

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
April 26, 2016

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Fred Peckham, Alan Henry,
David Dean, Aaron Robinson, Susan Sullivan
Committee Members Absent: Jeff Dexter, Debra Conway
NPS Partner: Kris Heister
Staff: Laurie Ramie, Cindy Odell, Pete Golod
Guests: Allan Schadt

The UDC's Project Review Committee held its monthly meeting on Tuesday, April 26, 2016 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 6:36 p.m.

A motion to approve the March 22nd meeting minutes was made by Peckham, seconded by Robinson and carried. There was no public comment on the agenda.

Discussion Items Report

Project Review Update

New York

Town of Highland: Ramie stated that Allan Schadt was in attendance and wanted to address the committee later in the meeting.

Ramie reported that according to an April 21 *River Reporter* article, Sullivan County Legislator Nadia Rajsz asked her colleagues on the Health and Family Services Committee on April 14 to pass a county resolution supporting the resolutions passed by the Towns of Highland, Lumberland, Bethel, and Tusten, opposing the Highland Compressor Station. She also asked that the Legislature become an intervening party for the FERC process to permit the compressor station. Ramie stated that according to an April 28 *River Reporter* article, Millennium Pipeline Company has agreed to pay for a health study and legislators agreed that they should move forward with a health study paid for by Millennium.

Towns of Cochetton: Ramie noted that the Cochetton Town Board discussed the pros and cons of allowing solar farms at their March 22nd meeting. Supervisor Gary Maas was reported in a March 31 *River Reporter* article as stating, "We favor development of green energy technologies, but not when those technologies come at tremendous expense to the town with little or no compensating value added." A vote on allowing solar farms was postponed until the next regular board meeting on April 13. Ramie asked Richardson if he could provide the results of that vote. Richardson stated that no action has been taken at this point.

Town of Tusten: A notice of Public Hearing was received March 23 from Brendan and Kathy Weiden for an application for a Special Use Permit for Mixed Use Occupancy for the property located at 7 Erie Ave. in Narrowsburg, proposed by Rock Meadow Partners LLC and NARO Building LLC. The hearing took place on April 20 at 7:00 p.m. at the Tusten Town Hall. Ramie said that staff will follow up on this issue and provide any pertinent information.

Town of Highland: The Town of Highland Planning Board will hold a public hearing on May 4th at 7:00 p.m. at the Town Hall in Eldred to consider an application filed by Kathleen Datys for a special use permit to use the river front portion of her property for the launching and landing of watercraft including canoes, boats, kayaks, rafts and tubes. No specific property location is listed in the legal notice.

NY DOT Projects: Ramie provided the details of projects the NYS Department of Transportation is preparing to undertake on NYS Route 97. Those projects include small culvert rehabilitation/safety improvements, multiple locations in the Town of Hancock; hazardous tree removal in the Town of Tusten; and a culvert rehabilitation project in the Town of Tusten.

Pennsylvania

PennDOT Response to UDC: Ramie reported that a response to the UDC's March 30, 2016 letter to George J. Roberts, District 4-0 Executive, Pennsylvania Department of Transportation about the deteriorating condition of the Lordville Road was included in members' packets. The April 13 letter from PennDOT Assistant District Executive-Maintenance Dennis Giordano provides the plans to address the condition of the Lordville Road (SR 1023) in Buckingham and Manchester Townships, Wayne County. Ramie said she is personally pleased with the responsiveness of PennDOT on this matter.

Skinnners Falls Bridge Emergency Repairs, PennDOT: Ramie reported the Department anticipated advertising the project on April 21, issuing a Notice to Proceed to the successful contractor on May 16, and completing work by August 29, 2016. Work includes the replacement of 7 U-bolts and 44 stringers, removal of temporary timber blocking, installation of new pin caps at 5 locations, cleaning and painting of existing structural steel on Span 1, replacing select timber running boards on the bridge deck, and constructing the two overhead clearance bar portal frames. This project will be among those discussed at the Annual Meeting of the New York-Pennsylvania Joint Interstate Bridge Commission on May 18 at 10 a.m. at the NYS DOT Office in Binghamton, N.Y.

PennDOT Rapid Bridge Replacement Project, Wayne County: Ramie said the written report contains information regarding eight bridges being replaced under this public-private partnership program with two done in 2015 and six to be reconstructed in 2016. To see the bridges included in the statewide initiative, visit www.P3forPA.pa.gov.

Shohola Township: Ramie noted that the UDC submitted its Final Report: Shohola Township Zoning Ordinance No. 79 Substantial Conformance Review to the National Park Service for action on March 3, 2016, recommending the determination that the zoning update is in substantial conformance with the Land and Water Use Guidelines contained in the River Management Plan. She reported that the Park Service has requested some time on tonight's agenda to discuss the status of its review.

