

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
September 27, 2016

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

The UDC's Project Review Committee held its monthly meeting on Tuesday, September 27, 2016 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:30 p.m.

A motion to approve both the August 23 and September 13 meeting minutes was made by Peckham, seconded by Dexter and carried.

Discussion Items Report

Project Review Update

New York

Sullivan County: Golod reported that under NY State law large scale commercial solar arrays are tax-exempt for 15 years unless the municipality where they are located opts out or sets up a PILOT program. On 9/1 Sullivan County Real Property Tax Services Director Ed Homenick told legislators that Fremont has opted out, and any commercial array built will be fully taxed; Tusten is considering allowing large scale commercial solar to be completely tax exempt; Cochection and Callicoon are leaning towards PILOT programs; and Delaware has a tentative plan to utilize a PILOT equal to 50% of the property taxes otherwise due.

Town of Hancock: Golod said that he attended the 9/6 Public Hearing held by the Town Board regarding the adoption of proposed Local Law No.1, "A Local Law Providing for the Administration and Enforcement of the 2015 International-Codes and New York State Supplements". Town Code Enforcement Officer Thomas Zampolin addressed the public regarding the move to the International Code Council (ICC) system. He stated NY State is no longer printing the code books due to high costs. The International Code books will be provided for much cheaper and the codes are strictly clerical.

Golod reported that a motion was made and passed by the Hancock Town Board to draft a letter to Michelle Hook of Millennium Pipeline Company in support of the construction of a second compressor station.

Town of Delaware: Golod stated that on September 2nd Town Supervisor Ed Sykes indicated the Town was ready to lift the moratorium on large-scale commercial solar launched in June. He said, "We've tweaked the proposed law, and we think it answers every single issue they (residents) have raised." Sykes said it wouldn't be fair to Delaware River Solar to continue the moratorium, "We don't have any more work to do on that." The local law states that 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 RU Rural District, requiring Planning Board review in the RU zoning districts. The revised draft no longer limits arrays to total lot coverage of 25% or less, rather 50% of the land area used for the commercial solar system. Also, the revision details acceptable vegetative buffering, a cost estimate associated with decommissioning, prohibits hazardous materials but allows for hazardous materials as long as they are "confined and protected from the possibility of any spills in the event of panel damage from normal wear and tear or weather," and provides associated standards and review criteria. The local law also effectively repeals the moratorium that was established in respect to large-scale commercial solar.

Golod said he attended the September 14 Town Public Hearing where Local Law No. 2-2016 entitled, "A local law to provide for the codifications of local laws, ordinances and certain resolutions of

the Town of Delaware into a municipal code to be designated the 'code' of the Town of Delaware" which was voted and approved.

Local Law No. 3 entitled, "A local law amending the Zoning Law of the Town of Delaware with respect to solar energy systems" was also addressed at the September 14 Town Public Hearing. A full SEQR form was read, and no significant impacts were found. The law was voted and approved, therefore there was no resolution to lift the moratorium. Adopting the local solar law automatically repealed the moratorium. The local law amends the Town's Zoning Law with respect to solar energy systems.

Golod reported that he attended the Town's Planning Board meeting on September 21. Delaware River Solar, LLC was to submit an application for the Baer Road project which was postponed for another project on Hospital Road which Golod believes is not in the river corridor.

Town of Cochection: Golod said that on 9/14 the Town held a Public Hearing regarding proposed Local Law #3-2016, "A Local Law to Impose a Six Month Moratorium On Large Scale Solar Energy Generating Systems or Solar Power Plants." The Board voted unanimously and passed a six-month moratorium on large scale commercial solar energy installations. The Town is currently developing their zoning ordinance, which is modeled after the Town of Fremont's, and is near completion. According to Supervisor Gary Maas the board needs more time to decide whether to allow solar arrays in the hamlet districts. Currently Delaware River Solar has two concrete proposals for commercial arrays in the Town.

Town of Tusten: Golod stated that on September 14th members of the Town Board extended the Town's solar moratorium beyond its upcoming December expiration for another six months, and plan to establish a solar sub-committee.

