809(1) of the General Municipal Law provides,

Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request . . . to the extent known to the applicant.

Further, the statute provides that a municipal

officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them . . . is a

party to an agreement with such applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.¹⁴

A knowing violation of this section constitutes a misdemeanor.

While consistent with the requirement in the General Municipal Law that the applicant provide the aforementioned disclosure, the second section of the Wind Code contains a number of public disclosure provisions that provide specific instructions as to how disclosure by the wind company about municipal official interests is to be made and to whom. Specifically, the Code requires that the Company provide a chart to the Office of the Attorney General (as well as posted to the Company Web site) that discloses the nature and scope of any financial interest held by a municipal officer or his or her relative for interests held prior to the date of the Code of Conduct. For events transpiring after the Code, the Company is required to "publicly disclose" the name of the municipal official and his/her relative that has a financial interest in any property identified for wind farm development and the nature and scope of the interest by submitting this information to the clerk of the municipality, publishing it in a newspaper of general circulation in the municipality, displaying it on the Company Web site and submitting it in writing to the Task Force and to the Attorney General. In addition, the Code requires that while the Company must file an abstract or memorandum of all wind easements and leases with the County Clerk, those that involve municipal officers or their relatives must also be posted on the Company Web site. Further, for those easements and leases that involve municipal officers or their employees, the Company must indicate in the abstract or memorandum the actual or estimated monetary consideration from monetary ranges provided in the Code.

The financial information required under the Code may go farther than the General Municipal Law requirements of simple disclosure in § 809. Further, §§ 811 and 812 of the General Municipal Law provide a framework for financial disclosure for local elected officials, persons seeking elective office and political party officials and certain officers and employees of counties, cities, towns and villages. Municipalities may adopt the form provided in § 812 or they may adopt their own. The voluntary Wind Code disclosure requirements apply to municipal officers, whether or not elected.

The disclosure requirements are interesting and, raise questions as to whether this area is preempted

by the existing disclosure requirements in Article 18 that specifically speak to disclosures in land use proceedings. Should stakeholders agree that increased disclosures and a process therefore could be better articulated in statute, this may be a good topic for a legislative program bill. Admittedly, the Attorney General is dealing only with the wind industry in this instance, but there are many other controversial land use applicants, such as big box retailers and wireless communication companies, where similar disclosures could be required if necessary and desired.

B. Gifts

Under General Municipal Law § 805-a(1), municipal officers are prohibited from soliciting or accepting a gift having a value of \$75 or more under circumstances where it can be reasonably inferred that the gift is intended to, or could reasonably be expected to, influence him or her in the performance of official duties, or was intended as a reward for official conduct. The Wind Code prohibits companies from giving municipal officers and their relatives or any third parties on behalf of the municipal officer any gift or gifts totaling more than \$10 in the aggregate during any one-year period (see § 1.2). The Wind Code, however, contains a definition section where the term "gift" is defined as "any thing having more than nominal value whether in the form of money, service, loan, investment, travel, entertainment, hospitality, or in any other form and includes an offer to a charitable organization at the designation of the Municipal Officer or at the designation of his or her relative." By introducing the phrase "nominal value" into the definition section, the Code is seemingly consistent with the 2007 Public Employee Ethics Reform Act, which changed the \$75 gift limit in § 73(5) of the Public Officers Law to prohibit all gifts of more than "nominal value." Although state statute fails to define "nominal value," the Commission on Public Integrity issued an Advisory Opinion in 2008 that sought to provide parameters by explaining, for example, that absent an intent to influence, a cup of regular coffee or a soft drink would normally be considered something of nominal value, but a glass of beer or wine, or some other alcoholic beverage would be a gift with greater than nominal value.¹⁵ Of course, a further complication in using this analogy is that the Public Officers Law does not apply to municipal officers, only to state executive and legislative branch employees and to lobbyists.¹⁶

Although the Wind Code does not provide the Attorney General's Office or the Task Force created under the Code with recourse against a municipal officer who accepts a prohibited gift from an employee of a wind company, exactly what constitutes a prohibited gift to government officials ought to be consistent among the various statutes, regulations and codes. Two possible reforms are appropriate here: the General Municipal

Law should be amended to make it consistent with the Public Officers Law (and it was before the 2007 amendment to the Public Officers Law); or, and perhaps more appropriate, there should be a zero tolerance for gifts whether or not of nominal value.¹⁷

C. Lobbying

Effective in April 2002, the New York State Legislative Law defines "lobbying" or "lobbying activities" at the local level as

any attempt to influence the passage or defeat of any local law, ordinance, resolution or regulation by any municipality or subdivision thereof or adoption or rejection of any rule, regulation, or resolution having the force and effect of local law, ordinance, resolution or regulation or any rate making proceeding by any municipality or subdivision thereof.¹⁸

Municipal lobbying covers

any jurisdictional subdivision of the State, including but not limited to counties, cities, towns, villages, improvement districts and special districts, with a population of more than fifty thousand; and industrial development agencies in jurisdictional subdivisions with a population of more than fifty thousand; and public authorities, and public corporations, but shall not include school districts.¹⁹

Individuals who meet the definition of lobbyist are required to register and file reports with the Commission on Public Integrity.²⁰

The Wind Code would also apply to situations that fit squarely under the definition of lobbying when wind company employees and paid advocates on their behalf seek to convince municipal officials to legislatively rezone property, and to adopt local laws, ordinances or resolutions allowing for and regulating the siting of wind turbines in the jurisdiction. The "General Standard" set forth in the Wind Code provides in part that wind companies may not directly or indirectly seek to confer benefits that would induce a municipal officer to act or refrain from acting in connection with their government responsibility with respect to wind farm development. Many, but not all, of the types of activities sought to be restrained under this section would also fit under the Legislative Law or lobbying requirements. The conduct in these sections regulates the actions of lobbyists and the private sector, not public sector officials. However, municipal officials need to be made more fully aware of what

state law and what the Attorney General would consider to be "improper relationships" between public and private sector interests. Training geared not just towards lobbyists and wind companies, but towards municipal officials would be a welcome "ounce of prevention."

D. Employment Restrictions

State level executive and legislative branch employees are subject generally to post-employment restrictions which prohibit the former government employees from appearing before their former agency on any matter for which they are receiving compensation for a period of two years after leaving government service.²¹ A lifetime bar applies to former employees in relation to "any case, proceedings, application or transaction" that they personally participated in while at the agency.²² In 2006, the State Ethics Commission (now known as the Commission on Public Integrity) issued an opinion declaring that,

(1) State employees may not solicit a post-government employment opportunity with any entity or individual that has a specific pending matter before the State employee; and only may, 30 days from the time a matter is closed or the employee has no further involvement because of recusal or reassignment, solicit an employment opportunity; (2) State employees who receive an unsolicited employment-related communication from such an entity or individual (a) cannot pursue employment with the entity or individual or (b) must recuse themselves from the matter and any further official contact with the entity or individual and wait 30 days from such recusal before entering into post-government employment communications with the entity or individual; and (3) State employees must promptly notify their supervisors and ethics officers of such employment-related communications whether or not they intend to pursue the employment opportunity.²³

At the local government level, the restrictions are not quite so clear. For example, a provision in the General Municipal Law prohibits municipal officials from receiving compensation for services in relation to any matter before their own agency or before any agency where he or she has jurisdiction or appointment power,²⁴ but state statute is silent with respect to post-employment restrictions. It seems as though the Legislature thought this was a matter best left to individual municipalities to decide as local ethics laws

are required by statute to address, among other things, future employment.²⁵ However, if there is a general belief among stakeholders that post-employment restrictions for municipal officials is something that should be addressed uniformly across the State, this is another provision worthy of debate through the introduction of a legislative proposal to amend the General Municipal Law.

E. Education and Training

One of the major items missing in General Municipal Law Article 18, or any other state law, is the statutory requirement for ongoing training and education for municipal officials on ethics issues. Although the Attorney General has addressed this topic in the Wind Code, training requirements are limited to signatory wind companies and their employees. However, municipal officials are parties to the alleged questionable transactions, indicating that training could be beneficial for these decision makers as well. While clearly it would be inappropriate for the wind companies to provide ethics training to municipal officials, this is an opportunity for the Attorney General (as well as for the Department of State, the State Comptroller, and the municipal associations) to conduct statewide training on municipal ethics. Further, the Attorney General should consider strengthening the existing training requirement for wind companies. For example, in addition to posting and distribution mandates, the Wind Code provides that within 30 days of the announcement of the signing of the Code, the wind company is to conduct a seminar for employees about indentifying and preventing conflicts of interest when working with municipal officers. Employees must sign an acknowledgment certifying that they attended the training and that they have read and agree to abide by the Code (and failure to agree obligates the Company to discontinue their employment). The Code should be amended to provide that wind companies are required to provide at least annual training on these issues and that all new employees, within a certain number of days from initial hire, must complete the training (whether in person, on-line or in some other appropriate format). For a period of three years following agreement to abide by the Code, the Attorney General is requiring wind companies to contribute a proportional share of the reasonable administrative costs of the Task Force set up to provide oversight and monitor compliance. It would be a welcome addition to the Code if an amendment were made to allow for some of that funding to support a training initiative geared towards municipal officials.

