

# Town of Penfield LWRP Monitoring Report June 2011

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## **Community Background:**

The Town of Penfield is situated along the eastern and southern shores of Irondequoit Bay in Monroe County, NY. One of the largest coastal bays of Lake Ontario, Irondequoit Bay is approximately 1,680 acres in size and is bounded by three towns - Penfield, Irondequoit, and Webster. The bay is surrounded by steep embankments along the east and west shores and large wetland areas at the shallower south end. Residents and tourists use the bay for various recreational activities including boating, fishing, water skiing, sailing and winter sports. The Irondequoit Bay and Creek is also a very important ecological community – the entire bay, the large emergent wetland area at the south end of the bay, and approximately seven miles of the Irondequoit Creek have been designated by NYS under the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (NYS Executive Law Article 42) as a Significant Coastal Fish & Wildlife Habitat.

The Town of Penfield enjoys approximately two miles of shoreline, much of which is undeveloped due to inaccessibility and use as county-owned parkland. Penfield is considered a suburb of the City of Rochester, New York's third largest city by population. Penfield is predominately a residential community, rural in character, and lacks a traditional town center. Commercial uses are spread through six business districts, one of which – the LaSalle's Landing Development District – is located adjacent to the bay.

Penfield adopted its LWRP in 1991. The LWRP focused on increasing public access, protecting natural resources, and encouraging appropriate development. Due to increased recreation use of the bay, the three towns surrounding the bay subsequently collaborated to develop the Irondequoit Bay Harbor Management Plan (IBHMP) to govern surface water use and ensure development occurs without impacting natural resources. In 2008, each town adopted identical Harbor Management Laws to implement the surface water use plan set forth in the IBHMP.



***Irondequoit Bay – looking north from Penfield to Lake Ontario.***

## Collaborations with Department of State:

Since completion of its Local Waterfront Revitalization Program (LWRP) in 1991, the Town has worked to advance its implementation. The focus of these efforts has involved the expansion of public access to the waterfront and natural resource protection. The LWRP has also provided direction for appropriate commercial and residential development, as well as relocation of non-conforming uses out of the waterfront revitalization area.

The Town of Penfield has been awarded five (5) Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) grants totaling \$378,000 (See attached chart: Grants Awarded - Title 11 Environmental Protection Fund Local Waterfront Revitalization Program, Town of Penfield.)



Through these grant awards, several planning and construction projects have been completed including design and construction of LaSalle's Landing Park and boardwalk, Irondequoit Creek erosion abatement, LaSalle's Landing Drainage Control and Surface Runoff Plan, and an update of the town's LWRP. The three towns surrounding the bay also collaboratively worked with the DOS to develop the Irondequoit Bay Harbor Management Plan (IBHMP). This project was funded through a EPF LWRP grant award administered by the Town of Irondequoit.

## LWRP Monitoring Process:

The goal of the monitoring process is for the Department of State 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 DOS began the Town of Penfield'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 DOS 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, DOS would prepare a written assessment of findings to identify areas of improvement, training, or need for LWRP amendments.

The conference call to discuss the town's answers to the survey questions was informative and provided the details necessary for the DOS to make its assessment. Participants from the town were Tony LaFountain, the Town Supervisor, and Jim Costello, the Director of Department of Developmental Services.

As a follow-up to the call, DOS staff traveled to Penfield to meet with Director of Department of Developmental Services and the planning consultant preparing the LWRP update. The town described

how the LWRP is used and how the town intends to continue its implementation. The town intends to focus on expansion of LaSalle's Landing Park as its highest priority. Opportunities to address the need for traffic calming measures in the LaSalle's Landing business district and inhibiting private marina expansion along the southern shoreline in the LWRP update was discussed in detail. The meeting concluded with a tour of the waterfront, including stops at Abraham Lincoln Park, LaSalle's Landing Park, and the LaSalle's Landing business district.

## **DCR Findings:**

### **Overview**

Overall, the Town of Penfield Local Waterfront Revitalization Program is the key document that guides waterfront development. The LWRP and the resulting implementing regulations have been instrumental in eliminating non-conforming uses from the waterfront and improving public access. Since the LWRP adoption, several non-conforming uses have relocated outside of the waterfront area including a waste disposal facility, an auto sale and repair business, and a construction company. The town is working with the owners of few remaining non-conforming uses to relocate or lessen visual impacts of these operations on the waterfront area.

