

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
June 23, 2020

Committee Members Present: David Dean, Larry Richardson, Harold Roeder, Jr., Jim Greier, Fred Peckham, Al Henry, Aaron Robinson, Jeff Dexter, Susan Sullivan (6:45), Dan Paparella

Committee Members Absent: None.

Staff : Laurie Ramie, Ashley Hall-Bagdonas

NPS Partner: Acting Superintendent Darren Boch, Jennifer Cluster, Brenna King

Guests: None.

The UDC's Project Review Committee held its monthly meeting on Tuesday, June 23, 2020 via tele-conference. Ramie called the meeting to order at 6:34 p.m. There was no public comment on the agenda.

Approval of May 26, 2020 Amended Meeting Minutes: A motion by Greier seconded by Robinson to approve the May 26, 2020 Meeting Minutes was carried. There was no public comment on the agenda.

Resource Specialist's Update: Ramie provided a report due to the vacancy of the Resource Specialist position since January 2020.

New York State Town Projects

Town of Tusten: On 5/6 the Tusten Town Board voted unanimously to move forward with the anaerobic food waste digester project after conducting the State Environmental Quality Review (SEQR) environmental impact assessment. Support letters for the Town's lead agency declaration were provided by the Upper Delaware Council; Sullivan County Division of Planning, Community Development and Real Property; and the New York State Department of Agriculture and Markets. The unit will be housed at the Town Barn facility and operated by volunteers for less than five hours per week. Information regarding public usage is available at the Farmers' Market held Saturday mornings at the Narrowsburg Union. (Source: River Reporter)

Town of Lumberland: At its most recent meeting the Lumberland Town Board extended the moratorium on solar farms and solar power plants through 9/23/20; set a public hearing for 7/22 at 7 p.m. to address a removal and/or demolition order of a structure located at 1148 State Rt. 97; and accepted the Planning Board's decision to grant a special use permit for the purpose of growing hemp on the Kerr Farm in the Hillside district. One issue of concern was an odor that is emitted during the harvesting process, which occurs over a three-week period. The owners stated that the hemp will be ground into an oil that will be used in military bandages. The special use permit is in effect for one year, after which it will be re-evaluated. (Source: River Reporter)

Pennsylvania Township Projects

Lackawaxen Township: Holbert Bros. Bluestone Company, 237 Masthope Plank Road, Lackawaxen, PA, applied on 4/20 to amend its 5/16/2016 Conditional Use Permit regarding Items #2, trucking hours (currently 7 a.m. to 7 p.m. – requested change: “unlimited”) and #6, the number of days it is required to be closed (currently Sundays and 12 holidays – requested change: “Christmas, Easter, 4th of July, and Sundays”). The commercial quarry is located in

the Delaware River Corridor overlay district. A legal notice advertised a public hearing of the Lackawaxen Planning Commission on 6/17 at 6 p.m. at the Municipal Building.

To prepare, the UDC requested documentation from Lackawaxen Township and received on 6/10 copies of an “original” Conditional Use Permit approved on 7/20/2011, an amended Conditional Use Permit approved on 5/16/2016, and the current application filed on 4/22/2020 by the Township Code Enforcement Office. The Council commissioned an analysis on whether this application was subject to substantial conformance review from consultant Tom Shepstone, providing the materials to Tom and Jennifer Claster simultaneously. His report is enclosed in the packet. In response to public complaints, the UDC also requested an update from the Pennsylvania Department of Environmental Protection’s Bureau of District Mining Operations to verify whether the Holbert Quarry is operating in accordance with all applicable statutes and regulations. A response letter dated 6/8/20 from PA DEP District Mining Manager Gary Latsha is enclosed. The 6/17 public hearing was cancelled on 6/16 after the application was withdrawn.

Shohola Township: On 6/18 the Shohola Township Planning Commission completed reviewing and updating the Township’s 2016 Zoning Ordinance #79 in ongoing consultation with NPS Upper Delaware Community and Land Use Planner Jennifer Claster. The document has been turned over to Planning Commission Secretary Diana Blume for final formatting of the contents. After it is received by the UDC, a substantial conformance review must be conducted before the \$5,000 that was awarded through an encumbered, extended Fiscal Year 2019 Technical Assistance Grant may be approved.

