

Pilot Community - Town of Newfane

LWRP Monitoring Report

June 2010

Community Background:

The Town of Newfane is located in Western New York State and is one of the twelve towns of Niagara County. The geographic setting of Niagara County significantly contributes to the importance and success of agriculture in the region. Areas of Niagara County, including the Town of Newfane, continue to be very significant fruit-growing areas largely due to the combined effects of productive soils for farming, relatively flat agricultural lands and a climate that is tempered and moderated by the presence of Lake Ontario and the Niagara Escarpment. The County ranks 4th in the State in fruit growing agriculture. The Town is experiencing a “boom” in local vineyards/wineries and breweries, enhancing agri tourism opportunities and building on the success of the Niagara Wine Trail – the fastest growing wine trail in the State.

The Town’s local waterfront revitalization area encompasses more than 1,900 acres, and represents approximately 6.0% of the Town’s overall surface area. Principal water resources in the Town’s waterfront area include Lake Ontario, Eighteen Mile Creek, Keg Creek and Hopkins Creek, and have a total shoreline length of over 60 miles – 6.5 miles along Lake Ontario, 24.6 miles total for both banks of Eighteen Mile Creek, 13.3 miles total for both banks of the Keg Creek, and 15.7 miles total for both banks of Hopkins Creek.

Eighteen Mile Creek, a major lake tributary draining 93 square miles of land from Lockport to Lake Ontario, crosses the Town for more than 12 miles before discharging into Lake Ontario at Olcott Harbor. Keg Creek flows towards the lake through the eastern side of the Town for approximately 6.6 miles; while Hopkins Creek flows towards the lake through the western portion of the Town, for more than 7.5 miles. These resources provide valuable aquatic and terrestrial habitats and ecosystems, tourism and recreational opportunities and economic development opportunities. Since 1987, the portion of Eighteen Mile Creek extending one and one-half miles from the NY Route 18 Bridge to the Burt Dam was designated by the State as a Significant Coastal Fish and Wildlife Habitat.

The confluence of Lake Ontario and Eighteen Mile Creek has created a natural harbor for marine and fishing access and, as a result, the Hamlet of Olcott Beach is the area of concentrated coastal activity for both land and water uses.

Newfane’s economy and heritage have long been associated with freshwater fishing and boating activities conducted at the mouth of Eighteen Mile Creek, in Olcott Harbor, and a multiple number of fishing derbies and tournaments are held here each year. Olcott Harbor is the only deepwater port and critical safe harbor for vessels along the southern shore of Lake



Olcott Harbor, Town of Newfane

Ontario, between the Niagara River and City of Rochester. The entrance is protected by two Federal piers maintained by the U.S. Army Corps of Engineers.

Olcott Harbor and the Town of Newfane Marina is a popular boater destination in the spring, summer and fall. The U.S. Coast Guard and NYS Police Marine Detail conduct boating patrols through the harbor area. U.S. Customs and Border Protection maintain a videophone check-in point for boaters from Canada/ international waters. The Niagara County Sheriff's Department Marine Division and the Olcott Volunteer Fire Department maintain boating stations here, as well.

Currently, when fishing events are held in Olcott Harbor, the existing marina facilities and area's services are insufficient to meet the demand of the thousands of attending anglers. Demand for boat slips and other docking facilities exceeds supply, pushing boaters to use slips at other harbors (*Source: 2009 Niagara County Comprehensive Plan*). Expansion and improvement of the marine facilities could boost the number of boaters attending seasonal events in Olcott and could have a positive impact on the local economy.

Much of the shoreline of Lake Ontario and Eighteen Mile Creek is lined with steep bluffs that significantly impair access and development.

Collaborations with Department of State:

Since completion of its Local Waterfront Revitalization Program (LWRP) in 1997, the Town has methodically worked to advance its implementation. The focus of these efforts has involved the expansion of the marine related facilities and services at the Town of Newfane Marina, Olcott Harbor, located in the Hamlet of Olcott Beach. The LWRP has also provided a plan and direction for appropriate commercial development and fishing opportunities along Eighteen Mile Creek.

In the Town of Newfane, six grants totaling more than \$425,000 – funded through the State's Title 11 Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) – have been awarded to the Town. An initial grant of \$15,000, provided in 1994, helped to prepare the LWRP. Subsequent EPF LWRP grant awards have been instrumental in improving the Town of Newfane Marina for boaters and visitors and increase public safety in Olcott Harbor and Lake Ontario, and have made a positive impact on the local economy and quality of life. (See attached chart: Grants Awarded - Title 11 Environmental Protection Fund Local Waterfront Revitalization Program, Town of Newfane.)



EPF LWRP-funded restroom/shower facility at Newfane Marina

LWRP Monitoring Process:

The goal of the monitoring process is for the Department of State, Division of Coastal Resources (DCR), to assess a community's consistency with its LWRP, and to understand implementation activities and decision-making procedures related to the LWRP. Secondly, this process provides a forum for a community to highlight successes, and request technical and financial assistance for program implementation.