F. Notification to Municipal Attorney

A curious provision in the Wind Code requires the wind company to notify the attorney for the municipality when it is discovered that a municipal

officer or his or her relative has entered into a lease with the company. In addition, the Wind Code directs the wind company to recommend to that municipal officer that he or she consult with the municipality's attorney concerning their legal obligations, including any obligation to recuse. This puts the municipal attorney in an awkward position. The municipal attorney works for the municipality as a whole, and not for individuals who may be involved in the wind siting decision-making process. For municipalities who need to watch the bottom line with respect to their outside counsel legal bills (since for many municipalities in the State, the municipal attorney is part-time and/or on retainer), the office charged with hiring the municipal attorney typically gets to prescribe the client(s) and subject matter that such attorney is retained to address (and hopefully this is explicitly set forth in a written retainer agreement or in a written job description). Since there may be no attorney-client relationship between the government lawyer and individual board members regarding their individual ethical conduct, municipal officials may be better advised to seek legal counsel outside of the municipally retained attorney. Further, a number of municipalities have boards of ethics established pursuant to the General Municipal Law, and these boards may be the more appropriate place to inquire about these types of actions. Lastly, some municipalities may have a designated ethics officer who would more likely be the point of initial contact. The Attorney General should consider as part of a comprehensive training program publishing a pamphlet for municipal officials that discusses when disclosure and recusal are required pursuant to statute.

IV. Conclusion

It is clear that given the tensions existing in communities between those who support the siting of wind turbines and those who oppose them, all of the participants would be wise to ensure that their conduct is absolutely beyond reproach as they are likely to be watched very closely and challenged where conduct is questionable. Based upon annual surveys of ethics in land use, it is evident that there are a healthy number of cases reported each year where unhappy community members lodge allegations of unethical conduct on the part of municipal officials in an effort to void unfavorable decisions.²⁶ Although most of these fail because either the complainant did not have sufficient evidence to prove the allegation or because the complained-of action, while perhaps not appropriate, technically did not violate a law,²⁷ the bottom line is that allegations of unethical conduct in this arena have a negative ripple effect. The Internet and blogs have become a popular and cost-effective method of communication between individuals and community groups across the country opposed, in this case, to the siting of wind turbines. Postings related to ethics allegations in one jurisdic-

tion will trigger closer scrutiny of these issues in other communities where proposals are making their way through the review process.

Full disclosure and transparency in government decision making is critical to ensuring public integrity and trust in government. Officials at all levels of government must disclose and recuse themselves from decision-making roles when personal financial conflicts of interest arise. Many of the alleged activities that have occurred emanating from efforts to site wind turbines are clearly illegal or unethical under existing statutory and regulatory frameworks. Informal opinions issued by previous Attorneys General have even suggested that specific provisions of the General Municipal Law need not be violated in order to find an improper conflict of interest.²⁸ The fact that there have been numerous alleged instances of abuse in different jurisdictions over a relatively short span of time clearly indicates that this issue requires immediate attention. To that end, the Attorney General's action to shed sunlight on inappropriate conduct and to develop a document to guide future actions is a welcome effort. What is needed now is a more holistic approach involving the full spectrum of stakeholders to both reinforce and to strengthen the direction charted by the Attorney General. This includes a re-examination of state and local lobbying laws and regulations as well as municipal ethics requirements. It is critical that all stakeholders participate and that action is swift so that this issue can be appropriately addressed without slowing the progress on harnessing clean, renewable energy in New York. One concluding thought: This is not just a New York issue; what the Attorney General does in New York has great potential for ripple effects in other states who often replicate models developed in New York.

Endnotes

1. See, e.g., provisions in the Town Law, Village Law, General City Law, County Law, Alternative County Law, Election Law, General Municipal Law, Labor Law, Judiciary Law, the Real Property Tax Law and the Second Class Cities Law as set forth in a chart in Mark Davies "Non-Article 18 Conflicts of Interest Restrictions Governing Counties, Cities, Towns and Villages Under New York State Law," *Municipal Lawyer*, Vol. 20, No. 1 at 5 (Winter 2006).
2. N.Y. Gen. Mun. L. § 806.
3. See Mark Davies, "Ethics Laws for Municipal Officials Outside of New York City," 1 *Government Law & Policy Journal* at 44 (New York State Bar Association, 1999). Davies explains that sadly, there is no single, uniform and comprehensive code of ethics for municipal officials in New York. See also Mark Davies, "Enacting a Local Ethics Law—Part I: Code of Ethics," *Municipal Lawyer*, Vol. 21, No. 3 at 4 (Summer 2007); "Enacting a Local Ethics Law—Part II: Disclosure," *Municipal Lawyer*, Vol. 21, No. 4 at 8 (Fall 2007); "Enacting a Local Ethics Law—Part III: Administration," *Municipal Lawyer*, Vol. 22, No. 1 at 11 (Winter 2008); "Local Ethics Laws: Model Administrative Provisions," *Municipal Lawyer*, Vol. 22, No. 3 at 14 (Summer 2008).
4. http://www.nytimes.com/2008/08/18/nyregion/18windmills.html?_r=3&oref=slogin&oref=slogin (site visited January 2009).
5. For example, a town supervisor cast the deciding vote allowing private land to be condemned for purposes of siting a wind farm after acknowledging that he had accepted real estate commissions on at least one land deal involving the farm's developer. In another municipality, according to local residents, a town official took a job with a wind company after involvement with the passage of a zoning law relating to wind turbines. In another town, the supervisor reported that after a meeting during which he proposed a moratorium on wind towers, he had been invited to pick up a gift from the back seat of a wind company representative's car.
6. http://www.nytimes.com/2008/08/18/nyregion/18windmills.html?_r=3&oref=slogin&oref=slogin (site visited January 2009).
7. <http://lawoftheland.wordpress.com/2008/07/17/ny-attorney-general-launches-investigation-of-potential-unethical-and-illegal-dealings-between-wind-power-companies-and-municipalities> (site visited January 2009).
8. *Hedman v. Town Board of Town of Howard*, 867 N.Y.S.2d 634 (4th Dep't 2008).
9. <http://www.newsday.com/news/local/wire/newyork/ny-bc-ny--windpower-turbule1123nov23.03062001.story>.
10. http://www.oag.state.ny.us/media_center/2008/oct/WindCODE%20FINAL.pdf (site visited January 2009).
11. *Id.*
12. *Id.*
13. For example, General Municipal Law § 806 provides that among other things, locally adopted codes of ethics must address: standards with respect to the disclosure of interest in legislation before the governing body; standards with regard to the holding of investments in conflict with official duties; private employment and conflict with official duties; and future employment.
14. N.Y. Gen. Mun. L. § 809(2)(d).
15. New York State Commission on Public Integrity, Advisory Opinion 08-01, available at: http://www.nyintegrity.org/advisory/cpi/2008/Advisory_Opinion_08-01.pdf (site visited January 2009).
16. N.Y. Exec. L. § 94(1).
17. This view is counter to some that believe an absolute prohibition could also produce absurd results in certain situations, and that although there may be an assumption that every gift, no matter how insignificant, has some potential to influence public employees, the challenge "is to distinguish those where the potential is sufficiently significant so as to prohibit them." See Richard Rifkin, "Gift Giving in the Public Sector," in *ETHICAL STANDARDS IN THE PUBLIC SECTOR*, 2nd ed. (P. Salkin, ed.) (American Bar Association, 2008). New York City's rule on lobbyist gifts offers a possible middle ground. New York City prohibits all gifts by lobbyists to New York City public servants (NYC Ad. Code § 3-225; 53 RCNY § 1-16(a)), but then exempts, *inter alia*, "de minimis promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause" (53 RCNY § 1-16(c)(1)). See http://www.nyc.gov/html/conflicts/downloads/pdf2/rules_1_07_final.pdf (site visited January 2009).
18. http://www.nyintegrity.org/local/local_lobbying.html (site visited January 2009).
19. *Id.* For a list of covered municipalities see <http://www.nyintegrity.org/pubs/LocalFacts.PDF> (site visited January 2009).

20. The registration and reporting requirements are beyond the scope of this article, but New York Legislative Law Art. 1-A may be accessed at: <http://www.nyintegrity.org/law/lob/lobbying2.html>; and Guidelines adopted by the Commission on Public Integrity are available at: <http://www.nyintegrity.org/law/lob/guidelines.html> (site visited January 2009).
21. N.Y. Pub. Off. L. § 73(8)(a)(i).
22. N.Y. Pub. Off. L. § 73(8)(a)(ii).
23. N.Y.S. Ethics Commission, Advisory Opinion 06-01 (Jan. 23, 2006). The opinion may be accessed at: <http://www.nyintegrity.org/advisory/ethc/06-01.htm> (site visited January 2009).
24. N.Y. Gen. Mun. L. § 805-a(1)(c).
25. N.Y. Gen. Mun. L. § 806(1)(a).

26. See, generally, P. Saikin, "Ethics in Land Use," Ch. 38 in *AMERICAN LAW OF ZONING*, 5th Ed. (Thomson-West 2008).
27. *Id.*
28. See Inf. Op. N.Y. Att'y Gen. 97-5; Inf. Op. N.Y. Att'y Gen. 86-54.

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CODE OF CONDUCT FOR WIND FARM DEVELOPMENT

The below-signed Wind Company voluntarily agrees to implement the following Code of Conduct to govern its future conduct in connection with Wind Farm Development in New York State.

