

# Village of Williamsville Local Waterfront Revitalization Program Waterfront Advisory Committee Meeting Summary

**Date of Meeting:** January 22, 2020

**Meeting Time:** 6:00 PM

**Meeting Location:** Williamsville Village Hall

**Attendees:**

<input type="checkbox"/>	Nick Roth	<input checked="" type="checkbox"/>	Noel Bartlo
<input type="checkbox"/>	Maggie Winship	<input checked="" type="checkbox"/>	Judy Kindron
<input checked="" type="checkbox"/>	Ben Vilonen	<input type="checkbox"/>	Deb Rogers
<input checked="" type="checkbox"/>	Peter Warn	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Keaton DePriest	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Sheryl Davies	<input checked="" type="checkbox"/>	Wendy Salvati, WWS Planning
<input type="checkbox"/>	Jane Vohwinkel	<input checked="" type="checkbox"/>	Jeanne Beiter, Buffalo Niagara Waterkeeper
<input type="checkbox"/>	Marisa Riggi	<input type="checkbox"/>	Emma Phillips, C&S

General

Tim Boyle will be removed from the Waterfront Advisory Committee as he has indicated that he does not have time to participate. As Joel Bernosky has taken a new job out of state, Jeanne Beiter is replacing him as the Project Team representative for the Buffalo Niagara Waterkeeper.

Inventory Follow Up

Wendy Salvati continued discussion of items that were carried over from the last meeting, as follows:

- Since the last meeting, Maggie met with Basil Piazza to discuss the dam. Wendy was also provided a copy of the Dyson agreement, which is a NY Supreme Court judgement that guarantees riparian rights for property owners on the west branch of Ellicott Creek (west of Island Park). Wendy said that Peter Warn had also provided her with contact information for the Williamsville Historical Society to learn more about the history of the dam and Nick Roth sent her other historic information related to Lang’s Brewery. Keaton also said that he would provide Wendy with a copy of the map and resolution for the only conservation easement that exists along Ellicott Creek.
- There was extensive discussion about the dam, as Wendy stated that she is trying to get her arms around this issue so she can finish revisions to the inventory and move on. The Villages obligation to

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control flooding was questioned; is it viable to take the dam out and is there any obligation on the part of the Village to manage/maintain the structure? It was noted that the dam was installed in 1929 and pedestrian access was cut off in 2008. Ben Vilonen said that the dam is considered as “low hazard”; if it collapsed there would be limited downstream hazard. He said that there are no inspection or reporting requirements on the part of the Village, and no need to provide the NYSDEC with an Emergency Action Plan. He also said that the Army Corps. of Engineers is not involved with the dam. Wendy said that she would contact the NYSDEC to ascertain the status of the dam.

- The importance of maintaining flow around Island Park (particularly in the west channel) was noted, as well as the importance of maintaining the park itself as a public amenity.
  
- Wendy discussed the provisions of the NYS Supreme Court Decision (formerly referred to as the Dyson Agreement because Stephen Dyson sent a letter to the Village Mayor on April 9 2009 demanding action as required per the court judgment on April 3, 1929 – see attachment to the meeting summary).

The 1929 court judgment specifically required:

- The Village to pay the plaintiffs in the matter (Edward Jacobi and Philip Kleinn) incidental damages in the amount of \$100 and \$1,005.50, with interest, for the recovery of costs for land damages;
- The Village to restore the banks, bed and channel of Ellicott Creek to its former condition, position and water level, as it existed before these features were disturbed to create an inlet for Unit No. 1 of the flood control system; and
- The Village to desist, cease and refrain from obstructing, changing or interfering with the natural banks, bed and channel, water level and flow of Ellicott Creek, after restoration noted above.