The DCR began the Town of Newfane's LWRP monitoring process by sending a letter to the Town Supervisor, stating the Town had been selected to participate in LWRP monitoring. A list of survey questions was attached. The letter provided information relating to what the process would involve – indicating that a conference call would take place between DCR representatives and key municipal officials to answer the (survey) questions; a follow-up site visit/meeting would be arranged to review the responses provided in the survey; and, following the site visit, DCR would prepare a written assessment of findings to identify areas of improvement, training, or need for LWRP amendments.

The conference call took place (January 26, 2010) for the purpose of discussing the Town's answers to the survey questions. The Town was well prepared and provided the details necessary for the DCR to make its assessment. Participants from the Town were: Tim Horanburg, Town Supervisor; and, Brian Sibiga, Town Engineer (on retainer, Wendel Duchscherer Architects & Engineers, PC).

As a follow-up to the call, DCR staff traveled to Newfane (May 17, 2010) to meet with Town representatives at the Newfane Town Hall - including Tim Horanburg, Town Supervisor; and Laura Rutland, Town Council Member. As part of the meeting, the Town described the relevancy of its LWRP, its use, and where the Town stood in its implementation. A discussion of the Town's current EPF LWRP grants and related requirements also occurred. The meeting provided DCR with an opportunity to more fully assess the Town's implementation of the LWRP, clarify several items discussed during the survey call, and address concerns expressed by the Town with regard to fulfilling grant obligations. The meeting concluded with a tour of the waterfront, including a stop and conversation with Dawn Wilson, Marina Director, at the Town of Newfane Marina.

DCR Findings:

Overview

Overall, the *Town of Newfane Local Waterfront Revitalization Program (LWRP)* is the key document that guides waterfront development/revitalization and funding of projects in the Town. The Town's zoning ordinance plays a key role in implementing the LWRP, and contains key procedures to be utilized in LWRP review/approval, including:

- Review and permit approval of all development within the coastal area.
- Identification of acceptable and unacceptable uses (water-related) and procedures for abandonment, or compulsory termination of non-conforming uses/structures.

- Incorporation of floodplain and environmental (SEQR) review procedures as part of the developmental control process.
- Administration procedures and site plan review that provide for minimum data requirements, coordination of engineering/planning reviews of actions and establish review procedures for coastal actions that include the Town Board, Planning Board, Zoning Board of Appeals and an enforcement officer (Building Inspector).
- The various functions will be modified to include coastal consistency and coordination of waterfront plans/projects with development and the entire Newfane administrative process.

Since adopting its LWRP in 1997, zoning corresponding to the waterfront area has been amended; affecting the marine business and residential area, i.e., a portion of the Residential R6 was rezoned as Marine Business. The Town has also adopted wind energy legislation, providing guidelines to regulate wind farm proposals.

Through implementation of its LWRP, Newfane has improved the Town Marina and boater and pedestrian access to the lakeshore. These improvements provide a balance of employment opportunities and other economic benefits as well as public access for recreation and tourism. Many of the completed LWRP implementation projects have been done using EPF LWRP funds, in partnership with the DCR. (See attached chart.)

During the tour with the Town Supervisor and Councilwoman, several waterfront issues were highlighted with regard to problems of high costs associated with marina dredging and sediment testing, shoreline/foreshore ownership and the condition of the properties, along with inherent health and safety concerns. In one instance, public access to a federal pier is limited by what appears to be refuse from the neighboring property owner's defunct business. Additionally, the Town has an abandoned, dilapidated pier adjacent to Olcott Beach, commonly known as the Hotel Pier, which has become partially submerged and is a hazard to navigators and swimmers. Ownership of the pier remains is questionable and, having exhausted local means to address these issues, the Town requested assistance from DCR to find appropriate and amicable solutions. These issues impact commercial and recreation boaters, commercial and sport fishermen, and local and regional economies.



Existing condition: Impeded public access to federal pier

The federal pier is intended to provide public access, but a portion of it has been allowed to be privatized, eliminating or restricting access beyond that point and drastically reducing its usefulness and appeal to boaters and other users. The DCR intends to pursue this issue with the US Army Corps of Engineers.

LWRP Implementation

Newfane's vision concentrated on the Olcott Beach area and ways to accommodate the needed range of uses for future development. The LWRP has provided the Town with a programmatic vehicle for focusing on its waterfront resources and planning for development.

The Town of Newfane Zoning Ordinance, amended during the preparation of the LWRP, is an important element in the implementation of the LWRP. No LWRP implementation actions involving new or modified existing physical facilities can be undertaken without meeting the requirements of the zoning ordinance.

The Town has completed all of the proposed projects recommended in the LWRP over the course of the last thirteen years. The work was done in stages based on the availability of State and federal funds to accomplish the projects. Of significance to note - the Town has remained committed to the LWRP and implementation projects because the local program was developed with strong community support and stakeholder participation from the beginning. Although the Town has been successful in obtaining implementation grants through Title 11 of the Environmental Protection Fund Local Waterfront Revitalization Program, the Town expressed frustration and difficulty with the volume of paperwork required to be filed for a project, and the exactness needed to complete the form(s).