Through implementation of its LWRP, Penfield has expanded public access and protected significant natural resources. Public access has been expanded through the development of a new waterfront park, as well as through public access easements on new commercial developments within the LaSalle's Landing Development District. The creation of Environmental Protection Overlay Districts which supplement zoning regulations has provided protection for the bay's significant fish and wildlife habitat.

As the town's LWRP is almost twenty years old, it has become outdated and needs to be revised to reflect the town's adoption of local laws, zoning amendments, and the Irondequoit Bay Harbor Management Law. With DOS technical assistance and EPF LWRP funding, the town is currently preparing an LWRP update. The LWRP update will also identify the next generation of waterfront revitalization projects.

Although the town has been successful in the past obtaining implementation grants through Title 11 of the EPF Local Waterfront Revitalization Program, the town indicated that the 50% local match required under the grant program may prove to be a significant impediment to applying to the program in the future.

### **LWRP Implementation**

In order to implement the 1991 LWRP, Penfield made two significant alterations to its zoning code – creation of the Waterfront Development District (WD) along the southern shore of the bay and Environmental Protection Overlay Districts (EPOD) are in effect town wide.

The WD was designed to provide a suitable character and stable environment for the establishment and maintenance of water-oriented uses and activities along the shoreline of Irondequoit Bay as well as to protect unique and sensitive environmental features. The WD permitted multi-family, residential,

hotels, retail sales, restaurants, parks, fishing piers, playgrounds, and beaches. The regulations include permit review criteria to be used in reviewing certain proposed developments, as well as additional site design standard and site environmental factors to be used in reviewing all proposed development plans in the district. The permit review criteria and site design considerations were intended to ensure the protection of important scenic vistas and environmental features.

The EPODs were established to provide special controls over land development located in sensitive environmental areas. The town established five EPODs which are intended to provide additional protections for wetlands, steep slopes, floodplains, watercourses, and woodlands. These regulations contained in each EPOD are not intend to be substituted for other general zoning district provisions, but can be superimposed over such district provisions and are considered as additional requirements to be met by the applicant or developer prior to project approval. An EPOD development permit is required prior to the commencement of any regulated activity or the issuance of any building permit for regulated development in a designated environmental protection overlay district within the Town of Penfield.

In 1997, the Town of Penfield joined with the neighboring Town of Irondequoit to prepare the LaSalle's Landing Development Plan, in anticipation of new development opportunities likely to be generated within this area as a result of the extension of sanitary sewer service in 1996. This inter-municipal plan was intended to provide guidance for development of those lands located along the south shoreline of Irondequoit Bay and fronting along a portion of Empire Boulevard, and establishes a prescribed course of action for future land use, zoning amendments, the creation of an overall architectural theme for development and the investment of public funds for capital improvements within the area.

As a result of this plan both towns adopted a new identical waterfront zoning district – the LaSalle's Landing Development District (LLD) which replaced the Waterfront Development District. The purpose of the LLD is to provide a suitable character and stable environment for the establishment and maintenance of water-oriented and/or water-enhanced uses and activities along the shore line of Irondequoit Bay and its adjacent wetlands. The LLD requires public access be provided along the waterfront portion of project sites as a part of all site development approvals along the south shoreline of Irondequoit Bay. All redevelopment will also be sited so as to preserve, to the greatest extent practical the scenic vistas and visual access to the Bay.

In response to strong development pressure to develop high density/ high rise housing along the Irondequoit Bay, the town also created the Conservation Residential District (CR-2) along the Bay's eastern shoreline. The purpose of the Conservation Residential District is to limit development so as to preserve and protect the unique and sensitive features that characterize the areas of the Town adjacent to Irondequoit Bay. In order to achieve this purpose, residential uses are only permitted at very low densities.

These zoning changes will be included in the town's LWRP update.

#### LaSalle's Landing Drainage Control and Surface Runoff Project

This project involved preparation of a detailed drainage control and construction plan for surface runoff associated with waterfront development along the south end of Irondequoit Bay in the Towns of

Penfield and Irondequoit. The Plan includes creation of a detailed basin drainage report, construction details for identified drainage infrastructural needs/improvements, recommendations for siting of groundwater recharge facilities, and solutions for discharging treated surface runoff before it enters Irondequoit Bay and Irondequoit Creek.

#### LaSalle's Landing Park and boardwalk

To meet the community's goal of improving waterfront access the town constructed a new public park along the southern shore of Irondequoit Bay. The project was completed with two (Environmental Protection Fund) EPF grant awards, one through the NYS Department of State and the other through the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP). Park facilities include a small boat launch, fishing access, bird and waterfowl viewing, interpretative signage, and parking. In efforts to expand the park, the town recently purchased 2.5 acres of adjacent land. The town intends to create a master plan for the expanded park and future amenities.