2020 Technical Assistance Grants: The deadline for project completions is 8/28, by which date sponsors must submit supporting documentation and seek the determination of substantial conformance (where necessary) in order to request reimbursement payment. If this presents an unavoidable hardship, the towns have until 7/24 to seek relief through an extension request. An update from Town of Tusten planning consultant Peter Manning on 5/27 stated, “We are doing well with Zoom meetings on the comp. plan project. And I just laid out for the committee how we are on track to meet the August 28 deadline for the comp plan.”

2021 Technical Assistance Grants: The 6/19 solicitation memo was sent electronically and by postal mail to the 13 NY towns, PA townships, and five counties: The FY 2021 (Oct. 1, 2020-Sept. 30, 2021) round will observe the following schedule: Friday, **August 28, 2020** – Completed applications must be postmarked, delivered, or emailed to the UDC by 4:30 p.m. on this date. Tuesday, **September 8, 2020** – A special meeting of the UDC’s Project Review Committee will be convened at 6:30 p.m. at the Council’s office in Narrowsburg to meet with applicants and review their proposals. Thursday, **October 1, 2020** – A vote on the awarding of Technical Assistance Grants is expected at the UDC’s monthly meeting to be held at 7:00 p.m. at the Council’s office. Friday, **February 26, 2021** – Grantees must submit a Mid-Term Progress Report to the UDC by this date to outline the project’s status. Friday,

August 20, 2021 – Grantees must complete their projects to the satisfaction of the Contract Criteria and submit a payment request to the UDC for reimbursement of allowable expenses.

Old Business:

Project Review Workbook Version 2.0 and Virtual Presentation Update: The Workbook has been turned over to the printer, Spring Hill of Lake Ariel, PA. The order was placed on 6/1 for 100 bound copies of the color booklets. The printing job will cost \$1,271. W Design which is doing the production and design work for the hard copy and creating the website PDF version with fillable forms is overseeing the printing as well. Dorene Warner submitted her invoice of \$4,200 which the National Parks Conservation Association has graciously agreed to pay on UDC's behalf. They received that invoice as of 5/29 to comply with their fiscal year. Ramie said she signed off on the final edits on 6/19. The order will be ready in two to three weeks. There was a lot of discussion between Claster, Ramie and Warner about the formatting, contents, and the navigation of the web page that will be created on our website to house the electronic version of this workbook and the fillable forms. Jeff Chorba, our computer consultant, was asked to establish a new email address account called applications@upperdelawarecouncil.org. We will not only be using it for these projects to be reviewed, that's also the address that Ramie put on the Technical Assistance Grant application form so that we can receive everything into that specific account, which will point to Hall-Bagdonas's inbox for the time being as we don't have a Resource Specialist.

The second phase of this workbook is the virtual presentation that we're planning, which will offer the training in how to use the workbook for the recipients. Claster has provided an outline for that in which she suggested time periods to allot to each subject and topic. She has also created a PowerPoint that will be the main portion of this video. It will be in the format of a web-based meeting that we will then record to make available for the future. We are now in the process of hiring a videographer. In addition to having more than one speaker and the PowerPoint presentation, we're also going to film some scenes of the river valley and have something produced that we're proud of and ultimately, stands the test of time. Ramie said the UDC and NPS are fortunate that NPCA is working with us to provide their expertise in these matters. NPCA had also offered to help us pay for that; however we're relatively flush now and it's a good use of our funds. We're looking at a September-October timeframe to try to get this video together. That is under ideal circumstances and with COVID-19, everything is a little more difficult to navigate. Ramie is working on writing the introductory text for the web page that will lay out how to use the forms, what they're for, and how to submit them. Ultimately once we have the workbook in hand, Ramie will do a cover letter, we can start distributing copies, and publicity will follow.