On September 26th Golod worked with NPS Management Assistant Carla Hahn on a Class II review of the proposed Pete's Market gas station. A copy of that review was included in members' packets. Golod showed site plans for the addition of a four dispenser with 24-foot kiosk gasoline service station in an unused portion of the existing parking lot of Pete's Market located between NYS Route 97 and Kirk Road in Narrowsburg next to the carwash. Three double walled fuel tanks will also be installed. There will also be a canopy affixed about the gas station island with a gravity drain that will flow to a ditch on the side of Kirk Road. Golod shared details of the proposed sign. The sign is currently at 41.17 sq. ft. which is industry standard, but according to the RMP, the suggested maximum sign size is 32 sq. ft. Golod said he was told that the Town issued a waiver and shared their reasoning for that. Ramie questioned if Golod will be presenting the Significant Projects Report Form and Class II Review at the Town's October 17th Planning Board meeting. Golod said yes, those forms along with a letter containing recommendations. Golod said that based on the Class II review, the project is an acceptable use. A motion to approve the project as submitted along with a letter offering recommendations in regards to sign size and drainage was made by Dean and seconded by Peckham. A vote was taken and the motion passed.

Richardson suggested a formal acceptance of the Resource Specialist's findings. Referring to the first page (SP-10) of the Class II Review, Dexter commented that it was his opinion that Item 1 which reads, "Conditional/special use permit or site plan review which, if approved, could take a town out of substantial conformance (page SP - 28)" was marked incorrectly as "yes". Golod agreed it should be "No" and said he would make that correction. A motion to accept the findings of the Resource Specialist's review with the noted change was made by Roeder, seconded by Dexter and carried.

Town of Lumberland: Golod noted that several months ago in his Enforcement Program report, he discussed a 2015 permit that was issued for a commercial sewage upgrade to Camp Simcha's 17,500 gallons per day discharge to 45,000 gallons per day into an unnamed tributary of the Delaware River. The commercial upgrade had also been approved by NYS DEC and the DRBC. Some background information regarding the Camp is NYS DEC filed an Order of Consent against Camp Simcha for violating its State Pollutant Discharge Elimination System (SPDES) Permit. Inspections determined that "sewage was being bypassed around the wastewater treat system".

The Camp currently has two large sewage holding ponds located by Fish Cabin Creek which runs from Lake Diana to the Delaware River. The "unnamed tributary" as cited in the DRBC's Docket discharges "treated" sewage directly into the Delaware. These two sewage ponds are located 75 feet from a neighboring resident's property and water well.

In 2015 Camp Simcha dumped Sonar PR into Lake Diana which borders the camp and neighboring residents. This poisonous herbicide was used to control water lily, spatterdock, and water shield all which thrive in waterways containing nutrient sources (primarily nitrogen and phosphorous) from runoff including waste from livestock, and poorly functioning septic systems. (Rutgers University, Oregon State University, PA Fish & Boat Commission, Virginia Cooperative Extension) A letter was sent from the camp to the neighboring residents that the application of this herbicide prohibited swimming or fishing for 24 hours and barred irrigation for 7 days. In animals, (Sonar PR) has been shown to cause liver and kidney effects. Repeated excessive exposure to crystalline silica may cause silicosis, a progressive and disabling disease of the lungs. Some evidence suggests that kidney effects may result from excessive exposures also. (Sonar PR Herbicide MSDS Data Sheet). Golod noted that as mentioned last month, on August 2nd, Solitude Lake Management, working for Camp Simcha, once again dumped an aquatic herbicide, Sonar SRP into Lake Diana which is approximately 75 feet from a local resident's water well. Sonar SRP is harmful to aquatic life with long lasting effects, and is considered hazardous by the OSHA Hazard Communication Standard (SEPRO Safety Data Sheet), Golod added.

