

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
June 28, 2016

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

The UDC's Project Review Committee held its monthly meeting on Tuesday, May 24, 2016 at the Council office in Narrowsburg, NY. Vice-Chairperson David Dean called the meeting to order at 6:30 p.m. The Pledge of Allegiance followed.

A motion to approve the May 24 meeting minutes was made by Henry, seconded by Peckham and carried. There was no public comment on the agenda.

Discussion Items Report

Project Review Update

New York

Town of Hancock: Golod stated that on May 18 *The Walton Reporter* reported that the proposed 22,400 horsepower compressor on Hungry Hill Rd. will be part of a larger project that will expand the capabilities of the pipeline transporting approximately 200,000 dekatherms per day. The project is a larger effort to expand the company's infrastructure in NY State and they have plans to construct a new compressor station in Sullivan Co. Millennium expects to begin construction in September 2017.

Towns of Fremont: Golod reported that a Public Hearing was held May 11th to hear public comments on the proposed modification to Section 100 of the Town Zoning Law amending solar and wind. On 6/2 the Town Planning Board drafted an ordinance, "Zoning Law Section 100: Energy Generating System, Large-scale and Small-scale Solar", amending the town's solar regulations. The UDC and the NPS did not receive any notification regarding the drafting of Section 100- Zoning Law and therefore no review for Substantial Conformance was performed. Golod said he has since read the new Law. On 6/9 the Town Board adopted the Law amending the Town Zoning Law – Section 100.

Golod reported that on June 27th he received notice from James Buck of the New York State Department of Transportation that the DOT is planning to undertake a pavement improvement project on NYS Route 97 in the Town of Fremont, south of Long Eddy, NY. The project involves a "Cold-In Place Recycling" of the existing pavement and a 1.5 inch overlay with hot mix asphalt. The expected start date is 7/13 and it is anticipated that the recycling portion should take approximately 2 days. A detailed document with a location map as well as environmental/regulatory coordination information was provided in members' packets.

Peckham questioned if a copy of Fremont's new Zoning Law would be provided to members. Ramie said that Fremont UDC Representative Jim Greier provided a copy of it at the June full Council meeting.

Town of Delaware: Golod reported that the Town of Delaware Town Board had introduced "A local law amending the Zoning Law of the Town of Delaware to add a new subdivision I to Section 618.5." The proposed law adds provisions pursuant to which non-farm commercial solar systems generating 25kW or more of energy for sale to utility companies or for other commercial use shall be considered as a Special Use in the Rural District (RU), and provides associated standards and review criteria. The local law has been classified as an Unlisted Action pursuant to the State Environmental Quality Review Act for which a Short Environmental Assessment Form shall be prepared. The board members agreed to "table" the amendments until they had time to review all of the public's comments.

Golod noted that on 6/8 he and Ramie attended the Town of Delaware's public hearing regarding the aforementioned local law. The public hearing was opened for both "imposing a limited commercial solar energy generating facility land use moratorium" and to "Amend Zoning Law to add a new subdivision I to Section 618.5." After all comments were heard on both issues the board voted to impose a moratorium providing that no site plan or special use permit shall be reviewed or approved by the Planning Board and no building permit shall be issued by the Code Enforcement Officer with respect to commercial solar energy generated facilities. The moratorium has an initial term of six months from the date of its adoption and can be extended for up to two additional periods not exceeding three months each. The local law also provides a procedure for relief from the moratorium on the grounds of unusual hardship or circumstances that would deprive a property owner of the reasonable use of lands.

Dean referred to a handout provided by him titled, "Assessor's Manual, Volume 4 Exemption Administration". He said it has to do with the 15-year tax break for commercial solar. The summary of the document reads, "Real property that contains a solar, wind, or farm waste energy system approved by the State Energy Research and Development Authority is exempt from taxation for a period of 15 years to the extent of any increase in assessed value due to the system. Such property is liable for special ad valorem levies and special assessments. The exemption as reenacted in 1900 is subject to local option (see below)." He provided this information so that the towns are aware of it. He added towns do have the option of setting up a Payment in Lieu of Taxes (PILOT) program.

