

Scenic Byway Proposal – Responses and Revisions (April 2012)

Overarching Concerns

General areas of concern, as well as many of the specific comments on the draft corridor management plan (CMP), have continued to focus on whether or not a scenic byway will bring more regulations or affect home rule, and on what the future characteristics of the scenic byway management entity will be. (It is strongly encouraged that the document

These topics have been address in the document Scenic Byway Proposal – Supplemental Information. To further understanding, the Collaborative has developed the following statement that will be added to the CMP:

In no way does any part of this corridor management plan, the Catskill Mountains Scenic Byway, or the Central Catskills Collaborative, impede, limit, or supersede a local municipality's home rule authority (the ability to adopt its own local laws under NYS Municipal Home Rule law).

A scenic byway management entity is **ADVISORY ONLY**. The adoption, amendment, and enforcement of any local regulations remain the responsibility of the municipal governing body. That a management entity will not have regulatory authority is consistent with state legislation; and verification of a management entity's non-regulatory capacity has been reinforced by the NYS Scenic Byways Program, the NYS Association of Towns, and by local representatives involved in designated NYS scenic byways.

Specific Concerns

1) A scenic byway will result in restrictions to truck traffic.

The term “management” in “scenic byway management entity” refers to organization, cooperation, and regional promotion; not regulation. Regulation of truck traffic – e.g. size or weight limits – is the responsibility of NYSDOT or other agencies or local governments that have jurisdiction over a road, and it is enforced by NYS Troopers or other enforcement personnel. Referencing the cited example from the Upper Delaware River, the Upper Delaware Scenic Byway group took a stand on an issue; this is not a regulation, but a petition to entities that have the authority to regulate. This illustrates the ability of a group, or an individual, to express their position and make a recommendation to elected officials, a process that happens frequently between citizens and local governments. The Upper Delaware issue does appear to be affiliated with fears of hydrofracking. The draft regulations put forth by New York State, at this time, do not allow hydrofracking inside the New York City Watershed.

2) That the recommendations of the Catskill Forest Preserve Access Plan (CFPAP) are adopted by reference in the CMP.

The 1999 CFPAP was developed with extensive public input, and its numerous recommendations focus on improving the traveling experience along state highways in the Catskill Park -- for example, by providing more information to visitors including the creation of information points and signage. The plan contains host of related recommendations that are compatible with the goals of the proposed scenic byway. Because so much of the plan is relevant to the byway and many of the recommendations have still not been realized, the intention was to incorporate its objectives – by reference – into those of the CMP.

Not having the actual text from the CFPAP in the CMP is an understandable concern. So rather than creating another appendix, or adopt the CFPAP's objectives by reference, the language of the CMP will be adjusted so that the importance of the CFPAP will still be emphasized, but the reader will be encouraged to consult the plan, which can be posted on a website supporting the scenic byway.

3) Concern about ability for a municipality to be able to opt out of the Scenic Byway.

A municipality can opt out of the byway, as there is a “de-designation” process. This point was touched upon in 2008 following a presentation by the manager of the NYS Scenic Byway Program. While it is important for municipalities to be aware of this, a core purpose of a scenic byway is the strengthening of the collaborative process, and it is hoped this will continue through designation so that the goals of the CMP can be realized.

4) That there could be members of the advisory management entity, or some aspect of the entity, that could be compensated (monetarily).

Such a circumstance would be an asset. One of the goals of a scenic byway is to attract grants to help promote the byway and the region. Some of these grant resources might be able to be used to support staff that can further promote the byway, including apply for grants. The more compensation for individuals or groups who promote the byway (including volunteers who have contributed significantly to this project) the better. Successful byways in New York State benefit from being supported with staff, and the success of these byways has been demonstrated. One of the areas of concern addressed at the January 19 meeting of the Collaborative (with an informational handout) is how a scenic byway attracts funding. Administrative and staff funding is one type of funding that is needed.

Specific Comments on the CMP

1) Request to route the byway into the hamlets of Phoenicia, Pine Hill, Fleischmanns and Margaretville.

Response: The proposed route is intended to go through these four hamlets. The description of the route in the CMP is clear on these specifics; however the small scale map does not represent the hamlet routes sufficiently.

Revision: Four large scale maps of the hamlets will be incorporated into the CMP.

2) Concern that, with Route 28 and 214 being proposed as scenic byways, there could someday be too many scenic byways in the Catskills and the attraction and uniqueness of each road could become diluted.

Response: During discussion among Collaborative members, consensus was reached that several byways would be a great asset for the region. A primary reason supporting this position is that visitors may be inclined to stay longer.