The Town should consider preparing a comprehensive amendment to its LWRP to reflect existing and diverse conditions within the waterfront area that have become more important to the local economy, e.g., wineries and breweries, wind energy, and fisheries. The amended LWRP would provide an updated strategy for the Town's waterfront area, identify new revitalization projects and implementation techniques, address current conflicting land and water uses, and reflect all new zoning and land use laws that affect the waterfront area. The amended LWRP would also include a harbor management plan to address problems of conflict, congestion and competition for space in the use of Olcott Harbor, surface waters and underwater lands.

LWRP Document Accessibility

Paper copies of the document are kept in the Town Clerk's office. The document is available for review to anyone who makes a request. Each member of the Town Planning Board and Zoning Board of Appeals has a copy of the LWRP. The Town does not have the document on its website. An electronic copy of the LWRP is available on the DOS website: <http://www.dos.ny.gov/opd/> .

The designated LWRP official is the Town Clerk.

Local Consistency Review

Town agencies, local officials and the public are aware of the LWRP and the consistency requirements associated with it. The LWRP has been instrumental in protecting the Town's waterfront resources, and there have not been any projects that did not align with the LWRP and its policies. The Town uses its LWRP as a guideline and standard base for discussions for all waterfront actions.

The purpose of the Town of Newfane Consistency Review Law is to provide a framework for agencies of the Town to consider the policies and purposes contained in the LWRP when reviewing applications for

actions or direct agency actions located in the Coastal Area; and to assure such actions are consistent with those policies and purposes. "Actions" are defined as either Type I or unlisted actions (SEQR regulations, 6NYCRR part 617); "direct actions" include those actions planned and proposed for implementation by a Town agency, such as, but not limited to capital projects, promulgation of rules, regulations, laws, codes or ordinances and policy making which commits an agency or the Town to a course of action.

As part of the Town's local consistency process, applicant(s) or, in the case of direct actions, the Town agency proposing to undertake the action refers the action and all pertinent information to the Planning Board or Zoning Board of Appeals (ZBA), as appropriate, for review and recommendations regarding the action's consistency with the policies and purposes of the LWRP. Review of the proposed action's consistency and preparation of written recommendations to the referring Town agency are to be completed within thirty (30) days of a complete referral. The Town's Marina Advisory Committee also reviews projects. No work or activity on a project in the Coastal Area that is subject to review under this law shall be commenced or undertaken until the Building Inspector and/or Code Enforcement Officer has been presented with a written determination from the Planning Board or ZBA that the action is consistent with the LWRP policy standards and conditions.

Town representatives mentioned the need to document all reviewed decisions, which presently is not done. Town representatives suspect that not all actions subject to consistency review have actually been going through local consistency review. Currently, only a couple of projects are reviewed, each year.

Grants Awarded			
Title 11 Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP)			
Town of Newfane			
Year	Amount of Grant	Project Description	Status
1994	\$15,000.00	LWRP Completion - The project involved the preparation of a Local Waterfront Revitalization Program (LWRP) pursuant to the provisions of NYS Executive Law, Article 42.	Closed
1996	\$50,000.00	Town Marina/Boat Launch Improvements - The project involved reconstruction of four existing launch ramps at the Town Marina, including: removal of the existing floating docks, dewatering the ramp site, removal of the existing ramp surface and stone base, regarding, construction of a new stone base, installation of a cast-in-place concrete ramp, and reinstallation of the existing floating docks.	Closed
1997	\$46,000.00	Town Marina and Eighteen Mile Creek Access - The project provided boater and pedestrian access improvements along the Eighteen Mile Creek corridor within the hamlet of Olcott. Project elements included: replacement of 300 linear feet of deteriorated public docks and construction of an administrative building at the Town Marina; replacement of a deteriorated public access way at the upstream Burt Dam site; and preparation of an engineering plan to address stabilization of the pedestrian access way along the Eighteen Mile Creek corridor, which had experienced severe erosion.	Closed
2004	\$150,000.00	Renovation of Olcott Harbor Marina - The Town renovated the electrical system and other amenities at the 6.3 acre, Town-owned marina at Olcott Harbor. Work included installation of 52 power pedestals and new electrical wiring, construction of a new, ADA-compliant restroom/shower facility, and conversion of an existing restroom facility into office space for use by safety and harbor patrol personnel.	Closed
2006	\$130,000.00	Construction of Olcott Harbor Boater Amenities - The Olcott Harbor Renovation Project included construction of a new restroom/shower facility to serve marina users, and renovation of the existing restroom/shower facility for use by emergency management personnel.	Closed

Grants Awarded
Title 11 Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP)
Town of Newfane

Year	Amount of Grant	Project Description	Status
2007	\$34,125.00	Town Marina at Olcott Improvements - The Town of Newfane will implement its LWRP by constructing improvements to the Olcott Harbor Overlook, located along the eastern shore of Eighteen Mile Creek. Work will include construction of a new platform, railings, stairs, site work, and signage, and installation of a pressure washing station at the Town Marina, located on the western shore of the Harbor.	Underway