

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
August 22, 2017

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jeff Dexter, Alan Henry, David Dean, Aaron Robinson, Fred Peckham, Jim Greier, Susan Sullivan
Committee Members Absent: Debra Conway
NPS Partner: Kris Heister, Carla Hahn
Staff: Laurie Ramie, Cindy Odell, Pete Golod
Guests: None

The UDC's Project Review Committee held its monthly meeting on Tuesday, August 22, 2017 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:32 p.m.

A motion to approve the July 25 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 Tusten: Golod reported that on July 28, he submitted a letter to the NPS noting the UDC's initial determination regarding the Town's Substantial Conformance review of their draft Subdivision Law and Zoning Laws which were presented to the committee on July 25. A copy of the letter was provided in members' packets.

Golod stated that on August 11, the Tusten Town Supervisor submitted to the UDC Local Law #6 which will amend the Zoning Law to establish regulations for the development and operation of solar energy systems. He said he is nearly complete with the Substantial Conformance review of the amendment and would like to send the draft once completed to the committee for an email vote in order to meet the timing for the Town's upcoming hearing. A motion approving this action was made by Robinson, seconded by Sullivan and carried.

Town of Delaware: Golod noted that the Town Planning Board met on July 26 and approved the Special Use Permit for Seminary Hill Ciders. He added that this project was also presented to the committee on July 25. On August 14, Golod submitted a letter to the Town's Code Enforcement Officer with comments on the Seminary Hill Ciders Special Use Permit application. A copy of the letter was provided in members' packets. Golod added that he will offer a brief presentation on the new land use position paper, Evaluation of Cideries in the Upper Delaware Corridor, under New Business.

Town of Highland: Golod said he submitted a letter on August 1st to Highland Town Supervisor Haas regarding the substantial conformance review of the Town's Draft Zoning Law along with the UDC's questions and suggestions. A copy of that letter was provided in members' packets. A response from Supervisor Haas was received on August 17. The response read, "To answer the letter dated August 1, 2017 in reference to the Town of Highland Proposed Zoning Draft question #1. We will revisit all Campground Regulations; 2. We haven't asked that question or have the answer (Golod said this question was in regard to the Rural Commercial Floating District); 3. Utility, Electric, Gas we will revisit with consultant; 4. As defined by DEC not needing a DEC permit, large scale mining is prohibited in all districts, (DEC Permit required). The Board will revisit acreage area. The Town of Highland Zoning Update is a total work in progress. The Zoning Task Force which has worked on the project for eight plus months has been excused for this time so the Town Board members can take public opinion generated at the two public hearings and apply to the code with the consultants' review. Please be advised that Town of Highland Town Board has already spent \$24,395.68 and we now are close to full budget for project. We have already met five times

discussing the issues and comments put forth by our constituents and many more meetings are planned. Thanks for your comments and patience.” Richardson feels it was a positive response. Golod agreed.

Pennsylvania

Damascus Township: Golod stated that on August 9 he received a building permit for a Single-Family Dwelling & Attached Garage on 756 River Road. Upon reviewing the application, it was determined that the project did not rise to the level of a Conditional Use or Site Plan Review and therefore did not meet the threshold of a Class II Significant Project.

FY 2017 TAG Update: Golod reported that the FY 2017 TAG program officially closed as of August 18. He noted that on July 31, he received the project completion form and all accompanying paperwork from the Town of Tusten for TAG 2017-04 for Beginning Codification Process of Town Laws & Ordinances; on July 26, he received the project completion form and all accompanying paperwork from the Town of Highland for TAG 2017-06 for the Update of their Town Zoning Law; and on August 14, he received the project completion form and all accompanying paperwork from Shohola Township for TAG 2017-02 to Produce a Pictorial Reference Book of Local Boarding Houses. Golod passed around a copy of the Boarding House book. Golod said he recommends that the Committee vote to approve all three of these projects when they come up under New Business.

Golod noted that we are accepting applications for FY 2018 TAG projects until 4:30 p.m. on Thursday, August 31. There is currently just one submittal from the Town of Tusten, he added. Robinson asked if the criteria was that funding would be for land use related projects. Golod said that eligible projects must be directly related to land use planning, zoning revisions, comprehensive and master plan updates, codification of local laws, and Geographic Information Systems (GIS) planning. He reminded members that the Special Meeting of the Project Review Committee will be held on Tuesday, September 12 at 6:30 p.m. to meet with the applicants and review their proposals.