Golod said he reached out to DRBC Director of Water Resource Management Kenneth Najjar. Najjar said they had reviewed the file on Camp Simcha and approved the Waste Water Management Plan in September 2015. The DRBC generated a report that is available upon request, he added. Najjar stated the DRBC had received complaints from nearby residents and were referred by the DRBC to the NYS DEC regarding those issues. Najjar added that the DRBC has received a compliance letter for the facility but it spanned the period of when the summer camp was not in use and therefore not discharging, so there were no violations of DRBC standards on file. The DRBC is currently unaware of what is going on at that facility, but believes they have not constructed that approved expansion, possibly resulting in the plant operating beyond its current capacity. Najjar said the DRBC is reaching out to Camp Simcha to try and get some answers. Golod said he consulted with NPS staff as well. He believes this issue has been overlooked and this sewage system upgrade is potentially a problem on a bigger scale than was earlier reported. Golod said that no review of this project was conducted back in May of 2015. Golod noted that per the Project Review Workbook, Class II projects include projects that involve stream discharge sewage effluent.

Henry questioned if the NPS has done any sampling of the affected water bodies. Golod said not that he is aware of. After some discussion about water sampling, a motion to send a letter to the NYS DEC with copies to the DRBC and Town of Lumberland with UDC questions on the Camp Simcha commercial sewage discharge update requesting a detailed response was made by Dean, seconded by Peckham and carried. Dean suggested that the letter should pose the question of whether testing has been done in the summer when the camp is operational.

Pennsylvania

Wayne County

Golod said that he previously reported that Curt Coccodrilli, owner of Wayne Land and Mineral Group LLC, is challenging the long standing drilling moratorium imposed by the DRBC. The DRBC now says that the lawsuit should be dismissed because part of the basin drains into Special Protected Waters. In addition to the protective waters factor, the Commission has not received an application from Wayne Land for activities on the 75 acres in the basin. Wayne has approximately 180 acres of land, 75 of which are in the basin.

Lackawaxen Township: Golod noted that on September 14th the National Park Service and the Federal Highway Administration held an informational meeting regarding the Roebling Bridge maintenance work beginning the week of October 3rd throughout the month of October. Repairs include expansion joint replacement, sealing of concrete decking, resurfacing of asphalt pavement, drainage improvements, and icebreaker timbers and stone masonry repairs.

Golod reported that Brookfield Renewable, the owner of Lake Wallenpaupack, has begun the process of a drawdown of the lake. As of 9/20 the lake elevation was at 1,179.9 ft. and 63% full. Brookfield Renewable has a five-year drawdown plan; this year's schedule is as follows: 9/17-9/23: level from 1,180 feet to 1,178.5 feet; 9/24-9/30: level from 1,178.5 feet to 1,177 feet; and 10/8-10/14: level from 1,178.5 feet to 1,174 feet. Hahn asked why the lake is being drawn down. Golod said the drawdown is for maintenance of the property and inspections of the power generated facility at Wallenpaupack Hydroelectric. A

drawdown is done every five years, he added. Richardson said he would like to know how long it will stay drawn down before they allow it to refill.

Resource Specialist's Report:

• Golod said that on August 26th, he and Executive Director Ramie met with NPS Management Assistant Carla Hahn, and former Biologist Jamie Myers to discuss the proposed updated Project Review Workbook, and the need for a PDF map (including the river corridor boundaries, state/county/town-township lines, water bodies, major roads, and the scenic, and recreational and hamlet segments). We provided Jamie Myers our requests for what to include on our map for Project Review workbook. It will consist of two-pages approx. 11 x 17" and we asked it be produced in color and shading being that is how the corridor boundary and the scenic and recreational segments are depicted.

• On August 31, Golod said he completed the execution of a full QAQC of all TAG grants, monies awarded, and monies spent from 1988 to 2016. All information was collected, cross referenced (by investigating each TAG individually), and updated on an ongoing spreadsheet. Golod also updated the UDC website to reflect the 28 years' worth of TAGs.

• Golod said he attended the 4th Annual Delaware River Watershed Forum on 9/19 & 9/20 and will present a report at the WU/RM Committee on 10/18. He said the forum was an amazing experience with well-honed presentations, panel discussion workshops, and plenty of networking opportunities. He added that with the Board's approval, he looks forward to attending the forum next year.

• On September 21st Golod met with Town of Delaware UDC Representative Roeder and completed a site inspection/survey of the proposed Delaware River LLC Baer Rd. large-scale commercial solar site. The permit application for the project will be presented to the UDC for review. Golod said he will conduct this review with NPS Superintendent Heister.