Town of Cochection: Golod reported that on 5/19 the Cochection Zoning Board of Appeals approved a variance request for the driveway of a proposed campground near Lake Huntington, off access roads Uphill Drive and Mitchell Pond East. Uphill Drive will be restricted to entrance access only for campground vehicles. Two-way access for residents on its lower portion will continue to be unrestricted, and Mitchell Pond East will offer two-way access to residents and campers.

On 6/1 the Cochection Town Board held a public information and comment session about commercial solar energy production. At present, the Town of Cochection has no ordinances pertaining to commercial solar energy production; it does, however, have ordinances regulating residential and agricultural solar energy production.

On 6/28 the *Sullivan County Democrat* reported on a special meeting held by the Town Board on Wednesday to amend their current solar zoning law and compile a draft for the Planning Board meeting on 6/30. Board members unanimously decided to use the Town of Fremont's solar zoning draft as a basis for their own. The Town Board finished up their solar draft, with some small changes made, and are ready to pass it onto the Planning Board.

Town of Tusten: Golod reported that he had been in contact with Architect Buck Moorhead regarding the release of payment for the Town's TAG project. A revised document is to be completed this week, and hard copies will be available the week of July 4.

On 6/14 Golod attended the Town's public hearings regarding amending Section 11.6.1 "Interpretations" and removing Section 11/6/2(A)(B)(C) "Appeals from Administrative Acts", from the Tusten Zoning Law and on Proposed Local Law #01-2016 to regulate campgrounds and campsites, as well as the use and storage of recreational vehicles within the Town. After the various public comments and concerns it was decided that the Camping Local Law will continue under further review. Amendments will return to the Zoning Rewrite Committee for further review.

Golod reported that on 6/20 he attended the Town's Planning Board in regard to two Special Use permit applications that were submitted by Town Planning Board Chairman Ed Jackson. An application was submitted for the Launderette located on 20 5th Street in Narrowsburg. After review Golod determined that the project did not meet the threshold of a Class II significant project per the Project Review Workbook. He did, however, make recommendations regarding exterior illumination to both the applicant, Mr. Phillip South, and Architect, Buck Moorhead. The board approved a motion for construction to continue. The second application was submitted for a home to be built on Crawford/Hankins Rd. After review Golod determined that the project did meet the threshold of a Class II significant project per the Project Review Workbook due to several parameters including a slope averaging between 15-18% however, Golod said he did not have the opportunity to present said application to the committee in May so there was no opportunity to make appropriate recommendations. Golod did inform Board Chairman Ed Jackson of this. The Planning Board approved a motion to allow the start of construction. Further information regarding the application is provided in the written report.

On 6/27 Golod received notice from James Buck of the New York State Department of Transportation that the DOT is planning to undertake a pavement improvement project on NYS Route 97 in the in the Town of Tusten. This project is located in the Narrowsburg area. The project involves a “Cold-In Place Recycling” of the existing pavement and a 1.5 inch overlay with hot mix asphalt. The expected start date is 7/11 and it is anticipated that the recycling portion should take approximately 2 days. A detailed document with a location map as well as environmental/regulatory coordination information is enclosed in members’ packet.

Town of Highland: Golod reported that as of 6/2 Millennium Pipeline Company has not started any preliminary work on the proposed compressor station in Eldred, and not because of the proposed health study. According to an article in *The River Reporter*, Millennium representative Michelle Hook explained, “While the study is being done we will continue to submit paperwork to FERC and pursue all necessary certificates. Halting this process at this juncture isn’t possible. Once we pre-filed for this project the clock started, and we have a timeline we have to adhere to. In addition, the compressor is one piece of a four-part project that is necessary, and those other pieces cannot be put on hold and the entire project must be submitted to FERC as one. However, because of the long filing process we are confident the study can be performed before FERC gives us any of our approvals, as certificates likely wouldn’t come our way till next fall at the earliest.”