Millennium Pipeline Project: Golod said the NYS DEC held a public meeting on the Millennium Pipeline’s Eastern System Upgrade project on July 27th. According to Millennium’s estimates the Highland compressor station is expected to release approximately 105,000 tons of CO₂ (carbon dioxide) emissions annually. There were also some concerns raised regarding the release of formaldehyde, benzene, and other known hazardous air pollutants. NYS DEC is considering whether or not to grant Millennium two permits to advance the project.

Resource Specialist’s Report:

- On August 16, Golod said he began the GEOG 483: Problem Solving with GIS, the second course of the Penn State World Campus GIS Certificate Program.
- Golod reported that he is nearly complete with the 2016 Enforcement Program Report for submission to the NPS.
- Golod said that he and NPS Management Assistant Carla Hahn met on August 9 & 16 and resumed work on revising the draft for the proposed updated Project Review Guides. Another working session is scheduled for August 23 at which time they may move forward with finalizing their review of the Town of Tusten’s Solar Energy Systems Zoning Law amendment.

Old Business

Frontier Communications Emergency Phones Update: Ramie said she provided a report at the August full Council meeting about the outcome of her conference call with Sullivan County officials regarding suggestions of ideas for funding sources and potential collaborators if there is interest in pursuing emergency telephones along NYS Route 97 in the Town of Lumberland. She reiterated that she was not very optimistic about partnership opportunities based on the line of questioning during the call. She noted that she had recently read an article in the Times Herald-Record about Sullivan County’s shared services plan, one aspect of which was to improve emergency notifications for more remote geographic areas. Ramie said she reached out to the Sullivan County Director of Communications for more information and was provided with the report. The part that is relevant to us is the Sullivan County Shared Emergency Notification System which reads, “Due to the rural and seasonal nature of Sullivan County’s population, it

is often difficult to communicate with residents on matters affecting each community individually or the County at large. Weather, traffic, and large public assemblies such as concerts often create hurdles for residents of Sullivan County. Each municipality is looking to find better ways to communicate as needed with their residents, but these solutions can be costly. For the purposes of a shared services agreement, the County considered the effects of an aggregate agreement with CODE RED, a state-bid vendor with a product delivering a system to meet our needs. In the event that each municipality were to purchase emergency verification software on their own, it would each cost them \$69,759. With an aggregate purchase managed by the county, the same system would cost \$15,924. Net Savings equals \$53,835.” Ramie said she researched and found out that CODE RED is a public safety smartphone application that delivers location-based general and emergency notifications, as well as severe weather warnings, to subscribers within the direct path of a storm. She added that the Sullivan County Director of Communications informed her that the County’s greater interest is in expanding cell coverage rather than installing call boxes. Ramie said she feels if the Council wants to continue to pursue the emergency phones, it will be without Sullivan County’s help. Robinson stated that the County loses sight of the volume of traffic and the county taxes that are generated in the corridor. He said that when the County did away with the Board of Supervisors and went to the legislative system, towns lost their ability to get any sort of attention. Sullivan spoke of the Connect America Fund (CAF) which is designed to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas. The program fulfills this universal service goal by allowing eligible carriers who serve these areas to recover some of their costs from the federal Universal Service Fund. Robinson stated there is a tower in Shohola Township outside of the corridor that was funded by this program. The tower expanded cell service to an extent. Robinson shared his frustration of not being able to access emergency providers in many areas throughout the corridor. Richardson feels the Council should continue to pursue the emergency phones. He suggested that the Upper Delaware Scenic Byway may be a vehicle to seek grant funding. Roeder stated that Sullivan County Legislature Chairman Luis Alvarez traveled the corridor for many years during his time with the Sullivan County Sheriff’s Department and suggested he may be a good contact. Ramie said he had been copied on the UDC’s correspondence directed to the County Manager as per their protocol. Richardson said that Sullivan County recently announced that their sales tax revenue has far exceeded anything they budgeted and are anticipating much more. Robinson said that what we’re asking for is “small potatoes” and expressed his frustration with not being able to get their attention. He anticipates it will take more deaths in order to accomplish this now that we have presented our case. He said, “It’s too bad that it has to work like that.” Robinson said the topic of these emergency phones would be a good one to take to the elected officials once the UDC resumes its visits to federal and state elected officials who represent the Upper Delaware region.