I. CONFLICTS OF INTEREST - PROHIBITED

1. **General Standard:** The Wind Company shall not directly or indirectly offer to, or confer on, a Municipal Officer, his or her Relative, or any third party on behalf of such Municipal Officer any benefit under circumstances in which it could reasonably be inferred the benefit would induce such Municipal Officer to commit an official act or to refrain from performing an official duty in connection with Wind Farm Development, unless such Municipal Officer recuses him or herself from any official duties in connection with Wind Farm Development.
2. **No Gifts:** The Wind Company shall not give any Municipal Officer, his or her Relative, or any third party on behalf of such Municipal Officer, any gift or gifts totaling more than ten dollars (\$10.00) in the aggregate during any one-year period.
3. **No Compensation for Services:** The Wind Company shall not employ, hire, retain or compensate, or agree to employ, hire, retain or compensate, any Municipal Officer whose official duties involve Wind Farm Development in connection with the Wind Company, or his or her Relative, within two years of the time that such Municipal Officer had such duties, unless such Municipal Officer first recuses him or herself from any official conduct in connection with such Wind Farm Development. Accordingly, any compensation provided by the Wind Company to such Municipal Officer, his or her Relative, or third party on behalf of such Municipal Officer or Relative, shall be contingent on such prior recusal. The Wind Company shall disclose in writing to the Task Force and the Office of the Attorney General any agreement that is contingent on such recusal.
4. **No Contingent Compensation:** The Wind Company shall not provide or agree to provide compensation to any Municipal Officer or his or her Relative that is contingent upon such Municipal Officer's action before or as a member of any Municipal agency.
5. **No Honorarium:** The Wind Company shall not confer on any Municipal Officer or his or her Relative any honorarium during the Municipal Officer's public service, or for a period of two years after termination of such Municipal Officer's service.
6. **Restrictions on Easements/Leases with Municipal Officers:** The Wind Company shall not enter into any agreement with any Municipal Officer that requires the Municipal Officer to support or cooperate with Wind Farm Development in any manner that relates to the Municipal Officer's official duties.
7. **Confidential Information:** The Wind Company shall not solicit, use, or knowingly receive confidential information acquired by a Municipal Officer in the course of his or her official duties.
8. **Restrictions on Legal Representation:** The Wind Company shall not agree to pay legal fees for any Municipal Officer or Municipality in connection with any investigation by any law enforcement agency.

II. PUBLIC DISCLOSURE

For events transpiring after the date that this Code of Conduct is signed, the Wind Company shall make the disclosures as set forth in this section. For any financial interest held by a Municipal Officer or his or her Relative in any property Identified for Wind Farm Development prior to the date of this Code of Conduct, the Wind Company shall make the disclosure of the Municipal Officer and the nature and scope of the financial interest by a chart submitted to the Office of the Attorney General and displayed on a website hosted by the Wind Company. The format of the chart shall be subject to the approval of the Office of the Attorney General.

1. The Wind Company shall publicly disclose the full names of any Municipal Officer or his or her Relative who has a financial interest in any property Identified for Wind Farm Development, and the nature and scope of the financial interest in the following manner:
 - a. Submit the information in writing for public inspection to the Clerk of such Municipality.
 - b. Publish the information in a newspaper having a general circulation in such Municipality.
 - c. Display the information on a website hosted by the Wind Company.
 - d. Submit the information in writing to the Task Force and the Office of the Attorney General.
2. All Wind easements and leases shall be in writing. The Wind Company shall promptly file, duly record, and index an abstract or memorandum of such agreements in the Office of the County Clerk for the county in which the subject property is located; if property owner is a Municipal Officer or his or her Relative, then the Wind Company also shall post an abstract or memorandum of any such agreement on a website hosted by the Wind Company.
3. The abstract or memorandum of such agreements shall, at a minimum, include:
 - a. the full names and addresses of the parties;
 - b. a full description of the property subject to the agreement;
 - c. the essential terms of the agreement, including the rights conveyed by the property owner and, if the property owner is a Municipal Officer or his or her Relative, which of the following ranges encompasses the actual monetary consideration offered by the Wind Company or, if the actual monetary consideration is not fixed, the Wind Company's estimate of the monetary consideration:
 - i. Under \$5,000
 - ii. \$5,000 to under \$20,000
 - iii. \$20,000 to under \$60,000
 - iv. \$60,000 to under \$100,000
 - v. \$100,000 to under \$250,000
 - vi. \$250,000 to under \$500,000
 - vii. \$500,000 to under \$1,000,000
 - viii. \$1,000,000 or higher.

III. EDUCATION AND TRAINING

1. The Wind Company shall promptly provide a copy of this Code of Conduct and a written statement of its intention to comply with this Code of Conduct to the government of any Municipality in which it engages in Wind Farm Development.
2. Within one week of the announcement of this Code of Conduct, the Wind Company shall publish this Code of Conduct on a website hosted by the Company and on any internal computer network (intranet) site that can be accessed only by its officers or employees, distribute copies of this Code of Conduct among its officers and employees, and post copies in its main office and at any local Wind Farm Development office.

3. Within thirty days of the announcement of this Code of Conduct, the Wind Company shall conduct a seminar for all officers and employees, except those who perform solely administrative/clerical, accounting, or building maintenance functions, about identifying and preventing conflicts of interest when working with Municipal Officers.
4. Within thirty days of the seminar, the Wind Company shall obtain acknowledgement forms from each of its employees, certifying that they have: (i) attended the seminar required by paragraph 3 of this section, unless they fall into the exception therein, and (ii) have read and agree to comply with this Code of Conduct. If, due to exceptional circumstances, an officer or employee is unable to attend the seminar required in paragraph 3 of this section, alternative arrangements should be made as soon as is practical for such officer or employee to receive the training described in paragraph 3 and sign the acknowledgement form. The Wind Company shall discontinue employment of anyone who fails to attend the seminar, or its equivalent, or sign the acknowledgment form.
5. The Wind Company shall distribute to all its employees and post prominently in all its work locations as well as on its website or intranet system the NYS Attorney General's Public Integrity Hotline with instructions that any misconduct, violation of the law, or corruption of any sort in connection with Wind Farm Development; or any violation of this Code of Conduct shall be promptly reported to the New York State Attorney General.
6. Upon discovery by the Wind Company that a Municipal Officer or his or her Relative has entered into a lease or easement with the Wind Company, the Wind Company shall (i) notify the attorney for the Municipality and (ii) recommend to such Municipal Officer that he or she consult with the Municipality's attorney concerning his or her legal obligations, including any obligation to recuse him or herself.

IV. ENFORCEMENT AND COMPLIANCE

1. The Office of the New York State Attorney General shall establish the above-referenced Task Force to provide oversight of Wind Farm Development and monitor compliance with this Code. The Task Force shall include, among others, local elected officials, including District Attorneys, and others designated by the Office of the Attorney General. The Task Force shall report only to the Office of the New York State Attorney General. The Office of the New York State Attorney General shall establish responsibilities and guidelines for the Task Force.
2. For three years following the Wind Company's agreement to this Code of Conduct or until the Wind Company ceases operations in New York State, whichever is earlier, the Wind Company shall contribute a proportional share of the reasonable administrative costs of the Task Force, in an amount to be determined by the Task Force. So long as the Wind Company operates in New York State, it shall fully cooperate with the Task Force.
3. Should the Wind Company discover any conduct in violation of the provisions of this Code, the Wind Company shall promptly disclose such information to the Office of the New York State Attorney General. The Wind Company shall fully cooperate with the Office of the New York State Attorney General in any investigation arising out of such violation.
4. The Task Force shall give notice of any complaints relating to the Wind Company to the Office of the New York State Attorney General. The Task Force may decide not to refer such a complaint, if it determines that it involves a matter relating to this Code of Conduct that can be resolved by the Task Force. The Task Force may refer such complaints to the Office of the New York State Attorney General. With respect to any complaint referred to the Office of the New York State Attorney General by the Task Force, the Office of the New York State Attorney General shall advise the Wind Company of the complaint and give the Wind Company a reasonable opportunity to obtain and submit to the Office of the New York State Attorney General information relevant to the complaint. After providing such opportunity, the Office of the New York State Attorney General shall determine, in its reasonable discretion, and based on a reasonably comprehensive factual investigation including any information provided by the Wind Company, whether a preponderance of the evidence establishes that the Wind Company has violated this Code of Conduct in any material respect. In the event that a violation of any provision set forth in this Code is found, the Wind Company shall pay a civil penalty of up to \$50,000 for the first violation, and up to \$100,000 for any subsequent violation. In setting any penalty amount, the Office of the New York State Attorney General shall consider the relative severity of, and the relative harm to public integrity

occasioned by, the violation. Any payment shall be made by certified check made payable to the "State of New York." The Wind Company shall have the right to challenge the Office's finding of a violation and determination of penalty amount before a court of competent jurisdiction, but shall pay any assessed penalty to the State of New York pending the resolution of any such court challenge.

5. The Wind Company and the Office of the New York State Attorney General shall meet to review the terms of this Code both four months and one year from the date on which this Code is signed.