Golod noted that on 6/9 Sullivan County legislators reviewed two letters regarding the Millennium Pipeline Company Compressor station proposed in the Town of Highland. The first sent had comments about the compressor station to FERC- which has the ultimate authority on the siting, construction and operation of the compressor. The second was regarding the \$50,000 health impact study that Millennium is to conduct with stipulations.

Golod said he attended the Highland Planning Board hearing on 6/1 regarding the issuance of a special use permit to Harold Datys/Rick Lander for the river front portion of the Barryville Sportsman (formerly the Springhouse) for the launching and landing of watercraft including canoes, boats, kayaks, rafts and tubes. The board voted- 2 ayes, 2 nays, and 1-abstention, therefore the Special Use permit was denied.

Town of Lumberland: Golod said that on 6/11 he received several phone calls and emails regarding a tower being erected on the PA side across from Hawks Nest, believed to be in Westfall Township. After investigation it was discovered that the antenna in question is in the Town of Lumberland. On 6/13 Golod said he spoke with Lumberland’s UDC Representative Leigh Sherman regarding the antenna. Sherman said that the Town was aware of it, and that they did not permit it as Sullivan County is erecting it for the E-911 program. The Town’s Code Enforcement Officer David Sparling provided information stating the antenna is located on a 275-acre parcel and is 195ft. tall. Mr. Sparling requested the submission of a Special Use Permit application and was overridden by the Town Board and the Town lawyer, Danielle Decker. Sparling was not granted engineering or site plans and said that the NPS knew of this tower as they will be connecting into this E-911 service once completed, as well as the one erected in Narrowsburg. Golod also noted that Sparling said the tower is not in the river corridor.

Pennsylvania

Wayne County: Golod reported that Curt Coccodrilli, owner of Wayne Land and Mineral Group LLC, is challenging the long standing drilling moratorium imposed by the DRBC. He is accusing the DRBC of abusing its “enormous power” in banning all natural gas well pads and related facilities targeting shale formations in the basin. Wayne Land and Mineral Group’s plans include exploring for, extracting and selling natural gas. After construction of an access road and well pad, exploratory wells would be drilled, followed by drilling one or more lateral wells, and followed by hydraulic fracturing and the production of natural gas.

Tennessee Gas Pipeline Company LLC: Golod said Tennessee is seeking to construct about 13 miles of pipeline looping (additional pipe adjacent to and connecting with existing lines), through 4.3 miles in Berlin Township and 8.5 miles in Lackawaxen Township. The proposed pipeline will be 36 inches wide to allow for the transportation of 135,000 dekatherms per day of additional natural gas capacity. Tennessee

also expects to modify a compressor station as pipeline parallel loops provide an increase to capacity without additional compression. Construction is set to begin in September 2018.

Damascus Township: Golod reported that on 6/13 he received a zoning variance application for the construction of an agricultural barn and produce processing and as a storage facility (16,692 sq.ft) in size in a Flood Hazard Area on Hickory Lane. Golod said he spoke with Damascus Code Enforcement Officer Ed Lagarenne who informed him that an Agricultural use permit was issued for the land when it was bought by the applicants. Golod noted that per the River Management Plan this site is located in a Recreational Segment. Per the Land and Water Use Guidelines, Major Commercial Development is defined as Commercial uses with 2,000 square feet or more of floor space, five or more employees, not including Minor Commercial Development. Per the Land and Water Use Guidelines Schedule- Major Commercial Use is an Incompatible Use. A Class II review was performed with the NPS and there is concern regarding the size of the barn and how it will affect the scenic quality and view from Rt. 97.

Lackawaxen Township: Golod stated that he spoke with Township Building Inspector Rich Tussel regarding the application for a dimensional variance for a property on Masthope Plank Road at the intersection of Rt. 590. The property did not meet Front Yard setback requirements, however, because the property is situated against the Lackawaxen River (but out of the floodplain) the reduction of the setback was allowed. Tussel said the applicant originally had a manufactured mobile home on the property and simply replaced the footprint with a new manufactured mobile home and therefore the requirement for the Front Yard setback was “grandfathered” in.