Project Review Guides Update: Ramie said this was covered during Golod’s Discussion Items Report. The timeline for completion of this project was discussed. After a lengthy discussion about the project review process at the municipality and Council levels and timelines, it was noted that the goal is to create a usable working document and to complete the project no later than January 2018.

A brief discussion about the Town of Delaware’s frustration with the Council’s review of the Seminary Hill Ciders project took place. Golod explained that cideries are a new land use that was not envisioned in the River Management Plan. Greier said he feels this is the type of growth that should be encouraged. Richardson said the aim of the review was not to discourage it; he feels that Golod did a good job with the review. He added that it is a new use and there is nowhere in the document where it says it cannot be done. Golod noted that all the UDC is saying is that since there are two different states on each side of the river; the use should unilaterally be considered a conditional/special use with the municipalities making the conditions and restrictions as they see fit. He added that Pennsylvania does not have as many regulations for this use in place as New York does. Heister stated that the Town of Delaware did receive many questions and she feels had the position paper been in place at the time, they would have gotten far fewer questions. Richardson reiterated that the Council is not trying to discourage this type of use. Discussion of the Cideries Position Paper being used as a template for other uses took place. Heister noted that the Land and Water Use Guidelines say when you have a new land use, you’ll look at the definitions for a similar use and make your judgment accordingly. To add distilleries or wineries, those will be very similar to cideries and could likely be accomplished by resolution, she added.

Other: None

New Business

Approval of Town of Highland TAG 2017-06: Update Town Zoning Law: A motion to approve the project was made by Peckham, seconded by Dexter and carried.

Approval of Town of Tusten TAG 2017-04: Codification of Town Laws and Ordinances: A motion to approve the project was made by Peckham, seconded by Dexter and carried.

Approval of Shohola Township TAG 2017-02: Produce Pictorial Reference Book of Local Boarding Houses: A motion to approve the project was made by Peckham, seconded by Dexter and carried.

Evaluation of Cideries in the Upper Delaware Corridor: Golod stated that he sent the draft Position Paper out in advance for review. He referred members to the Definitions section and read the On-Farm Cidery definition which reads, “any place or premises located on a farm, in which New York State or Commonwealth of Pennsylvania labelled cider is manufactured, stored, and sold. (S5833) A farm cidery is distinguished from a standard commercial cidery by the fact that, under the New York Agriculture and Market Law and the Pennsylvania Right to Farm Law, on an annual basis, at least half of distilled or brewed products must be composed of on-farm produced fruits.” Golod then referred members to page 3, question 1. “Is a cidery that is not considered ‘on-farm’ an agricultural use? Answer: No. Justification: A cidery that is not considered part of an ‘on-farm’ operation would be considered a commercial development based on the definition in the LWUG. When submitted for UDC review, new cidery operations that are not considered ‘on-farm’ would be evaluated as ‘minor’ or ‘major’ commercial operations and their appropriateness within the river corridor would be determined based on the existing guidance contained in the LWUG.” Golod reported that the conclusion of this paper is “To ensure a consistent approach throughout the Upper Delaware River corridor (in both PA and NY), the UDC and NPS recommend that ‘on-farm’ cideries be considered a conditional use/special use.” A brief discussion about how a brewery would be reviewed took place. A motion to recommend the “Evaluation of Cideries in the Upper Delaware Corridor” draft position paper to the full Council was made by Greier, seconded by Roeder and carried unanimously.