***Fishing access at LaSalle's Landing Park***

#### Irondequoit Creek Erosion Abatement Project

To protect water quality and fish and wildlife habitat, the town received EPF LWRP funding for an erosion abatement project to address a severe erosion problem along the banks of the Irondequoit Creek. The erosion site was identified as a major contributor of silt into the Irondequoit Creek and Bay leading to degradation water quality and habitat impairment. The project resulted in design and construction of installation of geotextile and limestone boulders along approximately 350 feet of streambank to provide bank stability and allow for establishment of native grasses and shrubs. The stabilization project was also intended to provide protection for several businesses located at the top of the slope.

#### Irondequoit Bay Coordinating Committee (IBCC)

The Irondequoit Bay Coordinating Committee (IBCC) was established in 1985 as an advisory committee through an inter-municipal agreement between the towns of Irondequoit, Penfield and Webster and the County of Monroe.

The IBCC's mission is to coordinate among various levels of government with an interest in the Irondequoit Bay, all levels of public and private use of the area, and to develop, recommend and monitor, related policies. The IBCC's goal is to promote recreational and economic opportunities on Irondequoit Bay while protecting and maintaining environmental quality.

#### Irondequoit Bay Technical Staff (IBTS)

The Irondequoit Bay Technical Staff (IBTS) is a subcommittee of the IBCC. Membership is made up of representatives from the towns of Irondequoit, Penfield and Webster, Monroe County Planning and Development, Monroe County Health Department, New York State Department of Environmental

Conservation, Monroe County Soil and Water Conservation District, New York State Department of State, Environmental Management Council, and the Monroe County Water Quality Coordinating Committee. The IBTS meets monthly to review proposed projects located around the Bay and offer comments and recommendations to the permit-issuing agency for their consideration.

#### Irondequoit Bay Harbor Management Plan

With increasing use of the Irondequoit Bay, the need to plan for surface water use became apparent. The three towns surrounding the Bay, with funding and technical assistance from the DOS, worked collaboratively to develop the Irondequoit Bay Harbor Management Plan (IBHMP) to aid in the planning and regulation of water use activity in intensely-used waterfront areas. The Harbor Management Plan was completed in 2003. In 2008, each town passed a Harbor Management Law to implement the IBHMP and establish standards, requirements and procedures for the environmental protection of the Irondequoit Bay sensitive natural areas and resources; improve and protect its water quality for desired uses which emphasize a healthy aquatic ecosystem; ensure that development around the Bay occurs without impacting significant resources (e.g. environmental, historical, archeological, aesthetic features); regulate the operation of vessels and matters relevant to navigation and safety; minimize and resolve water surface use conflicts and conflicts among all users and stakeholders of the Bay; and, improve public access to diverse recreational opportunities on the Bay and make it an integral part of local and regional tourism development efforts.

#### LWRP Update

As the town's LWRP is over twenty years old, it was in need of updating to reflect the town's adoption of local laws, zoning amendments, and the Irondequoit Bay Harbor Management Law. With EPF LWRP funding and DOS technical assistance, the town is currently preparing an LWRP update and anticipates adopting the LWRP update in 2012. The LWRP update refines the community vision for the waterfront and also identifies the next generation of revitalization projects. The LWRP amendment will be essential in ensuring public access and appropriate development as the town continues redevelopment of LaSalle's Landing business district.

#### **LWRP Document Accessibility**

Paper copies of the LWRP are kept at the town clerk's office, town library, and with the town Director of Developmental Services, and are accessible during normal business hours. An electronic copy of the LWRP is available on the DOS website: <http://www.dos.ny.gov/opd/>. Once the LWRP has been updated, it will be available in electronic format on the village website: <http://www.penfield.org/>.

#### **Local Consistency Review**

The Penfield Waterfront Consistency Review Law was adopted on July 3, 1991 to provide a framework for agencies of the Town of Penfield to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct actions are consistent with the said policies and purposes.

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 including a completed Coastal Assessment Form (CAF) to the Authorized Official for review and recommendations regarding the action's consistency with the policies and purposes of the LWRP. The Authorized Official shall render a written recommendation within thirty (30) days following the CAF referral. The recommendation shall indicate whether, in the opinion of the Authorized Official, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion. The Authorized official shall, along with the consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with the LWRP policy standards and conditions or to greater advance them.