Golod stated that in May the Township held a conditional use hearing for the Holbert Brothers Bluestone Quarry for new operating hours. The quarry will be open 24 hours a day for stone crushing, but no heavy truck traffic is allowed from 7 p.m. until 7 a.m., and it will be closed on Sundays and most holidays.

Shohola Township: Golod reported that on 6/9 he attended a public hearing that the Shohola Board of Supervisors conducted regarding an amendment to the Shohola Township Zoning Ordinance #79 Zoning Map. The Board of Supervisors made a motion to adopt the Zoning Map. The map changes the Zoning designation for numerous parcels within Shohola Township abutting major roadways (Route 434, Twin Lakes Road and Little Walker Road) to allow for commercial development opportunities in residential areas without adding new zoning districts (zoning classifications stay the same).

Buckingham Township: Golod stated that he met and spoke with Township residents Joann Morsch and Steve Schwartz at the UPDE Bio Blitz. He impressed upon the need for Buckingham Township to join in the UDC in light of all that is going on within the Township. With the Council’s permission, Golod offered to make a presentation to the Township Board explaining the role the UDC plays within the river corridor and that the intent of the Council is “to retain local control, alleviate the threat of eminent domain and excessive land acquisition, and protect the river through cooperative efforts of local individuals, governments, and state and federal agencies. A brief discussion about previous failed attempts took place. Peckham told Golod he was willing to help him any way he could.

FY 2016 TAG Update:

Golod 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:

On 5/11 Golod sent letters to the four town/townships yet to respond requesting their municipality to submit all 2015 building permits, variances and ordinance changes within the river corridor. As of 6/28, the UDC received the requested information from all but Berlin Township. Henry then provided Golod with the requested information. Golod has begun drafting the 2015 Enforcement Program Report.

Training and Other for Resource Specialist Pete Golod:

5/19, 5/26, and 6/2: Golod attended the PA Municipal Planning and Educational Institute's course in zoning administration in Jessup, PA. A detailed report on the 3-part training is included in the packets.

5/27, 6/14: Consulted with NPS Management Assistant Carla Hahn on the River Management Plan, Land and Water Use Guidelines, and Project Review responsibilities. Conducted a Class II review on a Special Use Permit issued by the Town of Tusten, a review of Substantial Conformance for Town of Tusten Zoning Amendment- Camping Local Law #1-2016, and a Class II review for a Zoning Variance in Damascus Township.

5/31, 6/7: Met with UDC web designer Dorene Warner, and learned about WordPress and Adobe Photoshop 10 and their intricate function in the UDC website. Trained how to post articles, photos, make corrections, etc., to the UDC website.

6/8: Met with PMPEI instructor Peter Wulfhorst. He covered in further depth a wide range of zoning and Pennsylvania Municipality Codes.

6/16: Golod and Ramie attended the Upper delAWARE River Roundtable which focused on Food System Mapping/Communication and other ways to utilize milk for production (mobile Kefir yogurt producing machines).

6/23: Golod continued the Upper Delaware Council's participation with the DRBC's Water Management Advisory Committee, attending the meeting via remote web.

6/25: Golod attended the UPDE Bio Blitz as a representative of the Upper Delaware Council.

7/18: Golod plans to participate in Kittatinny Canoe's 27th Annual River Cleanup.

TBD: NPS Chief of Law Enforcement Larry Neal offered Golod to ride along with the law enforcement officers as they patrol along the river corridor. The goal is to become more familiar with the river corridor and to explore possible issues that may be affecting the corridor. A schedule is currently in the process.

Henry questioned if anyone had gone to see if the 195 foot Sullivan County E-911 tower was visible from the river. He shared his concerns of visual blight. Hahn told him it is visible but not located within the designated river corridor. Golod referred to the GIS map in members' packets showing the location of the tower. Robinson said he believed the map to be incorrect. Hahn stated that the coordinates provided to the Park Service were incorrect. Sullivan questioned if the 911 towers help other people in the river valley with communication. Robinson told her there is no public access; it is strictly for emergency communication.