Draft Resolution 2017-08: Guiding Substantial Conformance Reviews of Renewable Energy Projects in the River Corridor: Ramie noted that since the Project Review Committee conceptually approved the “Position Paper on Select Utility-Scale Renewable Energy Systems: Solar, Wind, Geothermal and Hydropower”, the next step is to document the procedure. She referred to the handout provided to members titled, “Proposed Process for Making Minor Amendments to the River Management Plan and Land and Water Use Guidelines – Draft Process 8/18/17”. Ramie stated that everything that has been done on this subject to date has been documented. She said a determination has to be made as to how to now get this into the schedule of compatible, incompatible and appropriate conditional/special uses so that it is there for posterity’s sake. She added that we don’t feel passing a resolution alone would accomplish this. All the research that has been done has said the way to accomplish and document this is through the Minor Amendment to the River Management Plan process. She understands that people don’t like this idea, but she doesn’t know how else it can possibly happen as this is the way to formalize this action. She noted that the UDC’s role would be to make a recommendation to the National Park Service to take that action. We would not lead the charge on this process. The minor amendment process is the “tool we’re using to make sure that this is documented.” Heister, referring to the “Proposed Process” handout, noted that the reason for the column labeled, “National Environmental Policy Act (NEPA) Pathway: Categorical Exclusion (CE) With Documentation Process (NPS 2015 NEPA Handbook)” is just to show members that the Minor Amendment Process is the NEPA process that the NPS has to go through. Heister said that the only clarification that is being made is under “Potential Alternate Process”: “Allows for UDC to provide a recommendation to NPS, with a unanimous vote, regarding proposed changes to the RMP/LWUG with NPS then taking the lead on public review and comment and final adoption of the proposed change using the appropriate pathway under the National Environmental Policy Act (Categorical Exclusion, Environmental Impact, or Environmental Impact Statement).” Heister said for this issue, it will be Categorical Exclusion. Ramie noted we will not have to go through the Environmental Assessment or

Environmental Impact Statement process with a categorical exclusion. Robinson shared the response to his inquiry of who gives him the authority to change the River Management Plan on behalf of the township. The township attorney feels he could vote on behalf of the township, but should vote in the manner in which the supervisors recommend as they are who voted to engage with the RMP. Robinson shared some of the township's concerns with making amendments to the River Management Plan and some of the antiquated limitations in the 1986 Plan. Heister stated that any town or township has the right to bring any amendment suggestion to the Council. Henry stated that had the Plan been reviewed every five years like is called for, we most likely would not be having these discussions. Henry reiterated his suggestion of accomplishing adding the position on solar by letter of interpretation. Ramie said we looked into that alternative. The way it's defined in the Plan is that letters of interpretation pertain to clarifying existing pieces of information in the Plan. A new land use does not fall into that category. Henry suggested changing the River Management Plan so that it is more usable and spoke of the way he would accomplish this. Sullivan stated that the UDC is making a change to the RMP and she is unclear of the process that towns need to take regarding this issue. Ramie suggested that the towns and townships would have the opportunity to come to a meeting and make comment as outlined in the amendment process. She added that the representatives, upon appointment by their municipality, represent their interest and need to determine how they will obtain their approval or disapproval. Heister noted that the representatives would be representing their towns or townships in terms of recommending the position that was going to be taken, in this case, that solar would be a conditional/special use, and then the Park Service would be tasked with holding the public meetings and making the final amendment. Robinson questioned what happens if one town for whatever reason, decides they don't want the River Management Plan opened up. Heister stated that the Park Service has the authority to move forward with the amendment. Robinson shared his frustration that the amendments to the Plan that would help towns are not being addressed. Heister questioned if we can't get a minor amendment done, how are we supposed to address everything else? Sullivan stated that when the UDC was in danger of not receiving their funding, she did not find anyone that was in favor of that happening; she didn't find anyone that wanted the RMP to disappear or the Park Service to disappear; at least not in Tusten, she added. Peckham referred to the River Management Plan as a "conservation" document and stated that it defines limits in such a way that it can be a breathing document and there can be exceptions and compromises. Richardson said he has discussed the solar position with his board which has already passed their zoning which calls for solar to require a special use permit. As a result, they do not have a problem with Richardson voting for this document. After much discussion, a motion to move draft Resolution 2017-08: Guiding Substantial Conformance Review of Renewable Energy Projects in the River Corridor to the full Council was made by Henry. Ramie referred members to the second page of the Resolution number three which reads, "The Upper Delaware Council hereby presents a recommendation to the National Park Service to incorporate the above-stated conclusions of the 'Position Paper on Select Utility-Scale Renewable Energy Systems: Solar, Wind, Geothermal and Hydropower' into the Schedule of Compatible, Conditional, and Incompatible Land Uses, on the basis that this recommendation is consistent with the Wild and Scenic Rivers Act, Upper Delaware enabling legislation, Land and Water Use Guidelines, and the River Management Plan." Henry's motion was seconded by Dexter. Henry stated that members need to market this position paper to the towns and townships and let them know it benefits them because it will allow solar as a conditional/special use. After more discussion, a vote was taken and the motion passed with Robinson and Dean abstaining.

Other:

Public Comment: None

Adjournment: A motion by Peckham, seconded by Robinson to adjourn the meeting at 8:20 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 9/5/17