



Upper Delaware Council

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UPPER DELAWARE COUNCIL MEETING MINUTES February 2, 2023

The Upper Delaware Council held its monthly meeting on Thursday, February 2, 2023. Chairperson Robinson called the meeting to order at 6:30 p.m. and roll call followed.

In attendance: Town of Hancock- Fred Peckham (Zoom), Town of Fremont- Jim Greier, Town of Delaware- Harold Roeder, Jr., Town of Cochecton- Larry Richardson, Town of Highland- Andy Boyar, Town of Deerpark- Virginia Dudko, Town of Lumberland- Nadia Rajsz (Zoom), Damascus Township- Jeff Dexter, Berlin Township- Alan Henry, Lackawaxen Township- Doug Case (6:51 p.m.), Shohola Township- Aaron Robinson, Westfall Township- Michael Barth, State of New York- Ryan Coulter (Zoom 6:55 p.m.), Commonwealth of Pennsylvania- Tim Dugan (6:47 p.m.), Delaware River Basin Commission- Kristen Bowman Kavanagh (Zoom), National Park Service- Lindsey Kurnath (7:10 p.m.) Absent: Town of Tusten. Staff in attendance: Executive Director- Laurie Ramie, Resources and Land Use Specialist- Kerry Engelhardt, Secretary- Ashley Hall-Bagdonas. Guests: Gregory P. Hoepfer- Shohola Township Supervisor, Bill Dudko- Town of Deerpark Alternate, Frank Guzman - Town of Lumberland Alternate, Roger Saumure- Shohola Township Alternate (6:54), Alex Garcia-Maldonado- NPS (Zoom), Don Hamilton- NPS (Zoom), Keith Winslow- NPS. Media: Liam Mayo- River Reporter, Peter Becker- Tri-County Independent (Zoom).

Virtual Presentation: “Your Workplace Should be Free from Sexual Harassment” Training Video:

UDC representatives, alternates, and staff watched a video presentation on Sexual Harassment Prevention Training by the NYC Commission on Human Rights available at: <https://www.nyc.gov/site/cchr/law/sexual-harassment-training.page>. The purpose of the training was to set forth what is and is not acceptable in the workplace. The training started with a scene from the film *The Assistant*, which depicts sexual harassment and gender discrimination in the workplace. You have the right to be free from harassment and discrimination based on your gender, race, religion, disability, sexual orientation, national origin, and many other protected categories. It’s illegal for a workplace manager, supervisor, or person in power to threaten you, your job security, and your safety. It’s illegal to retaliate against anyone reporting misconduct. If you report an incident of harassment or discrimination, you are protected from retaliation. Your employer is required by law to take your claim seriously, investigate, and prohibited from intimidating you or dismissing you for reporting it. Reporting sexual harassment protects everyone.

Sexual harassment is a form of gender discrimination and is unlawful under federal, state, (and where applicable) local law. It includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Gender and sexuality are both part of our identities. Gender includes gender identity and gender expression. Your gender may not be the same as your sex assigned at birth. Cisgender means your gender is the same as your sex assigned at birth. Transgender means your gender is different than your sex assigned at birth. Non-binary means you do not identify as a man or as a woman. 90% of transgender and non-binary people report experiencing harassment in the workplace.

Sexual harassment is always connected to gender. This may include sexual behavior. Sexual harassment includes unwelcome conduct, either of a sexual nature or which is directed at an individual because of that individual’s sex when such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment; such conduct is made either explicitly or implicitly a term or condition of employment; or submission to or rejection of such conduct is used as the basis for employment decisions. There are two main types of sexual harassment. A hostile environment on the basis of sex may be created by any action

previously described in addition to unwanted words, signs, jokes, pranks, intimidation, physical action or violence either of a sexual nature or not of a sexual nature but directed at an individual because of that individual's sex. Hostile environment sexual harassment includes: sexual or discriminatory displays or publications anywhere in the workplace displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace. This also includes: sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience; hostile actions taken against an individual because of that individual's sex such as rape, sexual battery, molestation or attempts to commit these assaults; physical acts of a sexual nature including, but not limited to, touching, pinching, patting, grabbing, kissing, hugging, brushing against another employee's body or poking another employee's body. interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job; sabotaging a person's work, bullying, yelling or name calling.