Henry questioned what the barn being constructed in Damascus Township will be used for. Golod told him the property was purchased by organic farmers that intend to use the barn for the processing, sorting and storage of their products. Heister believes the barn falls within the category of agricultural use and is therefore a compatible use. She does not feel the definition of major commercial use applies to this project. Henry suggested that someone may want to visit the site to determine what the barn will look like from the river. Sullivan questioned if there was any way to mitigate the visual impact from the river. Golod said he can ask Damascus CEO Lagarenne. He added that Lagarenne impressed upon him that the architect for the barn is conservationally-minded. A brief discussion about the project and farming in general took place.

New Business

2017 TAG Program Open: Dean referred to the memorandum regarding the Technical Assistance Grant program provided in members' packets. Ramie said that applications must be submitted by August 29th and the total pool of grant money budgeted for fiscal year 2017 is \$35,000. She encouraged members to let their towns and townships know that the program is open. The application was provided in the packets. Ramie noted that the information was also mailed out directly to town/township supervisors and clerks. Robinson questioned if one township could donate their portion to another township to accomplish a certain project. Ramie told him it is competitive and there is no certain allocation per township. Grants are awarded based on recommendations of the committee after review of the applications received. Ramie added that joint applications have been filed in the past and that is acceptable. Members discussed the fact that "bricks and mortar" are not funded.

Commercial Solar Energy Discussion: Dean stated that he had attended the Scenic Byway meeting the previous night and heard a "brisk" conversation about commercial solar energy. He noted that the Town of

Deerpark currently has a moratorium in place on commercial solar until they get their ordinance squared away. Heister stated that solar is clearly a new land use within the corridor that needs to be addressed. It was not envisioned at the time the River Management Plan was written as there will be many things that were not anticipated at that time. Heister referred to the handout prepared by her titled, "Commercial Solar Energy: Determination of Solar Power as a New Land Use Within the Upper Delaware Corridor and Whether it is a Compatible Use, Conditional Use, or Incompatible Use." She said she feels it is the large scale commercial solar that needs to be addressed. Heister noted that the Town of Fremont defined large-scale solar energy generating systems as "solar photovoltaic systems with a rated nameplate capacity of more than 15 kilowatts (kW) or solar thermal systems that distribute energy to multiple buildings and/or properties, and/or solar energy generating facilities that do not otherwise qualify as small-scale for the purposes of this Section." Small-scale is defined as "solar photovoltaic systems with a rated nameplate capacity of up to 15 kilowatts (kW) or solar thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings." They provide electricity and/or hot water for the principal use and/or accessory use of a lot of record on which the solar energy system is located. However, this provision shall not be interpreted to prohibit the sale of excess electricity from time to time to a public service agency. Heister said that the proposed solar farms are 2 megawatts. She said it is hard for her to imagine the UDC not defining it as a commercial activity. Robinson questioned the ratio of megawatts to acreage. Don Castellow, a resident of the Town of Delaware, stated it is five acres per megawatt. Dean stated that technology is moving so quickly that he foresees the day when solar collectors will be much smaller and would allow for commercial electricity without impinging on views and space. Sullivan noted that Pace University has developed a New York State Model Solar Energy Law that could be referred to while addressing this issue. Heister said her question to the group is, "Do you consider a large scale solar generating system to be either commercial or a power generating station?" A power generating station is defined in the Land and Water Use Guidelines as "any new commercial or public electric generating facility (for base load, cycling or peaking purposes) powered by coal, oil or natural gas, nuclear power and hydropower." Henry suggested deferring to an expert for guidance on this issue. Heister does not feel an expert is necessary to decide if solar energy is considered an electric generating facility. A motion was made by Henry to defer to an expert for guidance on the solar issue. Robinson stated it is important to decide what criteria we would be looking for. He agreed with Heister that we only need to evaluate what the intent of the River Management Plan was and how it would apply to solar. Henry's motion was seconded by Dean. A vote was taken and the motion failed. Roeder made a motion to table the discussion until members can conduct their own research on the topic. The motion was seconded by Henry. Heister suggested that members at least read through the definitions at this meeting collectively. Heister stated that solar is clearly a new land use. Ramie added that for substantial conformance purposes in reviewing the ordinances that towns are developing or have developed to regulate it, we need to have some standards in place as right now none exist. Robinson stated that he was not prepared to make any decisions relating to solar at this meeting. Roeder amended his motion for committee members to conduct their own large-scale commercial solar energy research and be prepared to discuss the UDC's approach to reviewing new municipal ordinances and river corridor proposed projects at the July 26 Project Review Committee meeting. That amended motion was seconded by Henry. Dean commented that this issue is not going away. Heister said she feels it will be relatively simple to determine where solar falls within the definitions of the RMP and then where that definition falls within the schedule of compatible and incompatible uses. A vote was taken and the motion carried.