• Cell Service Update: A recent report stated that the Hudson Valley is one of two areas of NY with the largest amount of reported dead zones. Sullivan County was listed as the top county followed by Erie, Saratoga, Suffolk, and Delaware, with Barryville, Narrowsburg, Glen Spey, Callicoon, and Grahamsville as the top five zip codes with the most dead zones.

Richardson asked Roeder if the proposed Baer Road solar farm project is being put on hold with a different site being proposed instead. Roeder said he had not attended the most recent planning board meeting. Golod confirmed that Delaware River Solar, LLC decided to postpone the Baer Road project and is submitting an application for a project on Hospital Road. Roeder noted that Hospital Road is located outside of the river corridor.

Peckham reported that heading North of Route 191 in Stockport, PA, a foundation has been poured in between the road and the river. A Wallingford Builders sign is at the site. A brief discussion took place regarding the location.

New Business

Other: None

Old Business

Draft Position Paper on Large-Scale Energy Systems: Richardson referenced the two written responses regarding the position paper from the Town of Deerpark and Shohola Township provided in members' packets. Sullivan said she did not know the response had to be written. Richardson explained that the response to the paper could be verbal or written. Ramie said it was the prerogative of the municipality to put their response in writing or to communicate their message through their delegate. Sullivan shared details of her report at the last Tusten Town Board meeting and said that four out of the five board members received a copy of the draft position paper. She reported she did not receive any "push back" regarding the Draft Position Paper on Large-Scale Energy Systems and noted that the Town has renewed its six-month moratorium on solar. The zoning committee has not issued any formal statement regarding the paper, she added. Richardson said that he distributed the draft paper within his Town and offered a verbal report. He reported that the Town of Cochection has passed a six-month moratorium on solar projects and at this point, there is no action on a law regarding it. Dexter reported that Damascus Township feels that solar should be

an individual town/township issue to work on. He added that Damascus will probably not allow solar within the designated river corridor.

Roeder noted that the Town of Delaware has already passed their zoning in regards to solar. He said discussion has taken place about how certain solar uses can be allowed and others not. He spoke about homes with solar panels installed on them affecting the scenic quality of the area and questioned if those homes are selling power back to the grid, does it make them commercial? He understands that this area is Scenic and Recreation, and feels that if solar arrays are installed, they should be placed in an area where they can not be seen or heard and have no "clear and direct threat". He noted that the Town of Delaware feels that each town and township should be able to deal with the issue of solar on their own. Roeder spoke of his concerns regarding solar panels. He said the Town of Delaware would prefer that each town and township work with the National Park Service as the issue progresses as opposed to taking a position. Heister asked Roeder if the Town of Delaware submitted their zoning law to the UDC for review prior to adopting it. Roeder is unsure. Heister reminded members of the project review process that allows for the National Park Service to comment. She noted that has not been adhered to. In regards to solar, Roeder stated that, "if you can't demonstrate that this is a clear and direct threat to the river or the corridor" he doesn't understand why a blanket position has to be taken at all.

Peckham suggested limiting solar development within the corridor by acreage size to eliminate any confusion and explained his reasoning. Heister said that it is a responsibility of the UDC to identify those future land uses which would substantially conform to the Guidelines; those uses which, with conditions, would be deemed to conform; and those which would not conform. She referred to the Draft Position paper which says that Large Scale Solar Energy Systems would not conform. She noted that the process is for the UDC and the Park Service to sit down to identify those uses in the River Management Plan in the table of compatible, incompatible and conditional uses, those that are similar to whatever this new use is. She said when the subcommittee went through this exercise it was their opinion that major commercial development and energy power generating systems were the two that were the most similar to large scale solar energy systems. She said if members feel that it should be considered a special or conditional use, then the job of the committee is to go to the table in the RMP and look at the uses and make a determination and case using the process that is in place. Heister feels that a very clear justification was offered in the position paper of why it's considered to be major commercial development. She suggested members find a similar use in the conditional or special use column and make their case.