People often do not feel comfortable saying "no" to their bosses. Sexual harassment is more likely to continue when people can't say "no." "No" come in many forms. A verbal "no" means no. Body language can mean no. Excuses can mean no. A tone of voice can mean no and maybe can mean no. It is sexual harassment if you were pressured or threatened into a sexual act. This is true even if you went along with it. Forcing, pressuring, or threatening someone to do a sexual act is illegal. Quid Pro Quo sexual harassment occurs when a person in authority trades, or tries to trade, job benefits for sexual favors. Quid Pro Quo is a legal term that means to trade. This type of harassment occurs between an employee and someone with authority, like a supervisor, who has the ability to grant or withhold job benefits. Quid Pro Quo sexual harassment includes offering or granting better working conditions or opportunities in exchange for a sexual relationship; threatening adverse work conditions like demotions, shift alterations, or work location alterations, or denial of opportunities if the sexual relationship is refused; using pressure, threats, or physical acts to force a sexual relationship; or retaliating for refusing to engage in a sexual relationship.

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, unpaid interns, and non-employees who work in the workplace. The perpetrator of sexual harassment can be anyone in the workplace, a coworker, a supervisor or manager, any third party including a non-employee, intern, vendor, client, customer, etc. Sexual harassment can occur whenever and wherever employees are fulfilling their work responsibilities, including the field, at any employer-sponsored events, conferences, office parties, employee interactions during non-work hours such as at a hotel while traveling or events after work. These locations are considered extensions of the workplace. Employees can be the target of sexual harassment through calls, texts, emails and social media. Harassing behavior that in any way affects the work environment is rightly a concern of management. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of either sex should act or look. Harassing a person because that person does not conform to gender stereotypes is sexual harassment. Harassment because someone is performing a job that is usually or was previously performed mostly by persons of a different sex is sex discrimination. Sexual harassment can overlap with other forms of discrimination. Women of color experience sexual harassment at higher rates than white women. Sexual harassment often overlaps with discrimination based on race, national origin, religion, and sexual orientation.

Any employee engaged in "protected activity" is protected by law from being retaliated against because of that protected activity. Protected activities include making a complaint about harassment or suspected harassment, making a report of suspected harassment even if you are not the target, filing a formal complaint about harassment, opposing discrimination, assisting another employee who is complaining of harassment, providing information during an investigation, or testifying in connection with a complaint of harassment filed with a government agency or in court. Retaliation is any action to alter an employee's terms and conditions of employment because that individual engaged in protected activities such as a demotion, sudden change in work schedule, or work location because that individual engaged in any of the protected activities mentioned above. Such individuals should be expected to be free of any negative actions by supervisors, managers or the employer motivated by these protected activities. Retaliation can be any such adverse action taken by the employer against the employee that could have the effect of discouraging a reasonable worker from making a complaint about harassment or discrimination. The negative action need not be job-related or occur in the workplace and may occur after the end of employment such as an unwarranted negative reference. A negative employment action is not retaliatory merely because it occurs after

the employee engages in protected activity. Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity.

Sexual harassment harms the workplace. It can cause: quitting or absences; low productivity; low morale; and interpersonal conflicts. Sexual harassment hurts everyone, not just the person being harassed. Supervisors and managers are held to a high standard of behavior. This is because they are placed in a position of authority by the employer and must not abuse that authority. Their actions can create liability for the employer without the employer having any opportunity to correct the harassment. They are required to report any harassment reported to them or which they observe. They are responsible for any harassment or discrimination they should have known about with reasonable care and attention to the workplace for which they are responsible. They are expected to model appropriate behavior. Supervisors must report any harassment that they observe or know of, even if no one is objecting to it. Harassment must be promptly reported to the employer without exception even if the supervisor or manager thinks the conduct is trivial, even if the harassed individual asks that it not be reported. Supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and managers will also be subject to discipline for engaging in retaliation. We cannot stop harassment in the workplace unless management knows about the harassment. It is everyone's responsibility. You are encouraged to report harassment to a supervisor, manager or another person designated by employer to receive complaints as outlined in the Employer's Sexual Harassment Prevention Policy so the employer can take action. Behavior does not need to be a violation of law in order to be a violation of the policy. Your employer will provide you with a complaint form to report harassment and file complaints but if you are more comfortable reporting verbally or in another manner, your employer is still required to follow the Sexual Harassment Prevention Policy by investigating the claims. If you believe that you have been subjected to sexual harassment you are encouraged to complete the complaint form and submit it to your employer as outlined in the Sexual Harassment Prevention Policy. You may also make reports verbally. Once you submit this form or otherwise report harassment your employer must follow its Sexual Harassment Policy and investigate any claims. You should report any behavior you experience or know about that is inappropriate, as described in this training, without worrying about whether or not it is unlawful harassment. Individuals who report or experience harassment should cooperate with management so a full and fair investigation can be conducted and any necessary corrective action can be taken. If you report harassment to a manager or supervisor and receive an inappropriate response such as being told "just ignore it", you may take your report to the next level as outline in your Employer's Policy under legal protections and external remedies. Finally, if you are not sure you want to pursue a complaint at the time of the potential harassment, document the incident to ensure it stays fresh in your mind. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report it to a supervisor, manager or designee. It can be uncomfortable or scary but it is important to tell coworkers "That's not ok" when you are uncomfortable about harassment happening in front of you. It is unlawful for an employer to retaliate against you for reporting suspected sexual harassment or assisting in any investigation. Anyone who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action up to and including termination. Your employer will investigate all reports of harassment whether reports of harassment were reported in verbal or written form. An investigation of any complaint should be commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. It is illegal for employees to participate in any investigation to be retaliated against. The employer will conduct an immediate review of the allegations, and take any interim actions as appropriate. Relevant documents, emails or phone records will be requested, preserved and obtained. Interviews will be conducted with parties involved and witnesses. The investigation will be documented as outlined in the Sexual Harassment Policy. The individual who complained and the individual(s) accused of sexual harassment are notified of final determination and that appropriate administrative action has been taken.