V. DEFINITIONS

Unless otherwise stated or unless the context otherwise requires, when used in this Code:

1. "Gift" means any thing having more than a nominal value whether in the form of money, service, loan, investment, travel, entertainment, hospitality, or in any other form and includes an offer to a charitable organization at the designation of the Municipal Officer or at the designation of his or her Relative.
2. "Honorarium" means any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.
3. "Identified" means that the Wind Company has begun to pursue the purchase or lease of, or an easement on, real property in which the Wind Company knows, or through the exercise of reasonable diligence should have known, that a Municipal Officer or his or her Relative has a financial interest in the property.
4. "Municipality" means a county, city, town, village, public authority, school district, or any other special or improvement district, but shall have no application to a city having a population of one million or more or to a county, school district, or other public agency or facility therein.
5. "Municipal Officer" means any officer or employee of a municipality, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the municipality. It also includes any entity that is directly or indirectly controlled by, or is under common control with, such officer or employee.
 - a. "Municipal Officer" shall not include:
 - i. A judge, justice, officer, or employee of the unified court system;
 - ii. A volunteer firefighter or civil defense volunteer, except a fire chief or assistant fire chief; or
 - iii. A member of an advisory board of the municipality if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the municipality or to restrict the authority of the municipality to act.
6. "Relative" means a spouse, domestic partner, child, step-child, sibling, or parent of the Municipal Officer, or a person claimed as a dependent on the Municipal Officer's latest individual state income tax return.
7. "Wind Farm Development" means any stage of past, present or future development or siting of wind farms, wind turbines, wind power and related facilities or wind power projects; whether considered planned, attempted or completed, including but not limited to permitting, licensing, construction and energy production.

[Note: Part VI containing Forms to be used has been omitted]

TOWN OF WHEATFIELD
County of Niagara
Office of Planning and Zoning Board
2800 Church Road
North Tonawanda, NY 14120

Phone: 694-6440

June 13, 2009

Niagara County Department of Planning, Development & Tourism
Attn. Benjamin Bidell, Senior Planner
Vantage Centre – Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132-9099

Subject: Niagara Communities Comprehensive Plan Comments – Town of Wheatfield

Good Morning Ben:

A Town Focus Group convened specifically to review the Niagara Communities Comprehensive Plan has completed its task with the following comments for your information and consideration:

- Executive Summary, page 9, third or fourth paragraph, states that large industrial uses and businesses should first consider locating in Niagara Falls, North Tonawanda, and Lockport because of available infrastructure. The areas of “first consideration” should be expanded to include existing industrial parks and industrial/commercially zoned areas that have been built to accommodate these large uses. ***Wheatfield has many areas, including existing industrial parks, which have all utilities available and are ready to accommodate large uses.***
- ***The above addition should also be made on Page 20 in Chapter VI.*** The same statement about large industrial uses is made in italicized type adjacent to a “guidepost” symbol.
- On page 55 in Chapter IV (the Wheatfield data chart), the ***Subdivision Regulations should show the latest update as 2007 instead of “in process”.***
- On page 13 in Chapter V, under Town of Wheatfield issues and challenges, lists “changes from open space to suburban uses and resulting increase in the need for infrastructure (sewer, etc.)”. ***Sanitary sewer or water should not be listed as needed infrastructure for the Town of Wheatfield. Essentially the entire Town has public sewer and water installed and ready for use.***

- Figure V.17 should ***show existing Wheatfield industrial parks as high development/redevelopment areas.***
- On page 7 in Chapter IX, under Upper River Communities Subregion, “primary issues and challenges”, safety of tourists in Wheatfield is listed. ***Why is safety of tourists in Wheatfield being listed as a challenge?***
- On the same page and section referenced in the bullet above, it is also states that “Wheatfield has no workable local emergency plan”. ***Wheatfield has a long-standing emergency plan that is currently undergoing revision and updating. The Focus Group participants include a Town Board member, County Sheriff department representative, and a federal government educated and experienced disaster preparedness officer. Estimated date of completion is October 2009.***

The Focus Group concluded that In general, the Niagara County Comprehensive Plan concentrates on increased collaboration, targeting development to utilize existing infrastructure, preserving Niagara County's farmland and natural resources, and stopping sprawl. However, the Focus Group hesitates, without anecdotal evidence, to agree that sprawl is an issue in Niagara County.

Ben should need additional input, pleas advice.

Sincerely,

Richard W. Muscatello, Chair
Planning & Zoning Board

CC: Town Board Members
Town Supervisor
Planning Board Members
Building Department
T. Walck, W-D Engineers
A. Reilly, W-D Engineers
G. Witul, Business Development Focus Group
J. Petrozzi, Economic Development Focus Group
K. Frieder, Agriculture Preservation Focus Group

Daniel M. Darragh
Direct Dial 412.297.4718

ddarragh@cohenlaw.com
Direct Fax 412.209.1940

June 15, 2009

Niagara Communities Comprehensive Plan
Attention: Clerk of the Legislature
Niagara County Legislature
175 Hawley Street
Lockport, NY 14094

Re: Niagara Communities Comprehensive Plan

Dear Clerk of the Legislature:

These comments are submitted on behalf of our client CWM Chemical Services, LLC ("CWM"). CWM is the owner and operator of the Model City industrial and hazardous waste treatment, storage and disposal facility, located in the Town of Porter, and identified in the draft Niagara Communities Comprehensive Plan 2030 (the "Plan") as the second largest employer in the Lower River Communities Subregion. CWM has reviewed the Plan, and it submits the following comments.

Sections V and IX of the Plan include summaries of various concerns and recommendations from "Stakeholders" in the Lower River Communities Subregion. One recommendation is that State and Federal agencies should implement the equitable geographic distribution contemplated by ECL 27-1105 and act consistent with policies contained in various resolutions adopted by the Niagara County Legislature by establishing a prohibition against the future development or expansion of any industrial and hazardous waste treatment, storage or disposal facility capacity in the County.

CWM disagrees with this recommendation for a number of reasons. While the Plan claims to include data and information received "from a broad cross-section of Stakeholders," the Stakeholder Group mailing list available on the Plan's website is most notable for its failure to include, with the sole exception for real estate developers/builders, any private businesses/employers, large or small, located within the County. As a result, it appears that the process for developing the Plan omitted one of the most important Stakeholder groups in the County. That failure not only results in the omission of the significant data and information that such Stakeholders might offer, the failure results in an imbalance in the process as well as in the output of the process because a very significant Stakeholder group's input and perspective is missing. The

future success of the Plan is dependent at least in part, upon the support of and investment by this critical Stakeholder group. Therefore, CWM recommends that appropriate steps be taken to include the commercial business/employer Stakeholder group in this planning process.

The recommendation completely misunderstands the existing State and Federal statutory and regulatory structure that governs the siting and permitting of new or expanded industrial hazardous waste management facilities, and it reflects a misunderstanding of the County and local municipal roles in that process.

ECL 27-1107 provides:

Notwithstanding any other provision of law, no municipality may, except as expressly authorized by this article or the board, require any approval, consent, permit, certificate or other condition, including conformity with local zoning or land use laws and ordinances, regarding the operation of a facility with respect to which a certificate hereunder has been granted...

Therefore, absent a change in State law, no municipal entity in the County, including the County, has any authority to ban a proposed capacity expansion at the Model City Facility.

Moreover, the Plan's reference to ECL 27-1105, as requiring an equitable distribution of hazardous waste management facilities throughout the State, is incorrect. Section 27-1105 contains the procedures to apply for, process, and issue a certificate of environmental safety and public necessity for a new or expanded hazardous waste management facility. Section 27-1105 does not make any reference to an equitable distribution of such facilities.

ECL 27-1102.2.f provides that the Statewide Hazardous Waste Facility Siting Plan, to be prepared by NYDEC, should include:

a determination of the number, size, type and location by area of the state of new or expanded industrial hazardous waste treatment, storage and disposal facilities which will be needed for the proper-long term management of hazardous waste consistent with the assurances required pursuant to subdivision one of this section and an equitable geographic distribution of facilities.

As provided in ECL 27-1102.1, the Statewide Hazardous Waste Facility Siting Plan is required "to assure the availability of industrial hazardous waste treatment, storage and disposal facilities" which have adequate capacity for the proper treatment and disposition of all hazardous wastes expected to be generated within New York over the next twenty years.

While the DEC has yet to adopt a Statewide Hazardous Waste Facility Siting Plan, it should be apparent that any such plan that complies with the capacity assurance requirements in § 27-1102.1 would need to include expanded capacity at the Model City Facility.

Moreover, denying the siting and permitting of a hazardous waste management facility on equitable geographic distribution grounds would be inconsistent with 40 CFR 271.4. That inconsistency could jeopardize the status of New York's hazardous waste management program as a Federal RCRA delegated program.

Thus, to be consistent with State and Federal law, the Plan should recognize that the Model City Facility has and will continue to play a role in meeting New York's and other States' hazardous waste management needs, and the Plan should recommend that the County take a leadership role in fostering a more open and cooperative relationship between the Model City Facility and the various municipal and other constituencies in the County. As noted in the draft Plan, the Town of Porter contemplates having a continued cooperative working relationship with the Model City Facility.

Thank you for the opportunity to comment on the draft Plan.

Very truly yours,

COHEN & GRIGSBY, P.C.

By:

A handwritten signature in blue ink, appearing to read "Daniel M. Darragh", with a long horizontal flourish extending to the right.

Daniel M. Darragh

DMD:mlv

cc: Michael Mahar
John Skoutelas

1465779_2

1 STATE OF NEW YORK

2 COUNTY OF NIAGARA : CITY OF LOCKPORT

3 - - - - -

4 In the Matter of Public Hearing

5 On

6 THE DRAFT NIAGARA COUNTY COMMUNITIES

7 COMPREHENSIVE PLAN.

8 - - - - -

9
10
11 Public Hearing held at the Niagara County
12 Legislative Chambers, Courthouse, Lockport,
13 Niagara County, New York on the 16th day of
14 June, 2009, commencing at approximately
15 6:30 P.M.