Buckingham Township Pipeline: Ramie stated that this is out of the corridor, but she wanted to report that the Buckingham Township Board of Supervisors will hold a meeting on May 2 at 2:30 p.m. to vote on signing an agreement with Linden Energy Services Partners to construct one or more natural gas pipelines along the O&W Railroad property beginning in the vicinity of PA Route 4035 and continuing to the Preston/Buckingham Township border.

FY 2016 TAG Update:

Ramie reported that all the mid-term reports have been submitted and project completions are due by August 22, 2016. The forms are available at www.upperdelawarecouncil.org.

Enforcement Program:

Ramie noted that Travis O'Dell had sent a memo to UDC Member Municipalities' Code Enforcement Officers on January 26, 2016 requesting the submission of all building permits, variances, and ordinance changes within the river corridor only for the period of January 1, 2015 to December 31, 2015. The information was requested no later than April 1, 2016 as paper or electronic copies. As of April 26, the UDC has received the requested information from the Towns of Deepark, Delaware, Lumberland, Cohecton, Hancock, Highland, Tusten, and the Townships of Damascus and Westfall. Yet to submit any permits for 2015 are the Town of Fremont and the Townships of Berlin, Lackawaxen and Shohola.

Upcoming Training for Resource Specialist Pete Golod:

April 28, 1 p.m. (part 1) – Golod will take part in a consultation with NPS Upper Delaware Scenic and Recreational River Management Assistant Carla Hahn on the River Management Plan, Land and Water Use Guidelines, Project Review responsibilities, and Substantial Conformance requirements from the UDC's

Cooperative Agreement with the Department of the Interior. Ramie said Hahn is an expert in these matters and we are fortunate that she made the offer.

May 10, 5 – 9:30 p.m. – New York State Environmental Quality Review Act Educational Conference, sponsored by the Sullivan County Partnership for Economic Development, at The Sullivan in Rock Hill. Ramie noted that Continuing Education Credits for Municipal Planning Board members are available for this course. A handout with more information was provided in members' packets.

New Business

Review of FY 2017 Work Plan: Ramie noted that the draft Work Plan was included in members' packets, but was also sent out in advance of the meeting. Members agreed to review the document collectively page-by-page. Ramie noted that anything crossed out in the document is proposed for deletion and anything underlined is to be considered new. She stated that the first page now contains information about what time period this Work Plan covers. A brief discussion about the Town of Hancock's Substantial Conformance determination took place. Ramie noted that an addition under the "Review of Projects Tasks" is to "Implement the committee's accepted recommendations to improve and update the Project Review Workbook document and procedures based on the FY 2016 consultant's report." A motion to recommend the FY 2017 Work Plan with the proposed changes to the full Council was made by Henry, seconded by Sullivan and carried.

Approve fulfillment of Environmental Planning & Design Contract for Project Review Workbook Review: Ramie stated that the committee members wanted to make a motion that EP&D did fulfill its contract. She stated we have received the final invoice which closes out the exact amount of money that was agreed upon for the project. A motion accepting that Environmental Planning and Design has fulfilled the terms of its contract was made by Henry, seconded by Peckham and carried.

Ramie referred to the copy of the sample letter drafted by AJ Schwartz of EP&D at the request of the Council directed to the member town/ships, with a reminder to send project/ordinance amendment notifications to the UDC. The letter contains the addition of the language "If there is a question as to whether the proposed project is reviewable by the UDC, please provide the details to our Resource Specialist and a response will be forth coming" as suggested by Richardson. A motion to accept the letter with Richardson's suggested added language was made by Robinson, seconded by Roeder and carried.

Town of Highland Proposed Compressor Station Discussion: Ramie stated that at last month's Project Review meeting a motion for staff to circulate the UDC's previous letter on the Hancock Compressor Station to guide a decision on how to handle the proposed Highland Compressor Station project that is also located outside of the river corridor was carried. That letter was found, circulated to members of the committee, and a copy of that April 1, 2013 letter to FERC Secretary Kimberly D. Bose was provided in members' packets. Allan Schadt, former supervisor of the Town of Highland and UDC delegate, said he realizes that the proposed project is outside of the river corridor, but he is concerned about degradation of waters that lead into the Delaware River. He is not asking for the Council to oppose or be in favor of the project, but to question its effects on the Delaware River. Roeder noted that the first paragraph of the second page of the letter provided reads, "We urge the Federal Energy Regulatory Commission to consult the River Management Plan (available at www.upperdelawarecouncil.org) to assure that all potential direct and indirect impacts from the proposed project have been satisfactorily addressed to protect the special rural character of this region." Sullivan suggested adding language to the letter in support of the town's zoning that is in place. Roeder spoke of the history of transporting fossil fuels and lumber down the Delaware River. He feels that the Council's obligation is to let FERC know that the federally designated river is in close proximity and to ensure that there would be no impacts. A motion to have a letter, modeled after the April 2013 Hancock letter, drafted to the Federal Energy Regulatory Commission as UDC comments regarding the Millennium Pipeline Company's Eastern System Upgrade Project for the proposed compressor stations at Highland and Hancock for action at the May 5th UDC meeting was made by Roeder, seconded by Dean and carried. Schadt provided Ramie with the FERC docket number for the pre-filing application. Ramie said a letter, once approved, would have to be submitted electronically.