Employees may also choose to pursue outside legal remedies. A complaint alleging violation of the Human Rights Law may be filed either with NYS Division of Human Rights (DHR) or in NYS Supreme Court. Complaints may be filed with DHR any time within three years of the alleged sexual harassment. You do not need to have an attorney to file. If an individual did not file with DHR they can sue directly in State court under the Human Rights Law within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a Human Rights Law complaint in State court. For more information visit www.DHR.ny.gov . An individual can file a complaint with the Equal Employment Opportunity Commission (EEOC) anytime within 300 days from the alleged sexual harassment. You do not need to have an attorney to file. A complaint must be filed with the EEOC before you can file in federal court. For more information visit www.EEOC.gov . If an individual files an administrative

complaint with DHR, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in Federal Court.

Harassment may constitute a crime if it involves things like physical touching, coerced physical confinement or coerced sex acts. You should also contact the local police department. Workplace harassment can also be based on other things that is not just about gender or inappropriate behavior in the workplace. Any harassment or discrimination based on a protected characteristic is prohibited in the workplace and may lead to disciplinary action against the perpetrator. Protected characteristics include: age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history. After watching the video presentation all should be able to recognize harassment as inappropriate behavior, the nature of sexual harassment, that harassment because of any protected characteristic is prohibited, the reasons why workplace harassment is employment discrimination, that all harassment should be reported, and that Supervisors and managers have a special responsibility to report harassment. With this knowledge all employees can achieve appropriate workplace behavior, avoid disciplinary action, know their rights, and feel secure that they are entitled to and can work in an atmosphere of respect for all people. Ramie provided a copy of UDC's Resolution Reaffirming the Sexual Harassment Training Policy for 2023 from the January meeting for members' packets which includes further reporting instructions as per the UDC's policy. Hall-Bagdonas printed out the Certificate of completion for the training.

Swearing-in of 2023 Officers by Gregory P. Hoepfer, Shohola Township Board of Supervisors: Robinson welcomed Shohola Township Supervisor Gregory P. Hoepfer. The 2023 elected officers: Chairperson Aaron Robinson, Vice-chair Virginia Dudko, and Secretary/Treasurer Alan Henry; took their oaths during a swearing-in ceremony officiated by Hoepfer.

Introduction of NPS Upper Delaware Scenic and Recreational River Superintendent Lindsey Kurnath: Kurnath said she is excited to be at this park unit. Kurnath is in her 15th year of federal service; 13 years at NPS. She's worked at the National and Regional offices and this is her third park. Her education is in Biology, Chemistry, and Environmental and Public Policy, and she started her career at the EPA. As the Superintendent of the Upper Delaware Scenic and Recreational River, she hopes to give stability to the UDC. She has an analytic and thoughtful approach and hopes to use that strategy here. NPS Staff has done a phenomenal job with the amount of turnover it has had in the last several years and again, she looks forward to being a part of what UDC does.

Approval of January 5, 2023 meeting minutes: A motion by Boyar seconded by Henry, to approve the January 5, 2023 meeting minutes carried.

Public Comment on the Agenda: None.