16
17
18 APPEARANCES: RICHARD E. UPDEGROVE,
19 Legislator
Economic Development Committee

20
21
22 Mary Ellen Pembroke, Court Reporter
23 5430 Carleton Lake Drive, Lockport, NY 14094
(716)433-4178

1 MR. UPDEGROVE: Please take notice that in
2 accordance with General Municipal Law, Article
3 12-B, Section 239-d(6) the Niagara County
4 Legislature will conduct a public hearing on
5 the 16th day of June, 2009 at 6:30 P.M. in the
6 Legislature Chambers, Courthouse, 175 Hawley
7 Street, Lockport, for the purpose of hearing
8 public comments on the draft Niagara
9 Communities Comprehensive Plan.

10 The draft plan is available in all of the
11 public libraries in Niagara County and on-line
12 at www.niagaracounty.com/mapsreports.asp,
13 r-e-p-o-r-t-s--a-s-p.

14 And, prior to the public hearing I have a
15 statement regarding the Communities
16 Comprehensive Plan and some history regarding
17 that plan that we would like to read into the
18 record.

19 In 2006 the Niagara County Legislature
20 resolved to convene a process of long range
21 planning to identify and address priority
22 issues, challenges and needs across a wide
23 range of issues affecting Niagara County, its

1 communities and its residents and to identify
2 effective and efficient means for addressing
3 them. The county began a process of
4 comprehensive planning in 2007 following
5 execution of agreements with the New York State
6 Housing Trust Fund Corporation Office of
7 Community Renewal and the New York Department
8 of State Quality Communities Program for grant
9 funding for the project. Through May 2009 the
10 firm of Clough Harbour and Associates provided
11 professional planning services to the county in
12 conjunction with subconsultants Basile Baumann
13 Prost Cole Associates and Community Oriented
14 Geography and was responsible for authoring the
15 plan.

16 The planning process has endeavored to
17 address five overarching goals for the county:
18 encouraging desirable and appropriate growth
19 and development; strengthening the local
20 economy and improving the quality of life for
21 Niagara County residents; improving delivery of
22 services and prioritizing and coordinating
23 capital improvements.

1 The plan is organized around five focus
2 areas: land use and environment which includes
3 transportation; economic development; county
4 services; facilities and infrastructure;
5 education and public health and safety.

6 The plan recognizes, respects and unifies
7 existing planning efforts at the local, county
8 and regional level, all of which were reviewed
9 as part of the planning process and
10 incorporated into the plan in some way.
11 Niagara County's comprehensive plan is entitled
12 Niagara Communities Comprehensive Plan 2030 to
13 emphasize the importance of community
14 involvement in the planning process, to signify
15 the potential usefulness of the information in
16 the document to Niagara County communities and
17 to reflect the intended life span of the
18 document as a tool for assisting decision
19 making.

20 The community and public participation in
21 the planning process includes formation of a
22 Stakeholder Communities Steering Committee
23 comprised of representatives from

1 municipalities across the county. All
2 municipalities in the county were invited to
3 designate a community representative and an
4 alternate to sit on the committee. Eight
5 committee meetings were held over the course of
6 2008 which were attended by a broad
7 cross-section of stakeholders, including Plan
8 Steering Committee members, public agencies,
9 non-profit organizations and county residents,
10 among others. Four public information meetings
11 were also held over the course of 2008. The
12 2008 meetings helped to identify issues and
13 challenges and assets and opportunities
14 relative to the five focus areas of the plan
15 and this information was translated into goals
16 and objectives which were used as a basis for
17 strategies and recommendations in the plan.

18 The planning process also included six
19 community outreach meetings held in April 2009
20 following release of the first draft plan held
21 at the suggestion of various county
22 stakeholders. The purpose of the meetings was
23 to update the public on the planning process,

1 to make the planning process more accessible to
2 county residents and to garner feedback on the
3 first draft plan.

4 Comments received on the first draft plan
5 were incorporated into the final draft plan
6 which has been posted on the county's website.
7 Information will continue to be posted there as
8 it has been over the course of the project.
9 The plan is also available in all of the public
10 libraries in Niagara County.

11 The county has prepared a full
12 environmental assessment form for the project
13 in accordance with the New York State
14 Environmental Quality Review Act which is also
15 available on-line. The web address for the
16 Communities Comprehensive Plan is again,
17 Niagaracounty.com/comprehensiveplan.asp.

18 Niagara County has requested review and
19 recommendation on the comprehensive plan by the
20 local legislative bodies and planning boards of
21 each municipality in Niagara County and by the
22 Niagara County Planning Board in accordance
23 with the New York State General Municipal Law.

1 Tonight's public hearing is also being
2 held pursuant to New York State General
3 Municipal Law. Public comments on the plan
4 will be accepted by the Niagara County
5 Legislature through June 30, 2009 which must be
6 mailed in hard copy to Niagara Communities
7 Comprehensive Plan, attention Clerk of the
8 Legislature, Niagara County Legislature, 175
9 Hawley Street, Lockport, New York 14094.

10 The Niagara Communities Comprehensive Plan
11 2030 is intended as a guidance document and
12 informational tool for Niagara County and its
13 communities to use to assist decision making
14 over the next twenty years. The plan provides
15 direction on county policies including
16 allocation of resources and is intended as a
17 framework for future planning efforts involving
18 interdepartmental, intermunicipal and inter
19 organizational coordination and cooperation.

20 In addition to improved coordination
21 amongst stakeholders the plan is also expected
22 to yield significant grant funding for the
23 county. The plan does not commit Niagara

1 County, any municipality within the county or
2 any other stakeholder to undertake, approve, or
3 fund any specific action or actions at this
4 time. The plan provides a series of
5 recommendations only which can be used by the
6 county to establish policies towards achieving
7 goals and objectives identified in the plan.

8 With that having been said do any persons
9 in attendance have any comments regarding the
10 Niagara Communities Comprehensive Plan?

11 Please state your name and address before
12 you provide your feedback and comments. Thank
13 you.

14 MS. HARRIS: Yes, Mary Ellen Harris, 14
15 High Street, Lockport, New York.

16 Umm, I'm Mary Ellen Harris. I have my own
17 environmental consulting company which is only
18 been located in this area for two years but I
19 basically have thirty years of environmental
20 planning experience doing environmental impact
21 studies, helping companies and agencies get
22 through the environmental impact process.

23 Most of my experience has been done in the

1 Hudson Valley but I must say I take the process
2 seriously. Apparently this county does not.
3 It's probably more environmental lawyers down
4 there, that might be a reason for that. But, I
5 submitted comments in May which I would just
6 like briefly to go over with you and update
7 those.

8 I said that the statements are SEQRA in
9 compliance. This is a New York State
10 Environmental Quality Review Act. It says that
11 the comprehensive plan may be used as a generic
12 environmental impact statement.

13 That is not correct. An environmental
14 impact statement has to be a completely
15 separate document from any plan. In no way,
16 shape or form can this plan be used as a
17 generic environmental impact statement.

18 There is a lot of information in the
19 statement that could be used for that but it
20 would be probably considered deficient to be
21 considered a generic environmental impact
22 statement.

23 It also says no further environmental

1 reviews would be required for site specific and
2 that is incorrect. That would only be true if
3 adequate thresholds compatibility and
4 mitigation measures were identified in a GEIS.
5 A suitable plans are very general. Actual site
6 studies and further environmental reviews for
7 specific proposed activities will need to be
8 completed.

9 Now as a result of that and the new
10 version of the plan under SEQRA they do make a
11 statement that further environmental reviews
12 would be required for county and local actions.

13 Second point I brought up I said that the
14 SEQRA process must be closed out before the
15 county plan can be legally adopted.

16 Now I went through the schedule when I
17 submitted these comments in May. I said if you
18 did not have a generic environmental impact
19 statement available in May it would take
20 approximately three to four months to go
21 through that process because that requires
22 separate notices, separate reviews, separate
23 agency reviews, separate public hearings. I

1 would suspect on county plans I've seen you
2 usually have nine months to a year just getting
3 through the environmental impact review process
4 on a county plan. So, what was the follow-up
5 on this? Ah, a section has been added that
6 environmental assessment form has been made
7 which means to me that the county has not even
8 started on the environmental review process for
9 this.

10 Umm, if you really have closing date of
11 July 28th, it hasn't even started.

12 Well, the environmental assessment form
13 that is included which is available on-line
14 basically says there's no impact. I have never
15 seen such a bogus environmental assessment form
16 in my entire life. It's ridiculous and I
17 strongly urge the county to get an
18 environmental lawyer to review the passage of
19 this plan and the SEQRA process.

20 I would suggest that if the SEQRA process
21 really hasn't been started basically this
22 environmental assessment form says blah, blah,
23 blah, no problem. Well, I think the county is

1 likely to be sued if it does not take SEQRA
2 process seriously.

3 Now I would just like to mention there is
4 two points on this that there are specific
5 proposed actions in this plan that SEQRA would
6 have to address and certainly this is land use
7 changes. The county owns land. The county has
8 projects the county should be addressing. It
9 doesn't want to deal with all the cities and
10 towns are going to end up dealing with this
11 plan. It has to address the county. It says
12 under existing acreage, different land use
13 types, it says not applicable. It says after
14 the projects which would be after
15 implementation of this plan project held by
16 land crews type not applicable. That isn't
17 true.

