

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
October 22, 2019

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jim Greier, Fred Peckham,
Al Henry, Jeff Dexter, Aaron Robinson, David Dean
Committee Members Absent: Susan Sullivan, Debra Conway
Staff : Laurie Ramie, Pete Golod, Ashley Hall-Bagdonas
NPS Partner: Jennifer Claster
Guests: Cheryl Korotky

The UDC's Project Review Committee held its monthly meeting on Tuesday, October 22, 2019 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:31 p.m. There was no public comment on the agenda.

Approval of September 24, 2019 and October 3, 2019 Special Meeting Minutes: A motion by Roeder seconded Peckham to approve the September 24, 2019 Meeting Minutes and October 3, 2019 Special Meeting Minutes was carried. There was no public comment on the agenda.

Resource Specialist's Update:

Pennsylvania

Damascus Township: On 9/18 Damascus Township submitted a proposed amendment to the Zoning Ordinance for Short-Term Rentals. This Ordinance was to address safety concerns for Short-Term Rentals of 30-days or less not including second homeowners. Second homeowners will typically buy a home and use it as an Airbnb or second rental. Some general overall safety concerns discussed were: fire alarm systems, carbon monoxide detectors, handrails, etc. Upon review of the Ordinance by Golod and by the NPS, it was determined that the Ordinance did not require a substantial conformance review. On 10/1 the UDC sent a letter notifying the Township of such. On 10/21 Golod attended the Township's public hearing to explain the determination and to answer any questions. A copy of the 10/1 UDC letter is in the meeting packet.

Shohola Township: Golod completed a substantial conformance review on the Township's Zoning Ordinance which is required as part of the final step in completion for the FY 2019 TAG project (Shohola 2019-02: Refine Township Zoning Ordinance to adhere to River Management Plan/Land & Water Use Guidelines) prior to the UDC issuing reimbursement. Golod completed the first part of the review, the schedule comparison, as well as the second, the Principles and Objectives review, and conducted a joint-review with the NPS. On 10/17 the Township's Planning Commission met and went over Golod's Principles and Objectives portion of the substantial conformance review and amended the Zoning Law to reflect the recommendations. Due to time constraints the Township did not get to the Schedule Comparison portion of the review. Golod is coordinating a date with the Township to assist in addressing some of the issues found with the Schedule Comparison during the UDC/NPS joint-review prior to presenting the substantial conformance review to the Project Review Committee. Robinson said he would like to report back to Shohola Town Supervisors and asked as far as the grant is concerned, where in the process are we? Golod said the FY 2020 round was just awarded and that was the one that stipulated, depending on the project, a substantial conformance review would be required. However, this is a FY 2019 TAG and that wasn't in there. Ramie said we have the funding set aside. We are just awaiting the substantial conformance determination. Golod said being that we are working with the Township and they have already amended their zoning with one part of the review, is that something we could consider or are they required to have the entire review? Ramie said technically not in FY 2019 since the language changed in FY 2020 grant round. Claster said even though it was not required, it is still their responsibility. Ramie confirmed that it will be awarded following the conclusion of the substantial conformance determination for best practices. Golod spoke with Peter Wulfhorst, Chairman of the Planning Commission and Robinson. They reviewed the updated zoning and everything was addressed besides a few minor items that may have not been caught in the review. Golod said he has to commend the Township because he turned it over to them before he left for a conference on Tuesday 10/15 and on 10/17 the zoning was amended. He said that

is what a working relationship with Towns and Townships is all about. Golod thanked Robinson for being so proactive in facilitating this with the Township.

FY2020 TAG Update: On 10/9 award letters and grant contracts were sent to the Towns of Hancock, Delaware, and Tusten notifying them that their projects have been approved for funding. On 10/18 rejection letters were sent to the Town of Lumberland and Berlin Township notifying them that they had not been awarded a FY2020 TAG.

