



## **VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES AGENDA**

**MEETING DATE:** AUGUST 16, 2022

**AGENDA ITEM SECTION:** DISCUSSION AND RESOLUTION ITEMS

**AGENDA ITEM NO. :** 14

**DEPARTMENT:** LEGAL

**AGENDA ITEM:**

**DISCUSSION:** TO CONSIDER AUTHORIZING THE VILLAGE ADMINISTRATOR TO EXECUTE AN IMA WITH WESTCHESTER COUNTY REGARDING PARTICIPATION IN THE STORM WATER MANAGEMENT LAW FUNDING PROGRAM FOR THE PIETRO PLACE AND VIRGINIA AVENUE INFRASTRUCTURE STUDIES

**RESOLUTION:** CONSIDER A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO EXECUTE AN IMA WITH WESTCHESTER COUNTY REGARDING PARTICIPATION IN THE STORM WATER MANAGEMENT LAW FUNDING PROGRAM FOR THE PIETRO PLACE AND VIRGINIA AVENUE INFRASTRUCTURE STUDIES

**ITEM BACKUP DOCUMENTATION:**

1. DRAFT RESOLUTION
2. MEMORANDUM DATED AUGUST 12, 2022 FROM MS. LORI LEE DISKSON, ESQ./ATTORNEY FOR THE VILLAGE TO MAYOR ROSSILLO AND THE BOARD OF TRUSTEES
3. DEVELOPMENT AND PLANNING STANDARDS – COUNTY STORM WATER GRANTS



**VILLAGE OF DOBBS FERRY**  
112 Main Street  
Dobbs Ferry, New York 10522  
TEL: (914) 231-8500 • FAX: (914) 693-3470

**RESOLUTION -2022**

**RESOLUTION OF THE VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES TO  
AUTHORIZE VILLAGE ADMINISTRATOR TO EXECUTE IMA WITH WESTCHESTER  
COUNTY REGARDING PARTICIPATION IN SWML FUNDING PROGRAM**

**WHEREAS**, in response to serious flooding issues throughout Westchester County, in 2011 the County of Westchester enacted the Westchester County Storm Water Management Law ("SWML") which enables the County to partner with municipalities to address storm water management through flood mitigation in an effort to protect County-owned and/or managed infrastructure, assets and property, including the protection of County bridges, sanitary sewer and/or stormwater pipes, and County parkland and other municipal and private property; and

**WHEREAS**, in accordance with instructions, the Village of Dobbs Ferry applied for SWML Program Phase I funding representing the potential for up to 50% toward the costs for the preparation of detailed engineering, design, specification and construction documents for flood mitigation and/or flood damage reduction projects, up to \$210,500; and

**WHEREAS**, the Village has been notified that the County Board of Legislators has now approved the SWML funding for the identified project and the parties proceed to execution of an agreement.

**THEREFORE, BE IT**

**RESOLVED**, that, the Dobbs Ferry Board of Trustees hereby authorizes the Village Administrator to execute an Agreement with the County of Westchester, in form and substance acceptable to the Village Attorney, to memorialize the terms and conditions for the Village's participation in the Storm Water Management Law program for the facilitation and use of Phase I Funding toward the Village-identified project known as the "Pietro Place and Virginia Avenue Flood Study"; and be it further

**RESOLVED**, that, in accordance with the terms of the Agreement, the Village Board also acknowledges the obligation within one year from execution of the Agreement to ensure compliance with the "Development and Planning Standards of the Westchester County Flood Action Task Force" as referenced in the Agreement as "Flood Mitigation Policies" and authorizes any and all action to be undertaken in furtherance of meeting this obligation.



**McCarthy  
Fingar LLP**  
Counselors at Law

**MEMO**

711 Westchester Avenue, Suite 405  
White Plains, NY 10604

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**TO:** Mayor and Trustees of the Village of Dobbs Ferry  
**cc:** Melissa Ferraro, Jeff Chuhta, Anthony Oliveri, Valerie Monastra

**FROM:** Lori Lee Dickson, Esq.

**RE:** Agenda Item – Agreement with the County of Westchester  
to Facilitate Flood Mitigation Grant Funding

**DATE:** August 12, 2022

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The County Board of Legislators has approved the Village's application for grant funding in connection with reimbursement of costs for the project known as "Pietro Place and Virginia Avenue Flood Study" (the "Project"). The next step is execution of an agreement with the County to facilitate the grant funding.