3) The proposed composition of the future management entity, in terms of individual municipal membership, is not proportionate to the number of road miles in each respective municipality.

Response: The management entity's membership is only proposed at this time and the bylaws still need to be drafted. Outlining a proposed structure for the management entity in the CMP is sufficient for submission of the nomination. The Collaborative envisions a future meeting, with elected officials and other parties focused on the specifics of the group's composition. The development of bylaws would also be a subject of a future meeting(s).

Revision: The CMP will note that there is interest from elected officials and others in the composition of the management entity and that future meetings are expected to focus on these details. (See 20)

4) There is concern that the scenic byway will be used as a weapon against development proposals along the corridor.

Response: A scenic byway is a tool for economic development through tourism and should be used as a catalyst to attract investment, not repel it. Local officials should understand this core purpose of a scenic byway and explain it to those who may seek to misconstrue the intent of a scenic byway. Both the zoning of land and the review of development proposals along the corridor are the responsibilities of the respective local governments. When exercising these responsibilities, a scenic byway should be taken into consideration; and ultimately the decision-making authority rests within the local government.

5) CMP is too wordy; could be shorter.

Response: The draft CMP was distributed to Collaborative members and advisory members to the Collaborative for comment. Comments received were by and large minor and clarifying in nature and no editing was undertaken. Nevertheless, this point is well taken and will be considered during revision.

6) An example of a “recommendations in brief” summary sheet from another plan was submitted as a comment (presumably with the intention that the draft CMP might include the same).

Response: The draft CMP includes a Summary of Recommendations at the end of the document. Attention to this summary could be clearer in the beginning of the CMP.

Revision: Language calling attention to the Summary of Recommendations will be added to the second paragraph of the Executive Summary.

7) On p. 21 under *Corridor-Wide Resource Inventory*, the last sentence reads: “By expanding on the *Focus on Route 28* section this discussion gives a stronger sense of how the scenic byway will not only physically connect a range of regional resources, but will unite and advance a number of community initiatives, adopted planning recommendations, and positive forces that aim to shape a heightened sense of regional identity.”

Two questions were posed: “Managed by the CCC?” “How?”

Response: First, a restatement of the purpose of this section of the CMP can help clarify its intent: By explaining the many prominent resources (e.g. Catskill Park) and community planning efforts *from a corridor-wide perspective*, the benefits of a scenic byway are reinforced. With that in mind, yes, the Collaborative – really the management entity itself, as ultimately defined – will help the region realize the advantages of these resources by carrying out the recommendations of the plan, many of which focus on promotion of regional identity. Perhaps again, the term “management” is confusing in that it is not meant in the sense of managing the affairs of local governments or private property owners; it is meant in the sense of promotion of the scenic byway and the many associated tasks – organizing meetings, writing press releases and grants, developing promotional materials, updating the website, etc.

8) On pages 35 and 36, many comments were received on the eleven bullets, which are taken from the town of Olive’s draft comprehensive plan.

Response: Since there are so many comments and the comprehensive plan has not been adopted, the CMP will be revised.

Revision: The actual language from the draft comprehensive plan will be removed and the content of the eleven bullets will be simplified and summarized. (The CMP already notes that the plan is a draft.)

8) On p. 38 (Olive Inventory) a comment asks if Kenozia Lake is private property.

Response: The inventory has noted this resource because it contributes to the scenic (and natural) quality of the corridor, whether or not it's private or public. A scenic byway does not regulate land, so there are no implied relationships, other than scenic value, between the scenic byway and this particular resource, which is merely identified. Kenozia Lake is in the town of Hurley, but the Olive Byway Group noted it because it lies just before the entrance to the town of Olive.

9) On p. 41 (Olive Inventory) a few comments were received on the inclusion of Davis Park in the inventory. The comments focus on the fact that the park is for Olive residents and this should be reflected in the plan.

Revision: The language will be amended to reflect that the park is for Olive residents only.

10) On p. 83 under the key action of Complete and implement DOT's *Guidelines for the Catskill Park*, the Guidelines for the Adirondack Park are mentioned and the comment received was "Any reference to the APA is a red flag."

Response: The APA (Adirondack Park Agency) is not mentioned here, but the reference to the Guidelines for the Adirondack Park can be removed.

Revision: The sentence mentioning the Guidelines for the Adirondack Park will be removed.

11) On p. 84, under Facilitate the changeover to the new Catskill Park logo signs along the byway, two comments focused on the inclusion of funding in the discussion.