If the Authorized Official's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Authorized Official's recommendation. No work or activity on a project in the Coastal Area which is subject to review under this law shall be commenced or undertaken until the Authorized Official has been presented with a written determination from an agency that the action is consistent with the Town's LWRP policy standards and conditions.

Within the town's Waterfront Consistency Review Law, the Authorized Official is defined as a person or persons employed by the Town of Penfield so designated to perform those duties of enforcing the provisions of the Waterfront Consistency Review Law. Currently, the Director of Developmental Services or Department of Planning staff acts as the Authorized Official, making consistency recommendations to either the Town Board if the action is within the LaSalle's Landing Development District (LLD), or the Planning Board for areas outside the LLD.

While no significant problems have been encountered relative to the consistency review process, the Waterfront Consistency Review Law will be updated as part of the town's LWRP update to ensure the local consistency process is clear.

The Town Board, Planning Board, and Town Departments of Planning and Developmental Services staff are familiar with the LWRP and associated consistency requirements. The consistency process also seems to be well understood by local consultants/engineering firms who are more familiar with working in communities with approved LWRPs.

However, the process is not well understood by private citizens proposing actions. When a private citizen is considering an action in the coastal zone, the Director of Developmental Services thoroughly explains the consistency process to the applicant to help ensure understanding. If during this meeting the Director feels the proposed action will not be consistent with the LWRP, the Director will discuss with the applicant why the action might not be consistent and how it could be modified to make it consistent with the LWRP. In most cases, the applicant usually modifies the project or chooses not to move forward with the project.

The town reviews approximately three to five local consistency applications a year. Completed CAF and consistency determinations are kept on file along with other forms and documents pertaining to the

proposed project. The town feels the LWRP has been an effective tool for protecting waterfront resources and ensuring proposed development will advance the town’s waterfront vision.

<b>Grants Awarded Title 11 Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) Town of Penfield</b>			
<b>Year</b>	<b>Amount of Grant</b>	<b>Project Description</b>	<b>Status</b>
2006	\$60,000.00	Planning for Irondequoit Bay LWRP Updates - The Town of Penfield, in collaboration with the Towns of Irondequoit and Webster and the Irondequoit Bay Coordinating Committee, will revise and update the Local Waterfront Revitalization Programs for these communities and their Irondequoit Bay waterfronts. This work will reflect the adoption of the towns' respective local laws, zoning amendments and the new multi-town Harbor Management Law, developed as part of intermunicipal harbor management planning.	Underway
2001	\$80,000.00	LaSalle's Landing Boardwalk and Walk Park Development - The Town will develop a public park in the LaSalle's Landing Development District on the southern shore of Irondequoit Bay. This phase of the project will include site works, park development and parking.	Closed
2001 GLR	\$200,000.00	Irondequoit Creek Erosion Abatement - The Town will implement streambank stabilization measures at the worst erosion site on Irondequoit Creek, a major tributary to Irondequoit Bay and the only Coho salmon spawning stream on south shore of Lake.	Closed
1996	\$20,000.00	Drainage Control Plan - This project involves preparation of a detailed drainage control and construction plan for surface runoff associated with waterfront development along the south end of Irondequoit Bay in the Towns of Irondequoit and Penfield. The Plan includes creation of a detailed basin drainage report, construction details for identified drainage infrastructural needs/improvements, recommendations for siting of one or more groundwater recharge facilities, and solutions for discharging the treated surface runoff before it enters Irondequoit Bay and Irondequoit Creek. The project also entails identification of interim actions that can be taken to protect the quality of surface water discharges, the identification of construction materials, costs, and responsibilities for installing needed improvements.	Closed
1995	\$18,000.00	Trail Linking Various Sites - The Towns of Irondequoit and Penfield are jointly engaged in this boardwalk design project. The Town of Penfield will	Closed

		<p>administer the grant through its Building and Planning Services Department. The Towns propose to hire an engineering consultant(s) to prepare design plans and specifications for development of a 560 linear foot boardwalk to be constructed along the southern shoreline of Irondequoit Bay. Much of the boardwalk will be constructed within the right-of-way of NYS Route 404 (Empire Boulevard) and will connect to a sidewalk proposed to be constructed by potential private developers on adjoining properties. As part of the design, consideration must be given to the geotechnical issues associated with this area, as the boardwalk will be constructed within the mudflats of Irondequoit Bay. Thus, the design of the boardwalk will also include the services of a geotechnical engineering firm to verify the most appropriate location to install the boardwalk.</p>	
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