UDC 6/5 Memo: Proposed Minor Amendment to Add Utility-Scale Solar Guidance- Voting Member Comments Requested by 8/3: Ramie said we mailed this memo out 6/5, and it was also sent via email to make sure that all of our member Town/ships and our two states received it. It pertains to the proposed minor amendment to add the Utility Scale Solar Guidance into the Land and Water Use Guidelines. We've been referring to it as amending the River Management Plan (RMP), but it is the Guidelines more so. She took Sullivan's suggestion from last month about putting the three questions we had upfront and indicating that this is a non-binding straw poll, where we are asking the local governments and the States to please consider whether they agree with this approach in general and how they would go about it to incorporate the conclusions of our position paper on renewable energies, specifically solar, into our documentation so that we have standards that we can apply to projects when they come in for review. The main issue we've had with this is that it does require a unanimous vote to make a minor amendment to the plan; that has been a bit of a stumbling block. We have asked for comments back by 8/3, and we have received one from the Town of Fremont so far. Roeder said the Town of Delaware passed a resolution in support of this and said he would call the Town office tomorrow. Peckham requested one be sent to directly to his town supervisor. Ramie said they were mostly directed to the town clerks or secretaries. Sullivan said she spoke with Tusten Supervisor Ben Johnson, about this and requested he bring it up for the board to address. She did not get to join the last Town board meeting but she intends to go to the next meeting and will bring it up then. She thanked the Town of Fremont and Delaware for getting the ball rolling. Robinson asked if the Town of Fremont is ok with amending the RMP? Greier said they support using a supplement approach, not changing the whole RMP.

Alternative Energy, Wind and Geothermal were already addressed. Solar is just an addition to the alternative energy. He has no problem with the content of the Position Paper but doesn't want to open up the RMP.

Annual Code Enforcement Report for Calendar Year 2019: Ramie said we have now received the final Township's information. Lackawaxen forwarded their 2019 material via a spreadsheet on 6/10. She said the report is overdue to the NPS because she did not anticipate it would take six months to get the information from all of the participating Town/ships and said this is usually the Resource Specialist's job but she will attempt to tackle it.

Other: None.

New Business:

Holbert Quarry, Lackawaxen- Conditional Use Amendment Review and Project Update: Ramie said as mentioned, Holbert Quarry is a Conditional Use Amendment Request that was submitted to the township for the property owner by the business on 4/20. We found out about it when we saw a legal notice in the newspaper for a public hearing that was due to take place on 6/17. In that short amount of time, we requested documentation from the Township to see what their proposal was. We also looked up information that we had. Ramie went on to the Resource Specialist's computer and found the most current Lackawaxen Township Zoning documents so we had something to compare it to. UDC also reached out to the Pennsylvania DEP for information. Provided in the meeting packet is an analysis that we had asked our planning consultant, Tom Shepstone, to do for us. This was in order to prepare for that public hearing. The application was withdrawn the day before this would have taken place. Ramie feels it will come in handy in the future if the application is resubmitted. Claster said she thinks that Shepstone pointed out a question it raised is how much truck traffic is currently accessing that site. In the letter that the applicant wrote to request the amendment to their conditional use permit, they mentioned 40 trucks a day not being enough to support their operation which is a lot more than they were granted in their initial Conditional Use approval. It therefore raises the question of how much truck traffic is coming to and leaving the site and is it consistent with the conditions of their original permit? Claster said it might be worth looking into. Ramie said one might wonder whether the RMP gives us any "jurisdiction" over truck traffic. Claster said it does talk specifically about the health, safety and welfare of the community with regard to mining operation. If they really are running the number of trucks that this seems to suggest, that could potentially affect that the health, safety, and welfare of the residents in the area that are on that route. It would be indicative of a much larger amount of activity than was envisioned in the original permit, not the quarrying, just the traffic.