Project Review Guide Update: On 10/3 the Special Project Review Committee met and discussed the final draft version of the Project Review Guide. On 10/10 Golod and NPS Land Use Planner Claster met to discuss the suggestions from the Special PR Committee and amended the Project Review Guide. Golod provided the amended pages in the meeting packet. On 10/22 Golod and Claster met with Planning and Research Consultant Thomas Shepstone and he provided further guidance and suggestions on the Project Review Guide. Golod and Claster found it to be helpful as Shepstone is someone who has worked on both sides of the river for over three decades. Claster said during the meeting there was discussion of taking out the mention of Eminent Domain all together because it is not really a function of Project Review and reconsideration of certain phrases. Shepstone made a good point that Towns and Townships may perceive this as another requirement so there was discussion of changing the cover to make it clear that it is a revision of the 1988 Workbook rather than something new. He had comments on how to package the workbook and the tone, more than the content or checklists. Claster said as a reviewer, her concern is if someone was to come into this job cold and was given the Project Review Guide would they be able to use it to do their job? Claster said she thinks they could with the current version. Golod said Shepstone was very gracious with his time and went so far as to offer his assistance when UDC starts the training rollout for the Project Review Guide. He said having an endorsement from Shepstone would be good. Claster thought that maybe Shepstone could do a video via Youtube for Towns and Townships before the rollout meetings so the process is not as overwhelming. Golod has no updates regarding the Project Review Guide from the NY Code Enforcement Officer or Planning Board chairman that he sent it to; Dexter shared Ed Lagarenne's comments during the Project Review Special meeting on 10/3. Dean suggested that Golod pen Shepstone a Thank You letter.

Resource Specialist's Update: On 9/26 and 10/10 Golod met with NPS Land Use Planner Jennifer Claster to continue work on project review issues. On 10/8 Golod attended Friends of the Upper Delaware River's 10th annual Water, Water Everywhere conference. Peckham and Ramie were also in attendance. On 10/11 Golod assisted the NPS's Resource Management Division with their final sampling event for American Shad. Out of a series of four seine hauls they collected 197 shad with sizes ranging from 36mm to 85mm, which was the smallest haul out of the entire season. Golod said he appreciates Ramie allowing to do that as part of his UDC Resource Specialist position. On 10/15 and 10/16 Golod attended the Coalition for the Delaware River Watershed's 7th Annual Delaware River Watershed Forum. He said as always, it was an amazing conference and this year's discussion breakout session he felt for the first time since he's been at this job many discussions were pertinent and targeted the Upper Delaware, not just Delaware Water Gap and south. He will offer a report to the 11/26 Project Review Committee. Golod will begin a three-session Pennsylvania Municipal Planning Education Institute (PMPEI) Course in Zoning, on 10/30, 11/6, and 11/13 in Jessup, PA. On 11/7 Golod and Claster will conduct a UDC/NPS River Management Plan/Land and Water Use Guidelines training session with Pike County Planning.

Old Business:

Status of Upper Delaware Scenic and Recreational River Guide to Substantial Conformance and Project Review: Reviewed during Discussion Items Report.

Amendment Process for River Management Plan and Land and Water Use Guidelines: Ramie said Henry provided a handout in the meeting packet which is a draft to start the conversation. Henry said what he has provided are references to the River Management Plan (RMP). At the bottom of the first page it says: "Supplement to the RMP draft 10-22-19". Richardson asked Henry, when he references pages is it word-for-word out of the RMP or interpretation of that specific section? Henry said the references to the RMP listed 1-6 are basically verbatim and that he was trying to follow and find those sections in the RMP. He said the committee has been discussing this topic for a while and asked all to review the document. He mentioned G: "The minor amendment procedure has been discussed and many town/ships are not in favor of opening up the plan for changes; either minor or major (regular)." He said it appears we are gridlocked. If we follow the minor amendment and try to put in a Utility Scale Solar definition UDC would need unanimous consent. He said we already know certain Town/ships may say no. We

are never going to get anywhere if there is a holdout saying my Town/ship doesn't want to do it. Henry recommends putting any Resolutions under the format of supplements. He said UDC can do unanimous Resolutions for any of the noteworthy changes that have happened in 36 CFR. He also suggested including the definition for Utility Scale Solar after the Town/ships come up with one. He recommended following what Ramie provided in the meeting packet as the Outline for a Supplement to the 1986 Upper Delaware River Management Plan and/or the Land and Water Use Guidelines.