18 I'm just going to mention in the land use
19 and environmental section there is twenty-two
20 million dollars of specific highway projects,
21 county projects, specific locations for which
22 you can determine how many acres would be
23 affected and what kind of acres would be

1 affected and what kind of environmental impact
2 it might have.

3 The other point is on the suitability rate
4 with all this criteria, all these plans for
5 areas for development, for redevelopment. What
6 has to be done, an environmental impact review
7 is to say these are guidelines that everybody
8 is supposed to use. If everybody uses these
9 guidelines and uses all these suitability
10 criteria you will find thousands and thousands
11 of acres could be affected and that can be
12 documented how many acres if these suitability
13 guidelines are followed would be developed or
14 would be changed in their land use.

15 There could be a loss of wetlands, a loss
16 of agricultural land. That's what an
17 environmental impact review is supposed to do.

18 So, I just want to urge you to get a
19 better analysis. Really take care of SEQRA
20 because, as you know, anykind of development
21 projects, that's how it gets stopped, the
22 SEQRA, and this county better start taking it
23 seriously.

1 Thank you.

2 MR. UPDEGROVE: Do we have any other
3 speakers, any other comments?

4 Ma'am, please state your name and address
5 for the record.

6 MS. HENS: Yes. Good evening. I'm Jerry
7 Hens at 5566 Irish Road, North Tonawanda right
8 here locally. I live in the Town of Pendleton.
9 I actually am a full-time commercial beekeeper.
10 I'm one of two organic honey producers in the
11 state. I also have been vice-president of the
12 Western New York Honey Producers Association
13 for the past consecutive years and I just
14 recently retired from them and when I'm not
15 with my own operation I'm functioning as the
16 bee specialist person for several cooperative
17 extension units including here in Niagara
18 County and I'm also involved with a lot of
19 different municipalities and other folks
20 handling matters dealing with pollination
21 insects locally.

22 My concern and comments in regards in
23 which to have some things, have you had in the

1 recommendations for the proposed master plan
2 that we're putting together since agriculture
3 is considered to be one of the most important
4 economic forces and means of development in
5 this county and future proposals directed for
6 agrotourism, ecotourism, wineries and other
7 aspects that have been stated in the report in
8 regards to agriculture?

9 I want to call to everyone's attention
10 that in order for us to continue to be not only
11 a leader here in New York State in stone proof
12 productions but also a lot of other fruits and
13 field crop production and acknowledge the fact
14 that we routinely rank somewhere between nine
15 and eleven nationally. New York State is a
16 honey producer, a major honey producing state
17 that thereby inclusion in this comprehensive
18 report referenced to and agriculture is a
19 important means of agriculture here in Niagara
20 County and for that to be possible standard to
21 continue since we have long legacies of
22 knowledge, years being successful of doing this
23 in the county as well as in New York State,

1 that consideration be given to the performance
2 of pollinating insect populations, where those
3 reside, the critical habitats they need for
4 nesting and forage areas and bait. Without
5 that we can't be successful in terms of fruit
6 production and there is absolutely no reference
7 to this in our comprehensive plan at this point
8 in time.

9 I have been through chapter by chapter,
10 particularly in chapter 2, 3 and 5 , all the
11 environmental portions and have put together
12 and in the process of finishing up a written
13 statement hoping to address those concerns
14 because when we talk environmental impact and
15 the fact that over fifty percent of our soils
16 and I believe that was one of the major
17 determinants followed with agriculture and
18 environmental impact concerns that we look at
19 also comprehensive assessment of the vegetation
20 that we have in the county, where it's located
21 and what eco systems are involved because we
22 just forget about all of this it's going to
23 have major economic impact for agriculture if

1 we disregard. So, I think it's very important
2 to go back and take a look at whether those
3 issues have been addressed adequately in the
4 proposed comments and answers.

5 I have some ideas of that since I'm out in
6 this environment everyday throughout the county
7 and throughout many other counties throughout
8 the state. I would like us to be a county that
9 is, takes this very seriously and becomes an
10 industry leader.

11 There are guidelines that we can be
12 following that other states, particularly out
13 in the Pacific Northwest are utilization that
14 put in their comprehensive land use planning
15 process and actually have a number of workable
16 suggestions that state and federal agencies
17 have been involved with for years including at
18 the county level and I think we can be doing
19 the same here and it needs to be included in
20 our plans and that's really my major concern
21 with it that the inclusion of reference to
22 pollination, insects, among bees, honey bees
23 even insect cells. The fact that we have so

1 much area of the county in hydranth and
2 wetlands related soil indicates certain types
3 of vegetation and eco systems and there is
4 really no reason they're in our present plan
5 and we need to be concerned about when we want
6 to develop all of these areas because they're
7 listed in our present report as either vacant
8 lands or open areas and the use of the term
9 green space is often in the report referenced
10 mainly towards recreational activities and golf
11 courses and the like and needs to be more
12 inclusively of these type of eco systems where
13 pollinating insects which leads to the
14 development of continuing successful
15 agriculture in the county.

16 So, I will be submitting a written report
17 before the end of the month and will have a lot
18 more specifically to address specific areas
19 within our present report and I appreciate your
20 consideration of the inclusion of my
21 recommendations.

22 Thank you.

23 MR. UPDEGROVE: Thank you.

1 Any other comments?

2 Again, public comments will continue to be
3 received by the Niagara County Legislature
4 through June 30, 2009. Again, please mail
5 those comments in hard copy to the Clerk of the
6 Legislature and although we have recorded all
7 comments and included those in the record
8 tonight I would certainly urge everyone who has
9 made comments to send a copy of those comments
10 again in hard copy to the Clerk of the
11 Legislature.

12 Anyone, any other comments?

13
14 (No response.)

15
16 MR. UPDEGROVE: In the absence of any
17 other comments we will close the public
18 hearing. Thank you.

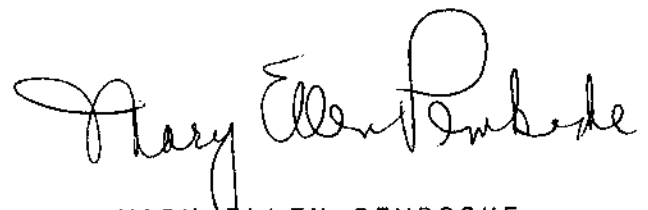
19
20 (Hearing concluded at approximately 7:00P.M.)

21
22 * * * * *

C E R T I F I C A T I O N

I, MARY ELLEN PEMBROKE, Court Reporter and Notary Public in and for the County of Niagara, New York, do hereby certify that I reported in machine shorthand the testimony in the above-styled cause; and that the foregoing pages were transcribed under my personal supervision and constitute a true record of the testimony in this proceeding.

In witness thereof, I have hereunto set my hand this 19th day of June, 2009.



MARY ELLEN PEMBROKE
Notary Public
State of New York
County of Niagara
Comm. Expires 9/30/10

HARRIS EnvEd

Mary Ellen Harris, PhD

Environmental and Educational Consulting

131 East Avenue, Suite 201
Lockport, NY 14094
Mailing: P.O. Box 852
Lockport, NY 14095-0852
Phone: 716-433-6052
Fax: 716-433-6053
Email: harenved@aol.com

June 26, 2009

Niagara Communities Comprehensive Plan
Attn: Clerk of the Legislature
Niagara County Legislature
175 Hawley Street
Lockport, NY 14094

RE: Comments on Draft Niagara Communities Comprehensive Plan

I'm submitting comments as a resident and property owner (104 High St.) and business owner in Lockport, NY. I'm submitting these comments on my business stationery to establish my professional credibility as a local environmental consultant with significant expertise in NEPA/SEQRA. However, no one has paid me to review or to comment on the plan.

I would like to bring your attention to issues regarding your section on **"SEQRA Compliance"** (Chpt. II, pp. 3-4):

1. The statements in the first paragraph on SEQRA compliance are incorrect. (a) The Comprehensive Plan **cannot** serve as a Generic Environmental Impact Statement (GEIS). A GEIS must be a complete and separate document from any plan. Sections of the Comprehensive Plan can be used for the GEIS, however, such as for "Environmental Setting and Existing Conditions." From my cursory review, I do not think the Comprehensive Plan document produced so far would satisfy the level of detail required in some sections of a GEIS. (b) No further environmental reviews would be required for subsequent site-specific county actions **only if** adequate thresholds, impacts and mitigation measures have been identified in the GEIS. The suitability analyses and maps for development or redevelopment of lands are very general. Actual site studies and further environmental reviews for specific proposed activities will still need to be completed and this should be stated.