Peckham said he knows Pennsylvania DOT made a lot of these roads near the river 10-ton limits. Robinson said the law in Pennsylvania is that if your property is on a road that's weight-limited, you're exempt from that weight limit, because that's the only access you have to your property. That includes industrial. He said you need a permit if you want to transport material over a weight-limited road but if your destination either inbound or outbound is on a piece of property that's on a weight-limited road, it's not applicable. Ramie said this withdrawn amendment proposal is not about acreage; it's about truck traffic and operating days. They've asked to expand their schedule. They had 12 federal holidays and Sundays that they used to take off and now they're asking for specific changes. They're also proposing to change the trucking hours, which currently are 7:00 AM to 7:00 PM. to "unlimited". The second change is the number of days to be closed. Peckham said you have a lot of people from the city coming up and these roads are narrow. That endangers them. Sullivan said if she was a taxpayer in that Township and she was paying for those roads she would be upset. As Ramie stated they subsequently withdrew their application the day before the hearing, so there is no active proposal. Claster's point was that the research suggested that the conditions of the current 2016 permit may not be upheld.

Ramie said the reason UDC got involved in the first place was that back in 2011, they were proposing a 40-acre expansion of the mining which disagreed with what we have outlined for the two-acres of active quarrying and two-acres accessory use in the RMP. That was a concern to us because the quarry is located within the Delaware River Corridor Overlay District. When you get into these operational issues, she thinks it becomes a little hazier as to what our involvement would or could be. Sullivan asked if it would be more appropriate for the affected people to contact PA DEP or their own Township. Ramie said the Township has authority over those type issues. In the meeting

packet there is a letter from the DEP District Mining Office and Gary Latsha, the District Mining Manager, does go over what is within the purview of the state versus what the local township jurisdiction would be. He basically says that in their estimation, they are operating properly there. Greier suggests we see what agreement was made originally in this matter and the UDC should be careful moving forward. Ramie said one positive outcome of this whole situation is that she did put the Township on notice of the fact that the 2011 conditional use had been amended as recently as 2016 and UDC had no record of that occurring. She also pointed out in requesting the 2019 permits that those should have been submitted to us. Obviously, there was a gap in our receipt of any of that information at the time that it occurred. She said she's hopeful that at least now we're on their radar to share this information as they agreed to do by participating in the RMP. That could help our relations of obtaining more cooperation from the Township. Claster noted that the entire parcel for the Holbert Quarry is within the corridor. There is no part of it that would be outside of the corridor. Ramie said given that there is no active application she doesn't know that there's any need to take action on this report. We will file it and observe what happens next.

NPS Memo: Land Use Complaints within the Upper Delaware Corridor (UDC 6/4 referral): Ramie said this memo was received on 5/28 and brought to the full Council, who then referred it to the Project Review Committee. She said it's not necessarily something that UDC has to do. The suggestion is made in the letter about coming up with a policy. From her perspective, it came out of the blue since the UDC hadn't been actively discussing anything like this. It asks the UDC to develop a policy or procedure to guide UDC as a response to activity within the corridor that may potentially threaten the resource but that does not fall neatly under UDC's project review role as described in the RMP. She supposes it would be helpful if we had specific examples of where that's been problematic for us that maybe we could address. She found it a little vague to determine what the problem is that we're trying to solve. Claster said last fall NPS received a number of calls from a UDC representative regarding some construction activity on a privately owned parcel. They called several different divisions about this construction activity and it's just one example. She said she thinks we are all aware over the last couple years there have been several instances where a project isn't submitted by a community but rather it's reviewed by the council because it's brought to the council's attention. Rather than have an individual council member call NPS about this kind of construction activity, it seems like it would be preferable if that went through the UDC and there were some kind of response coming from UDC about whether that Town/ship isn't enforcing its own zoning. Then if it turns out the Town/ship isn't trying to have some kind of communication or isn't able to rectify the situation; then at that point the NPS would get involved. Claster said this is all outlined in the RMP and it's cited in that memo. Claster can recall a meeting where there was earth moving equipment on private property, and a council member suggested that the NPS should go down and handcuff the owner of the earth moving equipment. She said there's a more effective way to deal with situations like that. So having some kind of procedure would make it more fair in the way that it's dealt with in different communities. Richardson said in the past, when we had a Resource Specialist on staff that would be that person's function. If a concern was expressed to the council, typically they'd go out to look at what's going on, assess whether or not what is being done is in fact something that's approved or should not be approved, do some research, and report back to the Project Review Committee. Claster said seeing as you have a new staff person coming in, it would be great to be able to give them some guidance about what their role is. The enforcement role of UDC is not to enforce local zoning. The enforcement role of UDC is to do a review of local enforcement of their own zoning and see if they're enforcing their zoning. Sullivan said a few issues that have come to mind are a camp in Lackawaxen and Barnes Landfill that have been on the agenda. She agrees with Richardson, that it's usually the purview of the Resource Specialist to bring it to Project Review and for it to be put on the agenda for issues that directly affect the river. She thinks if we do anything it would be to look at the past procedure or what has been followed. Sullivan said as Richardson says, it's always been in the purview of the land use specialist to bring it to Project Review. If it's appropriate to put it on the agenda of the council it has to be very narrow and directly affect the river, such as a sewage plant that is not working properly which the neighbors report so it gets addressed. She thinks what we will discover is that complaints have always been addressed.