Henry said we are supposed to be sending a report to the Department of the Interior if UDC attempts to do any type of an amendment. He thinks we need to draft a letter to the Secretary of the Interior, following the plan, saying we don't think it's going to work according to the minor amendment process. UDC doesn't think it's necessary to go through the original revision because it seems onerous to put a definition in so UDC is electing to do a supplement. When it comes to a vote UDC will decide if it requires unanimous, 90%, etc. Henry said any kind of changes in the future be brought before the UDC and as long as they aren't significant enough where we would have to use the major plan provisions. We can say we are not changing the RMP, we are supplementing it. He said we should follow the RMP for something major. If you follow the law, the Land and Water Use Guidelines mention how you can change them in the RMP. Henry said according to the RMP it can be brought forth by any and all members but changing the Land and Water Use Guidelines is not as simple as changing the provisions in the RMP because there is a procedure in the enabling legislation for the Upper Delaware that any changes will have to follow the procedure. Discussion continued. Henry said he thinks an Errata Sheet needs to be put in a supplement to note the changes that were made to the RMP that were not done in compliance. He said in the future that strengthens the cause for a supplement. Richardson sees this as two parts; we need to come to an agreement on some sort of process. Can UDC get unanimous agreement that this is what we will do in the future by adding a supplement as the need arises? Henry said he's not advocating that you would need unanimous consent to do this. This is something new; it may be a super majority or 90%. The unanimous consent only applies to minor changes if you follow the plan. Richardson suggested going around the table to see if all are interested. The committee was in agreement. Richardson suggests reading the documents provided by Henry and Ramie and the committee will decide if UDC will reach out to Shepstone. Robinson said everyone should talk to their Town/ship Supervisors because UDC is embarking on a process that is going to obligate them to something. Claster said the NPS would be willing to help with the process for an amendment but not a supplement as a supplement is not in the RMP. Henry said UDC has to use the precedent set by the NPS to implement changes not in accordance to the RMP. Henry said that doesn't mean with pressure applied to the NPS by the Secretary of the Interior that NPS wouldn't succumb to the pressure. Henry said one of the points he made in the document said something similar to that.

Other: Robinson asked if any progress has been made for the definition of Substantial Conformance? He believes it's a missing link in tightening up the whole review process. He said it was brought up again at the Shohola Township meeting and whether the goal is absolute compliance or substantial, which is majority. He said there is no way to determine that under the current circumstances. Golod proposed meeting with Claster, Superintendent Heister and Ramie to get a better understanding what substantial conformance is. Claster said what she took from talking with Golod was if municipal officials should be expected to use the guide and whether the guide needs to be revised in its current form to remove that. Also, if it is realistic to present it that way? Richardson's approach is it doesn't say total conformance or complete conformance; it says substantial. Substantial to him means an overwhelming but not total amount. Henry read "substantial" synonyms: considerable, fundamental, major, significant. He said it does not say total; it's not that standard. They are not regulations or law.

Peckham said Hancock, Colchester, and Deposit each got \$113,000 grants from The Appalachian Regional Commission (ARC) to install an audible early warning system to alert residents and visitors of imminent floods. Ramie said she sent the article announcing this for Delaware County via U.S. Senator Chuck Schumer on 10/10. Henry asked if it was Federal money? Richardson said he thinks it's Federal money; they just named it as a Regional Development Project. Ramie sent the same article to Paul Rush and Adam Bosch after Bosch said he wasn't aware of it.

New Business:

10/3 Letter from Town of Highland Councilwoman and UDC Rep. Haas in response to the UDC's 2019 Town of Highland Zoning Law Substantial Conformance Recommendations Report: This correspondence was handed out at the 10/3 meeting. Claster asked if this was the letter that was published in the *River Reporter*? Ramie