Committee Reports: There were no questions regarding previously distributed minutes: Water Use/Resource Management, Jan. 24th (Dudko), Project Review, Jan. 17th (Richardson); and Operations, Jan. 24th (Robinson).

Status Reports

Delaware River Basin Commission: Bowman Kavanagh said that DRBC's first quarter public hearing will be virtual, on Wednesday, 2/8 at 1:30 p.m. Details can be found at this link:

<https://www.state.nj.us/drbc/meetings/upcoming/>.

The next Water Quality Advisory Committee Meeting is Thursday, 3/23 from 9:30 a.m. to 12 p.m. Upcoming advisory committee meetings include a Water Management Advisory Committee (WMAC) meeting on 6/15 from 10 a.m. until 12 p.m. You must register via Zoom to get the meeting link. More information can be found at:

<https://www.nj.gov/drbc/meetings/advisory/>.

A copy of the hydrologic report was provided in the meeting packet.

NYS Dept. of Environmental Conservation: Coulter reported that their Real Properties staff was at the Narrowsburg Boat Launch today doing some topographic surveying to the existing ramp to see if it is ADA-compliant. They would like to get an accessible kayak/canoe launch there and that surveying information will help determine what they can put in at that site.

PA Department of Conservation and Natural Resources: Dugan shared that they are in a season turn now heading into January. A lot of staff is looking forward to Spring hiring trying to fill vacancies as well as seasonal staff. Many come on board in March. Governor Shapiro has come on board and has been very active. There are a lot of initiatives he's working with and there have been some Executive Orders that have come out. Gov. Shapiro made a note of college degrees not being required for a large amount of Commonwealth jobs. It will have some impacts in Dugan's department. They historically always had a third option. There was a 4-year degree, 2-year degree/2-years' experience, or a combination of other duties and now that third option of other combined experience and training will be ruled as the first option.

Another Executive Order was released to make sure that licenses and permits are acted upon in a timely fashion.

Grant season is kicking off now. Grant rounds are open in DCNR for parks, recreation and conservation projects as well as ATV and snowmobile projects.

The PA Fish & Boat Commission have posted the 2023 Adult Trout Stocking Schedule:
https://fbweb.pa.gov/stocking/TroutStockingDetails_GIS.aspx

Dugan said with this mild winter weather a lot of people have been getting out and recreating.

Lastly, a ranger had an ice rescue near Promised Land State Park on 1/29. They were called to rescue a dog that was stranded on Egypt Meadows Lake. The dog had flushed a mink across the ice. The ranger was able to retrieve the dog safely. Dugan said to remember to be safe for yourself and your pets.

National Park Service-Upper Delaware: Kurnath thanked Kara Deutsch for being Acting Superintendent while they were looking to fill the Superintendent position. Another new staff member arrived this week: Michelle Stevens as the new Biologist. They are also working on advertising for the Land Use Planner position and are also active to fill their summer staffing. Garcia-Maldonado and an NPS intern are making progress on the oral history project. They finished the transcriptions and are digitally indexing them. The goal is to make them searchable online.

UDC Executive Director's Report: Ramie said we appreciate everyone's accommodation of our unusual schedule tonight so we could take care of our required annual training collectively while also having a briefer work session of the UDC-NPS Telecommunications Subcommittee at 6 p.m. Ramie reminded anyone who hasn't turned in their annual Conflict of Interest Disclosure form to please do so. Today we received our final Fiscal Year 2022 audit reports from Eckersley & Davis which she can provide in print form or electronically to anyone who'd like a copy. She also obtained signatures tonight on our prepared federal and state tax filings that will be submitted by 2/15.

As Robinson proposed last month, we are actively coordinating an Upper Delaware Council Federal and State Partners Summit. Preliminary steps were to finalize the list of all our new and returning elected officials who will be our target audience which we've done. Ramie has also reached out to our fiscal sustainability plan consultant Michael Crane to request that he update the projections from his Dec. 2021 report so that our justification figures are accurate and current. He got back to us yesterday. One statistic he provided was that the \$300,000 federal allocation that has been flat since 1988 would be valued at \$769,568 today if it had been adjusted for inflation using the Consumer Price Index. That compares to \$717,000 he calculated for the value just over a year ago. As you know, that federal funding was intended to comprise 60% of the UDC's budget, with each member state contributing 20% shares of operational funding, but that never happened. The next question regarding the summit is the timing of it. Ramie suggested to Robinson that she would check the legislative calendars to find out when the various levels of governments would be in session to try to increase our participation rate. What she saw is that the week of 2/20 is an off time for the House of Representatives and the state legislatures, when the officials would presumably be in their home districts. Eliminating 2/20 which is Presidents' Day and a few meetings we have on the 21st and 22nd, Ramie is looking at Thursday, the 23rd or Friday, the 24th. This would be an in-person meeting with a Zoom option during business hours. The plan is for us to settle on a date that she will list in the invitations requesting representation. Ahead of that, Robinson would like to have a pre-strategy meeting with the UDC executive committee and anyone else who'd like to participate to streamline our format and message delivery. The committee asked Ramie to schedule the event for Thursday, February 23rd in the morning.