The County has agreed to reimburse the Village 50% of the total cost of the Project, up to \$210,500. The Village is obligated for the remaining 50%. If the total eligible project costs are less than \$210,500, the County will be responsible for 50% of the lesser amount. The Village is responsible for all costs of the Project that exceed the County's 50% contribution.

Additionally, the payment of County funds under this Agreement for the Project is contingent upon the Village confirming adoption of or taking action to adopt certain enumerated "Flood Mitigation Policies" for incorporation among the Village's land use regulations, guidelines and policies. Compliance is required within one year from execution of the Agreement. Ms. Monastra and I will coordinate to assure that the Village undertakes the necessary steps to meet this obligation.



## **DEVELOPMENT AND PLANNING STANDARDS OF THE WESTCHESTER COUNTY FLOOD ACTION TASK FORCE**

Flooding frequency and, in some cases, intensity, in Westchester County has increased over time, in part due to the conversion of permeable and water-absorbing land surfaces, like woodlands, meadows and wetlands, to impermeable surfaces, like parking lots, roads and buildings, and surfaces that shed water more readily than others, like lawns and agricultural fields. This conversion has often occurred without commensurate stormwater runoff management facilities. Similarly, the water quality and ecological health of the county's streams, lakes, reservoirs and estuaries has diminished as a result of polluted stormwater runoff (a.k.a., nonpoint source pollution).

Strengthening existing and implementing new municipal ordinances related to stormwater runoff and management, with similar efforts made to the policies, guidelines and orders of the County of Westchester, has the potential to lessen the damage and risk caused by flooding and to minimize the deterioration of water quality and the ecological integrity of the county's water resources. These changes would be applicable to existing and proposed land management, use and development practices throughout Westchester County.

The New York State Department of Environmental Conservation (NYSDEC) issued a revised "SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) (GP-0-08-002)" in April 2008. This permit became effective on May 1, 2008. These revised stormwater management regulations, commonly called the Stormwater Phase II Program, requires that municipalities in Westchester County and the County of Westchester (County), all of which are classified as an MS4, develop and implement a plan for managing stormwater runoff.

However, the Flood Action Task Force (Task Force) notes that although water quality protection is emphasized in these state regulations, municipalities and the County should do more to address water quantity (i.e., flooding) considerations in their applicable ordinances, regulations, orders, policies and guidelines. Therefore, the Task Force recommends the following "Development and Planning Standards."

Note that while these standards are recommended for all Westchester County municipalities, the incorporation of the following standards will be required of every municipality prior to its receipt of funds from the County's capital program to mitigate flooding and flood damage. An informational sheet describing this program is available on the County website at [www.westchestergov.com/flood](http://www.westchestergov.com/flood).

1. All municipal and County ordinances, regulations, orders, policies and guidelines associated with land management, use and development should reference and require compliance with the:
  - New York State Stormwater Management Design Manual (2004) or any subsequent version(s) of this manual and addendums thereto, including those

concerning Alternative Stormwater Management Practices, Redevelopment Strategy and Proprietary Practices.

- New York State Standards and Specifications for Erosion and Sediment Control (2005) or any subsequent version(s) of this manual.
2. All municipalities should formally adopt, with modifications noted below, the NYSDEC's "Sample Local Law for Stormwater Management and Erosion and Sediment Control (2006)" or closely similar ordinance acceptable to the NYSDEC. A copy of this sample ordinance is available at: [www.dec.ny.gov/docs/water\\_pdf/localaw06.pdf](http://www.dec.ny.gov/docs/water_pdf/localaw06.pdf) or at [www.dec.ny.gov/chemical/9007.html](http://www.dec.ny.gov/chemical/9007.html), then click on "Sample Local Law for Stormwater Management and Erosion and Sediment Control."

The aforementioned sample ordinance, however, should be modified by the municipality as follows:

**Article 2, Section 1, Definitions:**

**REVISED:**

**Land Development Activity** – any construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 5,000 square feet, or activities disturbing less than 5,000 square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules, or activities that result in the creation of impervious (non-permeable) cover equal to or greater than 1,000 square feet, whether those activities occur in association with new development, a modification or expansion of existing development, or redevelopment of a previously developed site.