Other: None

Old Business

Shohola Township Zoning Ordinance No. 79 Substantial Conformance NPS Review Discussion:

Heister showed a Power Point presentation to accompany her discussion. She wanted to present the committee with questions based on the Park Service's review of the Final Report of Substantial Conformance Review of Shohola Township's Proposed Zoning Ordinance No. 79. She questioned if the UDC wants to start the report with a disclaimer. The UDC final report states, "This analysis makes no judgments regarding the matter of substantial conformance of the laws, plans and ordinances of Shohola Township...This analysis simply searches Draft zoning ordinance No. 79 for the presence or absence of language that would meet the spirit of the principles and objectives of the Upper Delaware Scenic and Recreational River Management Plan's Land and Water Use Guidelines. It then provides as a review the specific citations for this language when it is found...". She asked if the process described is repeatable and accurate. She said the statement suggests we are not making a judgment, but she feels that we are. She suggested that a written process be included and feels the statement underplays the effort that former Resource Specialist Travis O'Dell put into the review. Heister noted that the definition of Substantial Conformance contains two parts. The definition states, "Conformance, with respect to the list of compatible, conditional, and incompatible land uses set out in these guidelines AND with the substance of each of the principles and objectives set out in these guidelines so as to carry out the intent of the Upper Delaware legislation." She questioned if the review of conformance with the schedule of compatible, conditional, and incompatible land uses in the Land and Water Use Guidelines (LWUG) was done. She feels this step was overlooked. Heister provided the example of commercial communications device sites. She asked if allowing cell towers in the Upper Delaware overlay as a conditional use is a precedent the UDC wants to set. Peckham stated that cell towers are not currently specifically addressed in the River Management Plan. Robinson shared Shohola Township's reasoning for including commercial communication device sites as a conditional use, noting that there is a "chase with technology" on that issue. Heister asked, "If cell towers are allowed as a conditional use in hamlet areas based on characterizations as a "Major Commercial Use" – do we want to provide additional recommendations on special use permit criteria to ensure consideration of the impact of this use on the corridor? Do we want to ask what the criteria will be for siting of cell towers within the hamlet?" She reviewed the Land and Water Use Guidelines regarding Conditional Uses. Richardson stated that there is a struggle when a town is trying to address new technologies that were not thought about during the writing of the River Management Plan. Heister stated that her questions could be addressed a number of different ways. She is bringing them up for the Committee's consideration. Heister shared her concerns regarding the Manufacturing and Industry section of the zoning ordinance. She said the ordinance definition combines the definitions from the LWUG for light industrial use which is a compatible use with heavy industrial use which is an incompatible use. Heister also shared the concerns regarding Hotels, Motels, Boarding/Tourist Homes, and Other Lodging Facilities and Retail Stores $\geq 3,000$ sq ft vs Retail stores $< 3,000$ sq ft. Heister said that these issues should be discussed and documented so that the logic can be applied to the next zoning review. Henry brought up the point that the River Management Plan (RMP) should have been reviewed every five years. Heister said she would like to bring up the points that the Park Service has issue with based on the language that is currently in the RMP and provide the opportunity to address these points. Richardson stated that the Plan should have evolved over time and hasn't because of financial reasons. A brief discussion about the River Management Plan Technical Review done in 2014 took place. Richardson noted that in the discussion thus far about the Shohola Township review, he has not heard anything that can't be "fixed." Heister shared her concerns with the Oil and Gas Processing section of the ordinance. Robinson stated that anything that has to do with gas currently in Pennsylvania is a PA Department of Environmental Protection issue. He explained the process by which the Township conducts their conditional use review which is based on Pennsylvania Municipal Code. Solutions for satisfying Heister's concerns were discussed. Heister shared her final list of questions which included: 1.) Is this review complete without an evaluation of conformance, with respect to the list of compatible, conditional, and incompatible land uses?; 2.) Does the Project Review Workbook need to be updated to include a check box for this determination?; 3.) Definition of Incompatible Use: "A new land use which, if permitted, would pose a "clear and direct threat" to the objectives of the Upper Delaware legislation and the River Management Plan." In the absence of review of changes to zoning between 1996 and 2016 – is there already commercial development in recreation segments $> 3,000$ square feet? How would this be handled?; 4.) Doesn't incompatible mean