Other: None

Old Business

PA Municipal Planning and Educational Institute's Zoning Administration Course Report: Golod's written report covering the 3-day course was provided in members' packets.

Follow-up on Telecommunication Services in the River Valley: Ramie referred to Heister's June 20th response to Robinson's request to provide information on the NPS' identified responsibility in the River Management Plan (p.112, #10) to "Provide an emergency communication system and periodically evaluate the effectiveness of the system." Referring to page two of the response letter, Ramie read that "The NPS law enforcement staff has direct radio communications with multiple county 911 centers including

Delaware, Sullivan, Lackawanna, Wayne and Pike Counties.” She asked why Orange County was not included. Heister said she would check into that. Henry stated that communication with Orange can be accomplished through the New York State system out of Middletown and explained that process. Robinson told Heister he appreciated the letter and asked her, “How do we get on the same side of this issue?” He shared a personal experience of being without communication along Route 97. Heister said she does not feel they are not on the same side of the issue; she feels the issue lies in whose responsibility it is to provide such service. Robinson stated that everyone is worried about communication agency to agency, but we need to work on improving that communication for the first point of contact. A lengthy discussion about wifi hotspots took place. Hahn suggested that Congressman Gibson’s office be contacted for information on technology for improving communication in the river valley. She spoke of the forum he held a few years ago. Heister stated she does not understand why the towns and townships have not been proactive in improving communication if resident and visitor safety is an issue. Hahn said it has been discussed that a plan of combined technology would be necessary to provide coverage in an area like ours. Robinson said that the railroad is obligated to maintain communication for their system. He researched and learned that this is accomplished by fragmented radio to radio and cell service. He was told there are a lot of gaps. Ramie stated that it was learned after the Cannonsville issue that emergency response is the responsibility of the local municipalities ultimately. She agreed with Heister that health, safety and welfare of residents and visitors is the towns and townships jurisdiction. She feels it is worth pursuing information to share with the municipalities. Sullivan asked Hahn how the UDC could go about facilitating an integrated communication system. Hahn suggested starting with the county planning departments. Henry stated that the Park Service has real good radio capability throughout the river corridor. He questioned if cell service could be added to the existing infrastructure. Heister said the Park Service is getting rid of their towers and co-locating on other towers. Henry would like to obtain the costs involved in adding something cellular in nature to the already existing infrastructure. He added that this area is part of the National Park system and if you go to most of the larger parks in the United States, there is very little cell coverage. Robinson said the difference here is that there are villages and towns that people live in year round. After discussion, Robinson decided that he would try and arrange a presentation at a full Council meeting by Verizon and Frontier on available technologies with costs to enhance public cellular communications in the river valley. Ramie suggested the September meeting would be best for such a presentation.

Other: Peckham asked if there is a way to find out what municipalities along the river have sirens. After a brief discussion, it was decided that Ramie would contact the five county Emergency Management Offices in the river valley to request an inventory of where emergency sirens are still active or existing in their jurisdictions to gather information helpful to the UDC’s recommendation to the New York City DEP to explore the use of fire signals for public notifications of reservoir-related emergencies.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Sullivan to adjourn the meeting at 8:25 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 7/13/16