2. The SEQRA review process **must be closed out** before the County can legally adopt the Comprehensive Plan. I have reviewed the NYSDEC's Environmental Notice Bulletin and have not seen any recent "Positive Declaration" to prepare a GEIS. If the County does not have a GEIS at this point, I suggest that the proposed deadline of adopting the plan on July 28 cannot be met. I would like to summarize for you the key SEQRA milestones that are required for a GEIS.
 - Positive Declaration—published in the NYSDEC Environmental Notice Bulletin, after which 60 days are allowed for agencies and the public to create draft and final scopes of the GEIS (i.e., a detailed outline of a document and issues that will satisfy SEQRA).
 - Draft GEIS—Once a draft GEIS is completed, the lead agency (the County) has 45 days to decide if the GEIS is ready for public review (internal adequacy determination—does the GEIS include all the topics required by SEQRA and scoped by the agencies and the public?). Once circulated, the public has a minimum of 30 days to review the GEIS and submit comments.
 - Public Hearing—There is usually a public hearing on the GEIS, which cannot be held until 15 days after the Notification of Hearing, and within 60 days after filing the Draft GEIS Notice of Completion in the NYSDEC Environmental Notice Bulletin.
 - Final GEIS—The final GEIS is prepared within 45 days after a hearing, or within 60 days after filing the Draft GEIS Notice of Completion. A Notice of Completion of the Final GEIS must be submitted.
 - Findings—A Findings Statement cannot be filed sooner than 10 days after the Notice of Completion of the Final GEIS, or within 30 days of the filing date.
3. The second paragraph on SEQRA Compliance, which is new since May, describes the preparation of a Full Environmental Assessment Form and basically negates the need for doing a GEIS. This conflicts with the first paragraph, which discusses a GEIS and a Findings Statement. The attached Environmental Assessment Form is blank in the section on "Determination of Significance." This indicates that the County **has not even started** the SEQRA process and **has not yet determined** what level of environmental review is needed. According to the SEQRA Guidelines, 6 NYCRR Part 617, Sect. 617.4, the adoption of a plan that could affect land use and resources is considered a Type 1 action, or an action for which an EIS is probably necessary. Even if the County decides to prepare only a Negative Declaration, there is a 30-day comment period on the Negative Declaration after it is officially and publicly noticed. If the County really intended to adopt a plan by July 28, staff/consultants should have thought about this and started preparing SEQRA compliance items months ago.

The following are issues related to the attached **Full Environmental Assessment Form**:

1. Part 1, Project Information, Description of the Proposed Action—The narrative states that the Plan does not commit the County or any municipality to any action as a result of this plan. This is misleading and highly debatable. However, should the County be really be emphasizing in several places in this EAF that it has produced a comprehensive plan that cost over \$215,000 **that does absolutely nothing?** Please explain this to the taxpayers.
2. Part 1, Project Information, Site Description—Item 2, under specified land uses, the current acreages are given as “NA” (not applicable) and a reference is given to the attachment for land use acreages. However, the land use types and acreages in the attachment **do not match** those listed in this item. A serious attempt must be made to determine the acreages in the County that match the categories, and these acreages should then be put on this list. Further, “after completion” acreages must also be estimated, i.e., should all the guidelines in the plan be followed (including the suitability for development and redevelopment area maps), what will the land uses and natural resource areas in the County look like by 2030? **This is the single-most important item for the environmental review for this plan.** It is the burden of the County to demonstrate that this plan will or will not result in significant land use or resource changes. Simply putting “NA” shows no effort at all in completing this EAF. Further, I have been told several times that this is not a land use plan (if it looks like a duck, walks like a duck, quacks like a duck, maybe it’s a duck?). I believe that the plan could result in substantial changes in land use.
3. Part 1, Project Information, Project Description—The County plan does address population changes within the County until the year 2030 and does specify the need for housing, improvements to the highways and transportation facilities, and the need for more County facilities. There are specific County projects identified, such as the \$22 million worth of highway projects listed in Chapter V, Page 35. The County should make some minimal attempt to specifically answer some, if not all, the questions in this section, at least for its own future activities.
4. Part 1, Planning and Zoning—Use of the guidelines in the plan (including the suitability for development and redevelopment area maps), as well as the recommendations made to local governments for subareas within the County, could result in land use changes and also an increased need for community services. This should be admitted somewhere in this section. Again, isn’t the whole point of this plan to show the “desired” makeup (population, jobs, services, land uses, and natural resources) of the County in 2030? The entire purpose of the EAF is to find sufficient cause to do a further environmental review, or that further review is not needed.

Recommendations:

1. I strongly urge the County to have an environmental attorney review the situation regarding SEQRA compliance. As I stated at the public hearing on June 16th, the County could easily be sued for adopting a plan without proper SEQRA compliance. By this I mean not following the SEQRA procedures, as well as an inadequate substance in the environmental review.
2. I suggest that you contact staff from other New York counties who have recently adopted comprehensive plans. Establish what levels of SEQRA compliance were completed in adoption of their plans. Perhaps you can find a good example to follow. Also, consult with the NYSDEC SEQR department staff.
3. Put the burden of this issue on your consultants--get a written statement from your consultants on SEQRA compliance in relation to this plan and make the consultants verify the adequacy of the environmental review documents they prepare **before** the plan is adopted. When it comes right down to it, William L. Ross (who signs and certifies the SEQRA documents for the Lead Agency) will be held solely responsible for any improprieties unless the role of the consultants is clearly established.
4. I recommend that the adoption of the plan be delayed to a date beyond July 28. The County has initiated the SEQRA process too late, even for processing a Negative Declaration. Should a GEIS be deemed necessary, six or more months would be needed.

Yours truly,

Mary Ellen Harris

Mary Ellen Harris, PhD
Principal, Harris EnvEd

CC: Benjamin J. Bidell
Gregory Lewis



*Environment is around us.
Education is within us.™*

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NIAGARA COUNTY

5566 Irish Road
North Tonawanda, NY 14120
716-625-9322
June 29, 2009

Niagara Communities Comprehensive Plan
Attn: Clerk of the Legislature
Niagara County Legislature
175 Hawley Street
Lockport, NY 14094

RE: Comments on the Draft Niagara Communities Comprehensive Plan

As a long-time resident and property owner (5566 Irish Road - Pendleton), a farmer/apiculture (Hens Honey Bee Farm), and a tenured outdoor educator, I serve as a "Bee Specialist" (volunteer basis) for Cornell Cooperative Extension - Niagara County and other counties/CCE Units located here in Western New York providing education to the public, growers, and beekeepers and assistance with swarm collection & relocation, and related issues pertaining to pollinating insects (especially honey bees, bumble bees, and native bees). For the past ten years (1999-2009), I was Vice President of Western New York Honey Producers' Association, and am a Pride of New York Honey Producer of Raw Organic NYS Native Wildflower & Tree Varietal Honey (for the past 20 years), and a member of both New York State Farm Bureau and the Niagara County Farm Bureau. I am requesting that the enclosed comments be included in the Niagara Communities Comprehensive Plan:

General Comments:

In my professional opinion, the Niagara Communities Comprehensive Plan is incomplete as stated (5/2009 draft and revised 6/2009 draft); the proposed Plan inadequately addresses/represents agriculture (in description/scope/economic impact/ agricultural resource inventory/acreage) as contained here in Niagara County, and it provides an incomplete picture of the importance agriculture contributes to the local economy here within Niagara County, and to the rest of New York State. For some unknown reason, apiculture was omitted in both Plan drafts. Apiculture (bees, honey production, and pollination) is essential for continued agricultural economic success (especially fruit, field crops, and livestock forage) in Niagara County. Apiculture occurs throughout the majority of the County - in both agricultural districts and significant acreage outside of the agricultural lands listed in the Plan. Apiculture and pollinating insects are found throughout the diverse ecosystems associated with wetlands, hydric soils, and associated vegetation, drainage basins for the Niagara River, Lake Ontario, the Tonawanda Creek and Erie Canal and other waterways throughout the County. The majority of Niagara County apiculture (bee forage and nesting habitats) is located on agricultural, vacant, and open space acreage, as well as in areas on/or adjacent to significant bird and wildlife areas of concern, Native American Reservations, areas including emergent/pioneer vegetation growth associated with forest ecosystems, and pastures. It should also be noted that New York State consistently ranks 9-11th nationally for honey production, and the pollination provided by apiculture and native pollinating insects contribute significantly to the Niagara County's agricultural economic success (apiculture, dairy, fruit, field crops, equine, and other types of agriculture). It is critical that Niagara County apiculture be included in the proposed Plan, and that its agricultural Impacts (honey production, bees, pollination, ecosystem/habitats & land use/acreage) be included in both the agricultural and environmental resource inventories' portion of the Plan.

The Niagara County Agricultural and Farmland Protection Plan (August 1999) is due to be updated sometime within the next year. I am requesting that Apiculture be included, and I am willing to volunteer to provide assistance to the Ag and Farmland Protection Board when the review and update of the 2009 Plan begins. A proper assessment of Niagara County Agricultural and Environmental Resource Inventories needs to be completed in order for an accurate report of Niagara County Agricultural

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NIAGARA COUNTY
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activities, economic impacts, acreage used, which categories of land use, and the associated ecosystems and habitats to be maintained/enhanced/ and/or preserved so as to ensure insect pollination is available for continued agricultural economic success here in Niagara County.

Secondly, the Niagara Communities Comprehensive Plan is incomplete as stated (5/2009 draft and revised 6/2009 draft) as it inadequately addresses and represents the Environmental Setting and Overview of Existing Conditions, Land Use and Environment, Inventories of Natural Resources, and Incomplete Listings of Ecosystems /Habitats/and Associated Flora & Fauna. The proposed Plan incompletely and inaccurately describes Agricultural, Vacant, and Open Space Lands as having little to no present significance except as areas in need of future development. This assumption and description is incorrect - the majority of Niagara County vacant and open space lands are presently being used for agricultural purposes including apiculture. These land categories provide the necessary habitats and ecosystems that support the production of pollinator insect forage (pollen and nectar) and nesting sites/bee colony locations. These are the pollinating insects that make it possible for Niagara County agriculture (fruit, field crops, dairy, livestock forage, honey production, and pollination) to continue being of best Counties in New York State for agricultural production, and to keep Niagara County's agricultural economy humming (thanks literally to our pollinating insects and their ecosystems). It is vital that pollinator insect (especially honey bee, bumble bee, native bees) habitat and forage, and their ecosystems remain intact and be enhanced, and their contributions and relationships with agriculture here in Niagara County be understood, and reflected in apiculture's inclusion in the Plan; The recognition of the importance of pollinating insects and their needs and activities must be represented in present and future natural resource inventory counts, designations of land use categories and land use decisions pertaining to environmental quality, GEIS and SEQRA reviews, agricultural land use and agricultural economic development plans and activities, the maintenance, preservation and enhancement of pollinating insect ecosystems/habitats pertaining to present and future proposed land development projects here in Niagara County.