**Article 2, Section 2**

**REVISED:**

**Section 2.2.2**

Land development activities as defined in Section 1 of this Article and meeting Condition "A" or "B" below shall include *water quantity* and *water quality* controls (post-construction stormwater runoff controls), as set forth in Section 2.2.3 and described in the New York State Stormwater Management Design Manual, including those capable of mitigating the water quantity impacts resulting from the twenty-five (25)-year storm event in Westchester County, New York, as applicable:

Condition A - Stormwater runoff from land development and redevelopment activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five thousand (5,000) square feet or more of land or creating impervious (non-permeable) cover equal to or greater than one thousand (1,000) square feet during the course of the project.

### Section 2.2.3

SWPPP Requirements for Condition A, B and C:

1. All information in Section 2.2 .1 of this local law;
  2. Description of each post-construction stormwater management practice;
  3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
  5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
  6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  7. Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
  8. Maintenance easements, if applicable, to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
  9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management practices in accordance with Article 2, Section 4 of this local law.
  10. The SWPPP shall be prepared by a licensed landscape architect or professional engineer or other appropriately certified professional and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.
3. All municipalities should develop a Local Hazard Mitigation Plan with approval of the plan by the Federal Emergency Management Agency (FEMA). Grant funding is available from FEMA to assist municipalities with the development of Local Hazard Mitigation Plans. Guidance on Local Hazard Mitigation Plans is available at: [www.fema.gov/library/viewRecord.do?id=3336](http://www.fema.gov/library/viewRecord.do?id=3336).
  4. All municipalities and the County should reference and, where applicable, require compliance with the design principles and practices of sustainable development (a.k.a., low impact development, better site design, smart growth and green development, among other titles). This reference should be made in municipal and County ordinances, regulations, orders, policies and guidelines associated with land management, use and development. Guidance on sustainable development is available through several sources, including:
    - “Low Impact Development Design Strategies: An Integrated Design Approach” (1999), by the Prince George’s County (Maryland) Department of Environmental Resources, at: [www.epa.gov/owow/nps/lid/lidnatl.pdf](http://www.epa.gov/owow/nps/lid/lidnatl.pdf);
    - “Low Impact Development: Urban Design Tools” Website, by the Low Impact Development Center, at: [www.lid-stormwater.net](http://www.lid-stormwater.net);
    - “Polluted Runoff (Nonpoint Source Pollution): Low Impact Development (LID)” Website, by U.S. Environmental Protection Agency, at: [www.epa.gov/nps/lid](http://www.epa.gov/nps/lid).

5. The Task Force also recommends compliance with the following general principles in regard to flood mitigation projects (these principles are further defined in the manuals and other publications noted above):

- Increases in impervious surfaces from development and redevelopment should be discouraged, including through reduced parking areas, small building footprints, preservation of vegetation, and permeable surfaces.
- The protection and preservation of naturally vegetated land next to streams, lakes and other watercourses and water bodies should be mandated, where appropriate and applicable, to prohibit any construction or other development activities within one hundred (100) feet of these water resources. This should include the clearing of vegetation within these aquatic buffers. Communities should, through local rules, permitting and enforcement practices, follow the principle that aquatic buffer, flood plain and wetland impacts and losses shall be avoided to the maximum extent practicable or, if these impacts cannot be avoided, that they shall be minimized to the maximum extent practicable; any unavoidable impacts that have been fully minimized should be mitigated through restoration and/or creation of aquatic buffer, flood plain or wetland.
- Greater consideration should be given to projects that utilize a higher degree of infiltration, extended detention, and retention to manage stream flows and lessen the severity of flooding.
- Projects that rely simply on channel “improvements” to speed the downstream flow of surface waters are discouraged, unless it can be clearly shown that (1) other preferred methods are not practical; (2) channel capacity and flood mitigation potential downstream of the project will not be adversely affected; (3) channel improvements are a more cost-efficient or -effective method of reducing flood damage in the project area; and (4) aquatic habitats and organisms would not be substantially impacted by the “improvements.”
- Absent other counterbalancing elements, proposed projects should not result in a net decrease in the volume of stormwater storage in an existing flood plain.
- Greater consideration should be given to projects that include water quality and fish and wildlife habitat improvement elements in stormwater management plans and details.

WCDP 02/14/09