Response: The State is funding the changeover in state highway rights-of-way. If local governments wish to explore use of the logos on local street signs, they are likely to find that the new signs are actually cheaper because they are made at

the Eastern New York Correctional Facility. Because local use of the logo street signs is optional, a local government, including counties, can phase in the use of the new signs over time, with replacement occurring at the end of the life of existing signs. There may be a need for the funding of wayfinding signs (with logos) on secondary roads. It is unclear if the pilot program in the works (to place wayfinding signs on the Rtes. 28 and 30 corridors) will include funding for secondary road signs.

Revision: The text will be amended to include the progress made on state highways since this draft was written and it will reflect the funding related discussion above.

12) Page 86, second paragraph, a comment requested that “management of Route 28-A” be explained better.

Response: Because the rest of the sentence contains specific examples, this clause will be removed.

Revision: Remove “management of Route 28-A”.

13) Pages 87 and 88 received several comments. (Previously, this section was the subject of discussion with the Margaretville Village Board, and the concerns are specifically addressed in Scenic Byway Proposal – Supplemental Information, Concern #2.)

Response (General): In addition to being addressed elsewhere, it’s important to emphasize that a recommendation to take an inventory of land use regulations is not a regulation; nor is a suggestion to create design guidelines. The inventory is also not a suggestion to create corridor-wide regulations. The measures described in this section are responding the requirement that the CMP include a stewardship plan that “addresses the strategies, tools and techniques, that will be employed to manage and enhance resources that distinguish the route.”

Individual comments and responses:

Comment on paragraph at bottom of p. 87: “Sounds like a zoning rewrite.”

Response: A zoning rewrite is entirely up to a local municipality. This paragraph lists several factors that contribute to the visual quality of the roadside landscape and can be examined when looking at a site plan review regulation or a review process. This language does not impinge on the affairs of a local government.

A sentence in the paragraph at the top of p. 88 reads: “Both desirable and less-desirable examples [of developed sites] help emphasize how local site plan and special use permit review have a direct impact on the quality of the visual environment.”

Two comments were received: “Individual choice prevails” and “Local zoning laws should be the arbiter of this – not the byway.”

Response: The sentence in question specifically reinforces the role of local zoning in the appearance of roadside development (local zoning is the arbiter), and it is part of the section’s recommendation to “explore opportunities to help improve the appearance of roadside development.” There is no imposition on local government or property owners; individual choices made on specific pieces of land are not the purview of a scenic byway.

14) On p. 89 under Scenic Views, the recommendation to conduct a viewshed inventory and analysis was met with the comment that it “gives the impression of dictating where homes could be built.”

Response: The discussion in this section specifically recognizes that any overall strategy to protect scenic views “should be grounded in home rule” and it further recognizes that previous visual inventories and analyses have not involved the local communities (and implies that future ones should). Both of these statements should make it clear that the CMP – which itself is locally driven -- is recommending locally driven actions to identify visual resources that are important to the community. Viewshed inventories are also fairly common in comprehensive plans.

15) On p. 89, “Encouraging Growth in Hamlets and Villages” received two comments: “Red Flag Statement?” and “Zoning/ land use tools telling people what they can do with their land.”

Response: The CMP presents a reasoned basis for including this strategy. It’s a planning recommendation that is commonly recognized. As with other concerns, home rule rules.

16) On p. 95, regarding the need for a restroom, the proposed roadside park with restroom in the town of Olive is mentioned. There is concern about the maintenance of such facility.

Response: A proposed restroom facility at the site of the proposed Catskill Interpretive Center has received a federal grant in the amount of \$380,000. This has given a boost to long-proposed concepts at the site.

Revision: Update the interpretive center information and qualify the Olive proposal by stating the concerns.

17) A question was received on p. 100 asking who will maintain kiosks.

Response: The interpretive center kiosk has been adopted by the Friends of the Catskill Interpretive Center. Lawn mowing is the primary responsibility. Maintenance on kiosks is relatively low, especially when flyers and brochures are not distributed.

18) Comments on inclusion of the NYS Department of State Local Government Efficiency Program as a possible funding source: “Needs explaining” and “Loss of local control.”

Response: This section responds to the requirement that the CMP “outlines potentially available financial resources to help upgrade, develop, promote, and otherwise make the proposed scenic byway and its corridor available for its intended uses.” The intention here is that we develop a case for efficiency and, importantly, cost-savings, which is a requirement of the grant. Yes, that same funding covers those other application categories, including dissolutions and consolidations; but those are not the categories that this project would be applying under.