said yes, reporter Dave Hulse quoted the whole letter. Robinson said he thinks UDC should rebut the article because the way it is presented and the way he read it is a misrepresentation of the facts. He recommends the committee send a "Letter to the Editor" straightening out the misstatements. Henry said he supports that and he feels Hulse didn't take the time to get UDC's side. He wasn't at the meeting and just copy and pasted the letter into a news article. Golod asked if Hulse contacted Ramie and she said yes, only to request the letter after referencing the agenda. Robinson said an independent person from the Town of Highland called him and chastised the UDC over the UDC's "attack" on the Town of Highland. Robinson's reaction was what was printed in the *River Reporter* article is unfortunately not factual. He feels we are compelled to write a fair and balanced rebuttal. Richardson said he understands, and that's an urge he had when he read it, but he's trying to take a bigger look at it to find a process to mend fences. Richardson said he's prepared to make a determination and move on. He mentioned the letter saying the Town has been a supporting member for a very long time and wants to continue to be. Robinson said this puts the UDC in the position of being a rogue operation that is out to hurt Town/ships, not work with them. He said how many people like the individual that called him are thinking that same way? Robinson said UDC shouldn't be put in that light. We are the advocates for the Town/ships. Henry asked, should a letter like this come from the town supervisor and not a council member? Richardson said typically, he's not privy to that but UDC Rep. Kaitlin Haas may have been authorized to write the letter. Golod asked if the letter was going to be brought back to full Council or is the matter ending tonight? He would like to go on the record for the minutes or when there is press at full Council regarding three specific points of Councilwoman Haas's 10/3 letter. Richardson said he will give Golod an opportunity to make those points. Golod said there were three things that caught his eye immediately. 1: first page, last paragraph, first sentence: "The UDC's review and responses are based solely on one person's interpretation." Golod said his response to that is no, aside from Golod the joint review that was conducted for the substantial conformance review for the Town of Highland's adopted zoning took place with two NPS employees with the Superintendent being informed of the progress along the way. Each one of the Project Review Committee members went through the substantial conformance review with Golod during the project review session. He said the fact that he is being portrayed as the sole interpreter is extremely nonfactual. 2. He read "due to the continued hostile and unprofessional behavior. . ." Golod said he had zero interaction with the Town with the exception of what little representation of the Town came to the UDC meetings. He said the last time he had any interaction with the Town was at a public hearing in February for the adoption of the 2019 zoning law then he had no further interaction other than letters that were directed by UDC or Project Review Committee with most of the letters being under the Project Review chairman's signature or UDC chairman's signature. Lastly, Golod quoted the letter reading "the UDC continues to bow to the personal vendettas of this employee. . .". Golod said his question is what personal vendetta? He doesn't live in the Town of Highland nor the State of New York. He asked if the personal vendetta was because he was doing his job? He said regardless of what Councilwoman Haas or the Town may think on how he conducts substantial conformance reviews; he thinks what needs to be understood is that Golod does not make a final determination on substantial conformance reviews, the Project Review Committee doesn't make a final determination, nor does the full council. Golod said the NPS make the final determination on substantial conformance reviews. He said he is not the sole RMP/ Land and Water Use Guidelines enforcer. A motion by Henry to have the Project Review Committee draft a rebuttal to the *River Reporter* specifically Dave Hulse's article to correct the misinformation, also sending a copy to the Town of Highland Supervisor to be passed on to the full Council was seconded by Robinson. The motion carried with opposition by Richardson, Greier, and Peckham. Ramie said when you address those points you have to bring them up again. You can't respond to something without saying what you are correcting, meaning they this will take a second bite at the apple. She's not saying that is pro or con, she's just explaining how it would have to be written and following word count limits for a Letter to the Editor. Dean asked who will be putting the letter together? Richardson said the Executive Director will draft it for the Chairman's signature.

Other: Claster said today when she and Golod met with Tom Shepstone, Shepstone mentioned that Sims Foster Hospitality Company bought the old Methodist home in Damascus. Claster said it sounds like they submitted plans to the Planning Board to convert the property into a hotel and that it's requiring conditional use approval, which would mean that it is a Class II project. Claster said she doesn't remember that coming before the Project Review Committee. Dexter said he thought they already had a conditional use hearing and Claster asked if there was going to be an application or site plan review done? He believes it went from the zoning board to the board of supervisors and if that was the case there would have been a conditional use hearing then. The question was asked, why hasn't UDC received this plan to review? Dexter said the conditional use is for the concept and the premise is not requiring them to spend money to develop a plan if it may not be approved. Dexter said the zoning board would have been looking at such things as "Does it generally comply". The only documents they will be seeing in the future are

construction-related. Richardson asked about Pennsylvania's process when an application is submitted and it's a change in use. Dexter said that's what was discussed, when it was the Methodist home people were staying overnight for pay. In the application you are still taking people overnight for pay. Richardson asked who sets the conditions? Dexter said the Board of Supervisors. Dexter said most of the Township is rural residential and on that zoning any business would be required to file a conditional use. He recalls they had to contact all adjacent landowners. Henry asked if they are going to bring it in to see if it is in substantial conformance? Ultimately, how can you do any of this before coming before the UDC and seeing if it meets the Land and Water Use Guidelines? Golod said the last time he inquired with the Township was in August and it was going to the zoning board. No permits or application had been submitted. He said today when he and Claster met with Shepstone and Shepstone starting talking about the Sims Foster project receiving conditional use, Claster asked Golod if the UDC received anything? Golod said we've been out of the loop, saying he has a pretty good flow of communication with his Township and it was a shock and surprise to him. Dexter said it was an advertised meeting. The adjoining neighbors were notified by registered mail, receipt required. Dexter said most of the neighbors came in to listen to the conceptual idea and thought it was a good plan. Golod said he will reach out to the Code Enforcement Officer. Richardson commented that, without wishing to influence anything, the Sims Foster projects he has seen developed in New York are great.

Peckham asked if the NPS ever followed up on Buckingham Township redoing the road on Rt. 191? They are taking it right down to the river and building it back up with stones walls. Claster said if it is the issue she thinks Peckham is talking about NPS did review the plans.

Public Comment: None

Adjournment: A motion by Greier, seconded by Peckham, to adjourn the meeting at 8:15p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 10/30/19