Specific Comments:

Enclosed are specific comments and language to be included in the proposed Niagara Communities Comprehensive Plan:

Chapter II p.14: Refer to Agricultural Economic Development & Farmland Protection:

Issue: One or more local Towns (ie. Pendleton) may not/did not include agriculture as a category in their local Town Master Plan and farmers may not have been represented/involved in the actual development of the Town Master Plan. In Pendleton, agriculture was omitted and no Agriculture Committee was formed and farmers did not have a role in providing input directly to the Town Master Plan or in the components of the Plan. How many other Niagara County communities did similar actions? Why??? How many farmers were involved in the redistricting of Agricultural Districts and the related decisions, how were the decisions determined - by whom - do the decisions adequately represent the many forms of agriculture practiced here in Niagara County. Why wasn't apiculture represented at any of these Town and/or Agriculture District meetings or decisions about what to include in the each Town and the proposed County Plan.???

Regarding Niagara County Agriculture & Farmland Protection Plan (8/99) Plan does not presently reflect language (from a previous version that was updated to include language) pertaining to the inclusion of "apiculture" as an agricultural economic activity. Apiculture to include pollination, bees, and honey production. Since the majority of agricultural activities involve the need for insect pollination in order to produce fruits, nuts, seeds, or berries including livestock forage - agriculture requires pollinating insects and apiculture to produce its products for human food and livestock/poultry forage uses.

New York State ranks annually 9-11th nationally for honey production and Niagara County is an important honey producing and pollination County here in New York.

Chapter III Environmental Overview and Setting:

Need to add language to include categories for forestry, open space, critical areas of ecosystems and habitats as they relate to pollinating insects. Niagara County includes several critical floral and faunal ecosystems and habitats vital to the health of pollinating insects especially for honey bees, bumble bees, and native bees. These ecosystems provide both forage (pollen and nectar) and nesting sites for colonies. These insect populations and their health have direct agricultural economic impacts on numerous agricultural activities and local businesses.

For the purposes of the state environmental review processes (ie. SEQRA, there are many more and quite specific categories of environmental importance that should be identified.

Chapter III p. 16:

2) Agricultural Land:

1st paragraph: Needs to include language recognizing the importance of “apiculture” (pollination, bees, and honey production). Niagara County is an important honey-producing County here in New York State. New York State annually ranks 9-11th nationally for honey production. The health of pollinating insect ecosystems and habitats are vital for the continued success of Niagara County agriculture including fruit production, field crops, dairy and livestock forage, honey production, and Pollination.

Chapter III p. 17 & 18: Vacant Land

This land category also includes habitat for pollinating insects including honey bees (forage and colony nesting sites) essential for agricultural success here in Niagara County including fruit production Field crops, dairy and livestock forage, honey production, and pollination.

Chapter V p. 2-3:

2nd paragraph and related:

Needs to include language “apiculture” (pollination, bees, and honey production) as essential agricultural activity to be maintained and enhanced as part of efforts directed towards agricultural economic development.

Loss of farmlands and vacant lands, and continued zoning law and regulation changes, and land use planning decisions for increased residential, commercial, and industrial development purposes adversely impacts pollinating insect (honey bees, bumble bees, native bees) health, forage, and nesting colony sites and their ecosystems/habitats - will result in adverse consequences for Niagara County agricultural economic success (especially as it relates to apiculture, fruit, field crops, and livestock forage).

Chapter V p. 5:

Paragraph 4:

Needs to include language “apiculture” as a essential contributor activity to Niagara County agriculture economic development. Apiculture provides pollination, bees, and honey production. Niagara County apiculture impacts directly the success of other types of agriculture (fruit production, field crops, livestock forage, as well as pollination and honey production). It is absolutely essential that Niagara County natural resources, critical habitats and ecosystems be maintained and enhanced for pollinating insects (especially honey bees, bumble bees, and native bees) so that agriculture can continue to be productive and successful.

Chapter V p. 7-14 Issues and Opportunities

For each sub grouping/district:

There needs to be language recognizing the importance of agriculture and apiculture:

Specifically, language discussing the importance of maintaining and enhancing pollinating insect Ecosystems and habitats for honey bees, bumble bees, and native bees and their forage and colony Nesting sites. Failure to address these concerns will likely result in adverse health consequences To these insect populations, and will have detrimental effects on local agriculture success and Economic success.

Chapter VI p. 10:

Add language: Apiculture and the maintenance and enhancement of pollinating ecosystems/habitats Are vital to the continued success of agriculture, and the development of agritourism opportunities. Environmental quality and sustainability play a critical role in determining the health of and the Ability of local agricultural to be a leader here in Nee York State, and beyond.

Finally, it is absolutely essential that Niagara County natural resources be maintained and enhanced To ensure the continued health of pollinating insects and their ecosystems/habitats, that the health And character of vacant lands, agricultural lands, and open spaces be preserved where possible, and Priority be given to the importance of pollinating insect health when decisions be undertaken regarding Future land use decisions and proposed dvelopments here in Niagara County if Niagara County Is to remain an agricultural industry leader for fruit and honey production, livestock and dairy , and Pollination.

If I can be of further assistance regarding apiculture issues , agriculture, and land use issues, Please don't hesitate to contact me at (716) 625-9322.



Geri Hens
Hens Honey Bee Farm



Raw Organic NYS Native Honey
-Wildflower & Tree Varietals

Geri Hens
Hens Honey Bee Farm
(716) 625-9322
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Organic Apiculture Consulting
Educational Presentations
Swarm Collection



COMMENTS ON *NIAGARA COMMUNITIES COMPREHENSIVE PLAN 2030*
FROM NIAGARA COUNTY COMMUNITY COLLEGE
JUNE 30, 2009

Chapter VIII

Page 2

These data are 3 years old already. Is there no way to get more updated information than the 2006-07 school year?

Page 3

Why no enrollment for schools on bottom of Table VIII-3? There is no mention in text for the N/A notation in the chart.

The chart shows the enrollment for 2006-07 but not the capacity. How do we know how “full” these schools are?

Page 4

Line 5 in first paragraph should say State University of New York at Buffalo, not in Buffalo.

Please revise the NCCC paragraph as follows:

Niagara County Community College

Niagara County Community College was established in the city of Niagara Falls in 1962 as a locally sponsored college supervised by the State University of New York. The present campus was constructed in 1973 on 267 acres located in Sanborn, at Saunders Settlement Road (Route 31) and Townline Road (Route 429) in the Town of Cambria. The College offers over 60 programs of study and includes nine buildings including administration, a student center, a library, two gyms, and several academic buildings including a science center and fine arts, humanities and social sciences, and business classrooms. In August 2008, Village College Suites was opened to provide on-campus housing for approximately 300 students. Total full and part-time enrollment at the College is approximately 7,000 students in credit programs, and another 7,500 students enrolled in workforce and community education programs.

Page 5

Please revise the NCCC paragraph as follows:

Niagara County Community College

NCCC’s Division of Workforce and Community Development provides an umbrella of educational services for youth and adults in the Niagara region. Available in a variety of formats, programs include: foundational instruction, life skills, employment readiness,

vocational training, career development, professional preparation, testing, and technology education.

Workshops, as well as short-term and long-term training sessions, assist students in developing computer skills and directs students to entry into a certificate or a college program; immediate employment; or immediate employment with continuing education to obtain a certificate or an academic degree. The focus is determined by student need and desire.

The department's case manager works closely with students to identify their interests and skill levels, appropriate options, and available resources for funding. As students become involved in programs, the case manager will continue to help students throughout their experience.

Collaboration with several government and neighborhood organizations means students get more resources to help achieve lifelong goals. The department is also one of the WorkSource One-Stop Partners, a cluster of more than 10 groups working together to provide coordinated delivery of employment services to businesses and job seekers.

At the Career Education and Counseling Center, based at the Trott ACCESS Center, staff members focus on foundational instruction and job-readiness training. Preparation and testing for TABE and COMPASS are also provided.

NCCC participates in the College Acceleration Program (CAP) which is an articulation between NCCC and area high schools that provides over 1,200 students with the opportunity to obtain college credit while still enrolled in high school. Seniors and highly qualified juniors are eligible to be part of the program. The college-level courses are taught at the high school. By taking advantage of this opportunity, students are able to gain college credit while in high school and provide for a smoother transition to college.

Workforce and Community Development programs and services are always being evaluated and updated to provide students with the current information and skills students need to discover and enjoy lifelong learning. In addition to the Sanborn campus, offices are located at NCCC's Niagara Falls Extension Site, and at the Corporate and Business Development Center in Lockport, N.Y.

Page 10

"Federal" is missing from the legend for Figure VIII-3.

Page 11

Line 4 in paragraph 2: There is a missing end parenthesis around "\$24.7 million".

Page 24

Apparently none of these are being funded through ARRA unless through county support. Should this list still remain in the report?