When the Collaborative held the meeting to focus on how the byway would be run over time (grant writing, promotion, etc) the local municipalities who attended the meeting made it clear that they were unable to pledge financial resources at this time to help operate the byway. That’s one premise that serves as a basis to seek a grant. In other words, the communities recognize the need but they don’t have the resources. In this particular grant program, the next premise that would need to be developed would be: how does the promotion of the scenic byway provide cost saving to the involved municipalities?. At first glance, one might ask how could there be cost savings. On the other hand, each of the communities has its own website (or not), and there are definitely many options for efficiency here. In fact, that was also a topic of a Collaborative meeting. The webmasters for the Central Catskills Chamber illustrated how community websites could be linked together and the corridor region could be promoted both individually and collectively. It is along these lines that we would explore funding opportunities.

19) On p. 103 there is concern regarding Collaborative becoming an “overarching regional entity” and reference to three organizations outside the Catskills.

Response: All of the organizations referenced bring non-regulatory benefits to the regions they serve, be it grants, technical assistance, or regional cohesion and competitiveness. These references do not have to be in this plan, which was written by a regional planner who has more than a working knowledge of intermunicipal and regional entities across the state and the benefits they bring.

Revision: Remove Tug Hill Commission, Adirondack North Country Association, and Hudson River Valley Greenway.

20) Bottom of page 103 reads “Transition the Collaborative and its advisory members from the nominating committee to a formalized board of directors that will guide and sustain the scenic byway.” Comments question how much authority the management entity would have.

Response: As discussed, the management entity is an advisory body only; the composition of the management entity is only proposed at this time; and the details of membership, weighted representation, bylaws, and other specifics will be developed after the nomination is submitted (it is not a requirement to have the details worked out at this time; having a proposed structure in place and demonstrating that the communities are working on this is encouraged).

Revision: The CMP will note that there is interest from elected officials and others in the composition of the management entity and that future meetings are expected to focus on these details. (See 4).

21) On p. 106, there are requests to remove the reference to the Adirondack Park in the discussion referencing the Catskill Park Guidelines. (See also 10).

Response and Revision: Remove reference to the Adirondack Park.

22) On p. 107, regarding the discussion on improving the streetscape, the following comment was received regarding the suggestion to incorporate sidewalks in Boiceville: “Sidewalks are not practical in Boiceville and would require another level of maintenance.”

Response: The sidewalk recommendations were put forth for the reasons cited and were put in the plan based on recommendations made by the Olive local byway group (specifically formed for this plan) and those developed with public input for the town’s draft comprehensive plan. The town of Olive should consider this background and provide guidance to the Collaborative with regard to this specific point in the CMP.

Comments 23) through 26) correspond with the “Summary of Recommendations” and reflect the earlier comments.

23) On p. 108, a request to define “context sensitive design” was received.

Response: Context sensitive design is a practice commonly used in transportation planning, design, and construction, such that the transportation needs and projects are carefully integrated with those of the community. As noted in the CMP, downtown Andes is a good example of CSD. The closely related “context sensitive solutions” is defined in Wikipedia:

Context-sensitive solutions (CSS) is a theoretical and practical approach to transportation decision-making and design that takes into consideration

the communities and lands which streets, roads, and highways pass through ("the context"). The term is closely related to but distinguishable from *context-sensitive design* in that it asserts that all decisions in transportation planning, project development, operations and maintenance should be responsive to the context in which these activities occur, not simply the design process. CSS seeks to balance the need to move vehicles efficiently and safely with other desirable outcomes, including historic preservation, environmental sustainability, and the creation of vital public spaces.

24) On p. 109, the comment "Sounds like another agency to deal with" was received in response to:

- Strengthen the intermunicipal cooperation of the Collaborative by formalizing the group as the byway management entity; forming a partnership with an area organization; pursuing funding opportunities to implement the scenic byway corridor management plan and sustain the management entity; and by serving as a proactive example of regional collaboration.

Response: As noted elsewhere, a CMP needs to meet explain how the byway will be sustained over the long term. This requirement is put forth in the NYS Scenic Byway Nomination Handbook: "...continuation of the byway over time will need a capable management entity responsible for the day to day coordination and advocacy of the byway".

A scenic byway management entity is NOT an agency; it is an advisory group. As mentioned above, the actual composition of the management entity need not be fully detailed in the CMP, so long as structure for the entity and evidence that it is being worked on are set forth in the CMP.

25) On p. 110 a comment asked what do development guidelines mean and are they more restrictive than already exists "between local, state and NYC?"

Response: Development guidelines, also known as design guidelines, are typically a set of voluntary, non-regulatory graphics with supporting language that encourages site development practices that are in keeping with the setting and the needs of the community.

Revision: Change to clarify that the guidelines are non-regulatory.

26) On p. 112, under Support and Implementation, the comments received reflect earlier comments on the same points, and these have been addressed.