incompatible? Does ONE incompatible use take a town/township out of conformance? If not, how many?; 5.) Process – Is the time for discussion AFTER a township has approved its zoning and received an award? Should UDC and NPS be conducting these reviews simultaneously/working together on them as we did historically? Heister said she wanted members to have a sense of the level of detail this review is being conducted. She added she knows that together we can arrive at answers to the questions posed. She would like to send the review back to the UDC. Henry asked Heister if she read Shohola's old zoning ordinance. She said she had not. Robinson said the old zoning for the points in question hasn't changed. Richardson noted that initially every town and township was found in substantial conformance. Heister said that since that time many changes have taken place, but have not been reviewed for substantial conformance. Dean said that he would guess that most towns and townships have not touched their zoning in the river corridor because of the additional review. Robinson said his Planning Commission made the assumption that by working off of their old zoning and actually making some requirements stricter, they thought that would have brought them into further conformance. Sullivan shared the Town of Tusten's experience of updating their Comprehensive Plan and Zoning. She questioned if there is record of former Resource Specialist Dave Soete's work that was done on that. Richardson said that he believes that every zoning change in the river corridor came before the UDC for consideration. He added that "where the ball was dropped" was that they weren't sent to the NPS for a formal determination. Ramie agreed that is where the process broke down. Richardson added that almost every meeting was attended by someone from the NPS. He said that if there is a formality that a step was overlooked, that is fine, but he noted that the Park Service knew of the process that was being followed. Heister said that the Council relies on the Resource Specialist to conduct the work that goes into these reviews. Robinson questioned if it is up to the committee members to "micro-manage" the work of the Resource Specialist. Ramie said that the Work Plan that was just reviewed states that one of the key areas of land management responsibilities that the Council has assigned to the Project Review Committee is the review of local ordinance amendments, challenges, and variances to determine their consistency with the Plan and Guidelines. Peckham said the Resource Specialist is hired to conduct reviews and make recommendations to the Council as to whether the document being reviewed is consistent with the River Management Plan. Robinson spoke of former Resource Specialist Travis O'Dell's work with Shohola Township on their zoning update. He added that Shohola did respond to O'Dell's concerns during that process. Peckham stated that the Plan was written to be implemented in a flexible manner to accommodate variations where needed. Richardson said this review process is the first one to be done in many, many years. He does not want to dwell on what was done or not done in the past. He said it's a learning process and he feels that O'Dell did a good job and that Shohola did a good job working with the UDC. Dean and Heister both agreed that Shohola did a good job as well. Discussion on how to proceed going forward took place. Heister does not want the committee to take the concerns presented as criticism. Richardson pointed out that there will be instances where the Upper Delaware Council's and the Park Service's interpretation of issues will differ during these reviews. Heister agreed. She said it is a process. She suggested that this review is not complete as the review of conformance with the schedule of compatible, conditional, and incompatible land uses in the Land and Water Use Guidelines (LWUG) was not done. Richardson asked her to send it back to the Committee. Peckham shared his idea of setting up a meeting with each town or township going through a zoning change to address potential issues in advance. Richardson said all this responsibility will not fall on the Resource Specialist, referring to that person as the workman in the process that will gather the information and work with the towns and townships. Richardson added that ultimately it is those on the Project Review Committee that are going to make the final recommendations. Heister asked if the Project Review Committee wants a formal letter from the NPS stating they don't feel the review is complete. Richardson said yes and asked that it contain the recommendations based on their preliminary review. Heister said that Hahn is willing to meet with the UDC and go over the comments. Dean said there should be the opportunity for someone from the township to be involved with such a meeting. Richardson said that he understands Dean's suggestion, but initially as part of Golod's training, he would like to move forward with the procedure that is in place. Ramie shared her concerns with the timing of the procedure given that Shohola Township has already adopted Zoning Ordinance No. 79.

Town of Cochection Substantial Conformance Review: It was noted that at the March Project Review meeting it was decided to defer discussion of the Town of Cochection Substantial Conformance Review pending potential changes in the town zoning and the hiring of a new UDC Resource Specialist.

Follow-up on Telecommunication Services in the River Valley: Ramie said there has been no response to the March 22nd letters sent to U.S. Senator Schumer and NYS legislators Bonacic and Gunther requesting assistance in finding funding sources to improve emergency communications for the public along the river.

Other: None

Public Comment: None

Adjournment: A motion by Peckham, seconded by Dean to adjourn the meeting at 8:08 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 5/10/16