Ramie shared we received notice this morning that the Federal Highway Administration has denied the UDC's request for Participating Agency status which she had submitted immediately after the 1/19 Project Advisory Committee meeting. FHWA responded that "UDC does not meet the definition of Participating Agency, and official coordination should be maintained with NPS as the Participating Agency. As a subcontractor, UDC can provide support to NPS for the project's review responsibilities." The AECOM project manager who conveyed this did say that she provided FHWA with the email that NPS Natural Resources Program Manager Don Hamilton had sent even before Ramie sent her memo expressing support for the UDC's request. For the record, a more expansive definition of Participating Agency was quoted in this response than what had been cited in the Coordination Plan. It says, "Per the guidance from the Council for Environmental Quality: "Participating agencies can include any federal, state, regional, local, or tribal government unit with an interest in the project. The lead agencies have the responsibility to identify and involve participating agencies. However, an agency can also make a request to become a participating agency. All cooperating agencies are participating agencies, but not all participating agencies are cooperating agencies. Participating agencies have less authority, responsibility, and involvement than cooperating agencies. Private entities and nongovernmental organizations are not permitted to act as participating agencies." Ramie said UDC will continue to serve on the Project Advisory Committee and providing our comments in that capacity.

The February and March calendars with our meeting dates and deadlines are available in the packets. Pennsylvania's Director of Outdoor Recreation Nathan Reigner will be here at our March 2nd meeting to make a presentation. Looking further ahead, we confirmed dates for UDC sponsored annual events at the Operations Committee meeting. They are the 3rd Annual Upper Delaware Litter Sweep from April 22-30; the 35th Annual Family Raft Trip on August 6; and the 35th Annual River Valley Awards on Sept. 10 at Central House Family Resort in Beach Lake. For that banquet, Ramie will be working backwards to schedule our timeline of tasks and would like ideas on who to invite to serve as our keynote speaker.

Ramie saw an announcement that proposals for the 6th round of Delaware Watershed Conservation Fund grants administered by the U.S. Fish and Wildlife Service and National Fish and Wildlife Foundation are due by 3/16. Approximately \$14.4 million is available for \$75,000 to \$1.5 million grant awards with required non-federal matches ranging from 25% to 1:1. The four grant categories are: Implementation; Capacity-Building; Planning; and Research, Monitoring & Evaluation, contributing to the overall health of the Delaware River watershed. For those interested: <https://www.nfwf.org/programs/delaware-river-program/delaware-watershed-conservation-fund-2023-request-proposals>.

Lastly, Ramie congratulated our member Town of Hancock for partnering with the New York Power Authority to open the largest array of 16 Electric Vehicle fast-charging ports in the Southern Tier which brought out Lt. Governor Antonio Delgado Tuesday to officially cut the ribbon and was the subject of a Governor Hochul press release datelined Hancock. She posted photos from the ceremony on our Facebook page and there was a lot of media coverage for this innovative, \$1 million project conveniently next to the Hancock Hounds Dog Park as well as the I/86-Rt.17 highway.

New Business

Draft Resolution 2023-03: Contract for Fiscal Year 2023 Financial Review: A Motion by Henry seconded by Dexter to approve Resolution 2023-03 carried.

Substantial Conformance Recommendation 2022-11: Lackawaxen Township Zoning Ordinance Amendment: A Motion by Robinson seconded by Boyar to forward the Substantial Conformance Recommendation for Lackawaxen Township 2022-11 by Engelhardt to NPS Superintendent Kurnath carried.

Other: Boyar suggested anyone that can to attend town hall meetings to remind local officials who UDC is and about our funding issue.

Public Comment: None.

Adjournment: A motion by Roeder, seconded by Dudko, to adjourn the meeting at 8:12 p.m. was carried. Robinson noted that an annual board photograph and reception would follow.

*Minutes prepared by Ashley Hall-Bagdonas 2-12-2023
Recording available upon request*