The Court issued a stay on the mandatory injunctive relief granted under the judgment based on the following conditions:

- The Village pay the aforementioned damages and recovery costs within 60 days, giving them the right to maintain and operate the flood abatement system, including Unit No. 1, as constructed, and the right to divert, by operation of the system a volume of water, not to exceed 267,000 gallons of water per day;
- The Village maintain their system for flood control in good state of repair so that the diversion, by reason of the operation of the system, shall not exceed 267,000 gallons per day, except when Unit No. 1 and its gates are in operation to relieve actual flood conditions;
- The Village shall have the right to open the flood gates of Unit No. 1 for purpose, only, of relieving actual flood conditions, and the gates shall be closed and made reasonably watertight as soon as the flood subsides; and
- The Village, may proceed, by condemnation, to acquire the rights of the plaintiffs by written notice served upon the plaintiffs or their attorneys within 60 days after the entry of the judgment.

The judgment has some additional conditions, but this is the gist of it. It is unknown if the Village ever complied with these requirements and conditions, but clearly the submittal of Mr. Dyson’s letter is an

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indication that the dam operation was/is not in keeping with the court's decision. Furthermore, compliance with the water diversion requirements is not being done.

- In light of the seriousness of the court decision, and its implications on dam operation and control of spring flooding, as well as the fact that the dam is not in working order to enable the Village to comply with the conditions of the judgment, discussion turned to how to remedy the matter. The possibility of removing the dam (rather than reconstructing it) and installing a proper weir further upstream/south of Island Park, was discussed and is considered a feasible and more cost-effective means of controlling flow and flooding in Ellicott Creek. The Village really cannot afford to rebuild the dam. Both weirs also need to be reconstructed and made functional again. Before the dam can be removed, there is a need to undertake a comprehensive hydrologic study to fully understand all the issues (flow, flooding, erosion, water rights, recreational use of the upper portion of the creek, etc.). Wendy noted that Maggie indicated that the Village is negotiating a contract with C&S Companies to do a hydro analysis of the dam, but she did not believe that this contract involved a comprehensive study of the creek. Questions were asked about how far north such a study should go (into the Town of Amherst) as there is no flooding below the falls. The study must also evaluate conditions in the Lehn Springs area to address water levels (and lack thereof) in this area. An older (around 2000) Buffalo News article was mentioned about a pending study by the Army Corps. to examine flooding and erosion from Lehn Springs to Glen Falls. Jeanne Beiter said that she would reach out to the Corps. to determine if the study was done and if there are any materials available about it. Jeanne will also contact Erie County regarding the Niagara River Priorities List and Ellicott Creek.

### Policy discussion

Wendy had previously provided the Committee with a revised copy of the policies that was based on the DOS version of the 44 inland policies that were provided for use in the Williamsville LWRP. At the meeting in December, Wendy review policies 1 through 18; comments previously provided by Jane Vohwinkel were also discussed. Thereafter, Wendy updated the policy draft to reflect comments gathered at the meeting. and sent it to the Committee for continued discussed at tonight's meeting.

Policies 19 through 44 were reviewed and comments/adjustments were made to a number of policies. Wendy will make these changes to the file and send the Committee a final draft of the policies prior to the next committee meeting for review and finalization. Committee members are encouraged to finish reading through the draft policies so that any final comments can be gathered at the February meeting.

### Next Steps/Action Items

Waterfront Advisory Committee members who attended the January meeting are reminded to **record their time** for meeting participation, as well as review of materials prior to the meeting.

- Prepare and distribute the WAC committee meeting summary.
- Provide the WAC members with a copy of the Dyson agreement documentation.

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- Wendy will provide a copy of the revised policies based on current comments for final review.
- Wendy to contact NYSDEC regarding the Island Park dam.
- Jeanne Beiter to investigate Army Corps. study of Ellicott Creek and contact Erie County.
- Wendy to revise draft Section II Inventory and Analysis to reflect the information gathered about the dam and the need to comprehensively study the creek. Revised Section II will be placed in the project Drop Box for Committee review and access.

The next WAC meeting will be held on February 26, 2020, at 6:00 at Village Hall. This meeting will include final discussion on the inventory and policies and commencement of discussion on proposed project for Section IV of the LWRP.

Meeting adjourned at 8:00 pm.

Respectfully Submitted,

*Wendy Weber Salvati*