Ramie asked Claster about NPS receiving feedback from the Town of Highland about this memo? Claster said it was along the same lines of Jim Gutekunst's comment at the last full Council meeting. She received an email from Jim Hanson echoing Gutekunst's sentiment that it was regulatory overreach. Claster emailed him back offering to set up a call with the Acting Superintendent and herself because in no way, was this intended to create new regulations. NPS sometimes gets called for requests involving local residents doing work on their own property and

that's not in NPS's purview. Sullivan said it may be as simple as directing whoever take the complaint to say, first take it to your code enforcement officer or town supervisor, then take it to your town board, potentially with UDC notified. Robinson said there's one aspect of the discussion that reflects all we went through a couple of years ago, but he doesn't think we ever came to a resolution. That is when you have activity on private property that is contrary to local zoning, contrary to the criteria set by the Land and Water Use Guidelines, and the Town is advised that this should be looked into and the Town doesn't take any action in terms of communicating with either the UDC or the NPS and there's no permitting. In that case, the UDC exhausts itself and hands it off to the NPS, but UDC never examines the process after that. In other words, does the person doing the work get away with the infraction? As Cluster sees it, UDC's role is not to interface with the land owner, but it's more to interface with the Town/ship. Some of these concerns are alluded to in this memo. How do you proceed if a member municipality isn't cooperative or refuses to provide information, which happened in 2019? Or if you find that a municipality is not enforcing its substantially conforming laws? On page 47 of the RMP it sketches out some of these issues. Robinson said this issue should be put on the agenda for the next meeting for discussion. Sullivan suggests narrowing it down to the river corridor, only projects that would directly affect the river, and make a very specific checklist for the Resource Specialist to follow.

Fiscal Year 2021 Technical Assistance Grant Round Opens- Application due by 8/28: Ramie said we've made the application deadline the same as the completion deadline for this current round, to keep it simple. The annual special meeting for this committee which we ask each applicant to send someone here so we can we can have questions and answers regarding proposals is on 9/8. 10/1 is the meeting at which we would award grants. Currently in the FY21 budget, there is a placeholder for \$20,000. This year our four TAGs amounted to a little under \$24,000. Ramie didn't want to put any limitations there because as we see from this year, we often end up with additional funds toward the end of the year that we weren't expecting at the beginning. Everyone is aware that it's a competitive program, so they need to sell us on the benefit of their application. We issued a press release as well.

Other: None.

Public Comment: Paparella said somebody local reached out to him about seeing around 30 tires underneath the Cohecton-Damascus Bridge. He contacted Evan Padua to help get the tires to shore with his boat and they were wondering if the NPS could help get rid of them like they've done in the past? They are piled up on an island. They had been going over them while tubing and really wanted to take care of them. This is under the Damascus Bridge. He thinks it may be closer to the Cohecton side. He asked if the NPS maintenance team could take care of them like they have in previous years. Boch said he would look into it.

Adjournment: A motion by Sullivan, seconded by Roeder, to adjourn the meeting at 7:53 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 6/29/2020