Henry shared his frustration about the River Management Plan not being reviewed and updated every five years as the Plan calls for. He spoke of nuclear power providing New Jersey with more than half its power. He wants to approach the position paper "the right way and let the towns and townships chime in." Dean said he has "no problem with what Al's suggesting." He said that technology continues to grow and improve. He said they have zoning in the Town of Deerpark and there are certain things you can't do even though you pay the taxes, although those things are limited and negotiable. He feels the step missing in the position paper is the one where negotiation happens. He said there needs to be some consideration for private property rights. Heister said she agrees and what the RMP, which the Town of Deerpark signed onto, says is that the Plan protects private property with respect to the compatible uses. She said what the Council and NPS are trying to determine is if large scale solar is a compatible, incompatible, or conditional use. Dean feels the position paper implies that the decision has already been decided. Richardson said it is a draft document. He said he happens to agree with it, but that doesn't mean it's the end result. Richardson said what comes out as the final position is going to be the "result of this discussion that we're having here and ultimately be going to be voted on at the full Council." Heister said that if members have a different thought process for drafting a position paper that is as well reasoned as the first draft, she doesn't feel that there will be an issue. Conway noted that the thought process has to be consistent with the River Management Plan. Richardson said that we have put out a position for discussion; if the majority of the representatives on the Council are not in agreement with that position, we're going to work to come up with something that we can agree on. Heister said that "clear and direct threat" is based on "if developed in such a way". She added that solar is a new land use that if developed in such a way could have a clear and direct threat. She said that is an important clarification. Peckham stated that the River Management Plan is a conservation document and it allows for change. Richardson said we've heard from some municipalities that they've taken a position that they disagree with not allowing solar in the corridor without a question. They have expressed that they feel it is up to the local governments to address the concerns and issues that we've discussed on their own terms. He said we need to ask,

“How are we going to let the local municipalities deal with this and be sure that they address it in a way that they’re addressing our concerns?” Fluhr said the towns and townships need to be given at least two or three meetings to discuss this issue and make an informed decision. After more discussion, a motion to send a letter to UDC member towns and townships along with the Draft Position Paper on Large-Scale Solar Energy Systems requesting comments in 90 days was made by Henry and seconded by Dean. Hahn suggested that if this paper is going to the towns and townships, they need to be reminded of the values they are supposed to be protecting. A vote was taken and the motion passed.

Red Alert Emergency Phones Presentation Follow-up: Ramie said that at his presentation to the full Council on September 1, Keith Haviland of Frontier Communications had provided some follow up suggestions. Ramie suggested our next step could be to send a letter requesting the Frontier engineering team to evaluate the existing infrastructure at the six suggested sites, determine property ownership and who has jurisdiction over the existing poles, and costs and monthly charges. Ramie said we are just in the investigation phase of this project at this time. Richardson said that if it happens in the future that these call boxes are installed in the Town of Cocheton, he will advocate that the Town pick up the minimal monthly fee as a service to its residents and visitors. Henry shared his concerns about directing people from the river to these emergency call boxes should they be installed. After a brief discussion, a motion to send a letter to Frontier requesting their engineering team investigate the six sites identified by the UDC for potential location of Red Alert Emergency Telephones and the negotiation of a non-profit monthly line rate was made by Henry, seconded by Dexter and carried.

Project Review Workbook Update: Ramie reported that our graphic designer is ready to begin her phase of this project as soon as we are able to hand over the content. She suggested that the members authorize the staff and Carla Hahn of the Park Service to collectively review the two draft files prepared by Environmental Planning and Design for the Project Review Workbooks to finalize the content that will be turned over to W Design for the graphic design phase. Members agreed. Richardson said that if any members are interested in being part of the review to let staff know. Dexter suggested inviting users of the document to be part of the review. Ramie said she welcomes names of those that may be interested in participating in the review.

Other: Heister requested that the draft position paper be put on UDC letterhead before it is sent out to the municipalities as it is coming from the UDC. It is a UDC position paper, she added. Ramie said that currently, the position paper does not identify the origin and agreed to do that. Peckham said dealing with this issue is like it was in the beginning. He said there are different interests in different towns and sometimes it is nearly impossible to have a consensus on issues like this. He encouraged her to keep working on it, stating that it will work out. Henry added to be patient, let the towns and townships have a chance to chime in.

Public Comment: None

Adjournment: A motion by Peckham, seconded by Henry to adjourn the meeting at 8:37 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 10/5/16