

Niagara University attorneys request DEC suspend asphalt plant permit review

Neighboring communities voice opposition

BY MICHAEL DEPIETRO
Tribune Editor

While there was virtually no discussion of the highly contested asphalt facility planned for 4660 Witmer Road during Wednesday night's Town of Niagara Board meeting, it was very much still being discussed elsewhere.

On April 12, the Town of Lewiston passed a resolution affirming its opposition to the facility. The resolution opposed the construction of the plant due to its proximity with the town's border, and to "support the opposition expressed by Niagara University, neighboring residents and other stakeholders in the area."

The resolution noted the Lewiston Town Board "has an obligation to preserve and defend against issues pertaining to the quality of life of all its residents," and the municipality "had not been previously consulted to provide any input or comment with respect to that asphalt plant."

Councilman John Jacoby, who authored the resolution, said the Town Board "believes that the construction of such an asphalt plant would have a negative im-

pact on the quality of life for the residents of the Town of Lewiston, the Niagara University community and other stakeholders in the area."

The City of Niagara Falls also passed a resolution on April 14 affirming its opposition to the facility. Certified copies of this resolution were then sent to the New York State Department of Environmental Conservation (relative to its request for public comment) as well as to the Town of Niagara supervisor, the chairman of the Niagara County Legislature, the Niagara County Planning Board, Congressman Brian Higgins, New York State Sen. Robert Ort and Assemblyman Angelo Morinello.

Morinello issued a statement this week opposing the site's location.

"It is abundantly clear that a project such as this should not be conducted in any proximity to our residences, Niagara University, or the Niagara Gorge, which we have spent years working to clean up and protect," he wrote. I am proud of the public advocacy and community support to rescind

this permit, and I will always work to protect our communities and the natural beauty of the 145th District."

Perhaps the most noteworthy development related to the project was when attorney Stephen D. Daly of Lippes Mathias Wexler Friedman LLP, who represents Niagara University, sent a letter dated April 13 to DEC Regional Permit Administrator David S. Denk requesting the agency suspend the applicant on behalf of 4660 Witmer Rd. LLC's air permit.

The letter cited a number of reasons for the request, including the general uncertainty surrounding the project and the fact the Town of Niagara Board voted last week to rescind all of its previous approvals for the project.

The letter also posits the project is incompatible with the town's zoning code: "The project is located in the Town of Niagara's Heavy Industrial ('HI') zoning district. In addition to allowable uses in Light Industrial districts (which do not apply to the project), the Town Code authorizes uses under certain enumerated 'classifications from the Standard Industrial Clas-

sification [SIC] Manual' in the HI district. Town of Niagara Code § 245-26(A). The Developer's March 30th supplement to its Application indicates that the site's proposed use is characterized by SIC Code 2951, 'Asphalt Paving Mixtures and Blocks.' This is not one of the listed classifications permitted in the HI district under the Town's Code. Nor is it one of the types of uses that is eligible for a special use permit. Id. § 245-26(C). The University has raised this serious zoning issue with the Town of Niagara and expects that it will be an important part of the Town's reconsideration of the proposed project."

The letter also questions whether the developer submitted a "complete" application to NYSDEC: "It is our understanding that the Developer did not provide the SIC or NAICS codes to NYSDEC until March 30, 2021, nearly a month into the public comment period that commenced on March 3, 2021. In light of this oversight, NYSDEC should suspend the public comment period and confirm that the application is in fact now complete. At the very least, the Developer will need to revise

its Application to reflect the fact that the Town of Niagara has rescinded all of its approvals for the project. See 6 CRR-NY 621.3(a)(6) (stating that an application 'must include' a statement of the status of approval and SEQR review from any other agency or government')."

The letter concludes by requesting that, if the DEC decides not to suspend the permit outright, it should extend the public comment period until July 2: "Without an extension until at least July, the public will be forced to comment on the Application before the Town of Niagara, the Town of Lewiston, and Niagara County will have completed their respective reviews of the project. Thus, members of the public will not have the benefit of knowing when they comment, for example, how the Town of Niagara will address the project's various zoning incompatibilities."

Since the Town of Niagara rescinded its previous approvals for the project, the applicant will now head before the Niagara County Planning Board on Monday, May 17.

Nancy Price Memorial 5K returns with live & virtual racing in Youngstown

SUBMITTED BY MICHELLE DEUTSCHMAN

Village of Youngstown Recreation

We missed seeing everyone for our 2020 Nancy Price Memorial 5K Race, but our community continued to support our event in a very big way. As things are continuing to open up and improve for all of us, the Nancy Price Memorial 5K Run will be run live this year as well as continuing to offer the option of running a virtual race.

On May 8, runners and walkers can join us at 10 a.m. at the Youngstown Volunteer Firehall at 625 Third St. There will also be a children's one-half mile run that starts at 9:30 a.m.

Online registrations are available up until the day of the race, as paper applications will not be used this year.

The in-person race will follow the same path that has been used in previous years through the Village of Youngstown and into Fort Niagara State Park. There will not



be water stations along the route, but all runners will receive a grab-and-go participation bag, which will include snacks and bottled water.

If you can't make the race on May 8, you can still support our scholarship efforts by selecting our virtual race option and participating any time before the end of May. Virtual participants can choose to use the free "It's Your Race Virtual" app to track and score their run. You will also be able to manually enter your fin-

ish time directly to the IYR results page starting May 1 and ending May 31.

Unfortunately, we cannot host our after-race party due to restrictions, but we are truly looking forward to seeing all of you again!

The proceeds from this race support the Nancy Price Scholar-

ship, which is presented to one or more seniors from Lew-Port High School who have been active in the Youngstown Recreation programs and participate in community volunteering.

The first 100 race registrants (virtual or in person) will receive a T-shirt. You may register online at nancyprice.itsyourrace.com or go to racemanagementsolutions.com and click on the Nancy Price 5K race link. The fee for participating in the race is \$20 for those aged 19 and up, \$15 for 18 and under until May 6. The increases \$5 after that date.

The Youngstown Recreation Commission also wishes to recognize and thank our major sponsors so far for the 2021 race. Included are: major sponsor DiMino's Lew-

iston Tops; gold sponsor Modern Corporation; silver sponsors the Kiwanis Club of Lewiston and Fox Fences; and bronze sponsors Victoria's Hair Salon, Dan & Lucy Wilson Realty, Steve's Heating and Cooling and the Youngstown Village Diner.

The Nancy Price Memorial 5K has been taking place since 1993 in Youngstown, originally as a River Run. In 1995, the race and a local scholarship were dedicated to the memory Nancy Price, a director of Youngstown Recreation for 20 years, who died after a long battle with cancer.

Even though the race this year continues to be different from the usual, we hope to have the support of the community and runners/walkers this year.

A Smarter Way to Power Your Home.

Power your home, save money and be prepared for utility power outages with the PWRcell, a solar + battery storage system.

REQUEST A FREE QUOTE!

ACT NOW TO RECEIVE A \$300 SPECIAL OFFER!*

1 (855) 506-5630

SO DOWN FINANCING OPTIONS! **

*Offer value when purchased at retail. **Financing available through authorized Generac partners. Solar panels sold separately.



SAVE THE DATE

10 Mile Garage Sale 2021

**Friday, July 9 • Saturday, July 10
Sunday, July 11**

**Town of Lewiston - Village of Lewiston - Ransomville
Town of Porter - Sanborn - Youngstown**

**CHECK OUR WEBSITE WNPAPERS.COM AND
WATCH OUR PAPERS FOR DETAILS**



NIAGARA FRONTIER PUBLICATIONS
wnypapers.com