

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
September 24th, 2019

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

The UDC's Project Review Committee held its monthly meeting on Tuesday, September 24, 2019 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:34 p.m. There was no public comment on the agenda.

Approval of August 27, 2019 Amended Meeting Minutes and September 10, 2019 Special TAG Meeting Minutes: A motion by Peckham seconded Dexter to approve the August 27, 2019 Amended Meeting Minutes and September 10, 2019 Special TAG Meeting Minutes was carried. There was no public comment on the agenda.

Resource Specialist's Update:

New York

Town of Highland: Regarding the Town of Highland 2019 Zoning Update on 9/19 Golod sent the UDC's outline of the recommended changes to bring the Town of Highland 2019 Zoning Code into substantial conformance to Town Supervisor Haas. UDC requested confirmation of the packet as well as the Town's intentions regarding the recommendation by October 3rd. A copy of the Project Review Chairman's cover letter was included in the meeting packet.

Pennsylvania

Shohola Township: Golod has begun a substantial conformance review on the Township's Zoning Ordinance which is required as part of the final step in completion of Shohola Township's 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 has completed the first part of the review, the Schedule Comparison, and is currently working on the second, the Principles and Objectives review. He will present the completed Substantial Conformance Review at the 10/23 Project Review Committee meeting.

Project Review Guide Update: On 9/11 Golod sent the Project Review Committee a digital copy of the final draft version of the Project Review Guide for their advance review to become familiar with the document prior to the Special Project Review Committee meeting on Thursday, 10/3 at 6pm. The code enforcement officers from Damascus Township, the Town of Delaware and Town of Tusten Planning Board Chairman have received copies to review as external readers. The Town of Tusten Planning Board Chairman, Ed Jackson, is also the Vice-President for the New York Planning Federation. Henry recommended a copy be sent to planner Tom Shepstone requesting a response before the 10/3 meeting also. Richardson said when the Project Review Guide is approved he thinks it would be a good idea to put together a meeting of Planning Boards as an opportunity to go over these new Guidelines and help raise the awareness of Planning Boards that they need to submit projects to the UDC. Ramie said UDC always intended there would be multiple training sessions to roll out the revised Guide.

FY2019 TAG Update: All four 2019 TAG's for Lumberland, Tusten, Berlin, and Shohola were completed by the specified time frame. All Towns and Townships have been reimbursed with the exception of Shohola which is pending the Substantial Conformance Review.

FY2020 TAG Update: The Special Project Review TAG Committee met on 9/10 and approved the following TAG recommendations for FY2020 for a total of \$24,087.00: Town of Delaware: "Guide to Permits" FAQ Brochure

\$1,127.00; Berlin Township: Update Township Website \$710.00; Town of Hancock: Recreational Access Study \$5,000.00; Town of Tusten: Town Comprehensive Plan update \$10,000.00; Town of Tusten: Town Zoning Ordinance Update \$7,250.00. The final determination for funding is made by the NPS.

Resource Specialist's Update: On 9/5 & 9/12 Golod met with NPS Land Use Planner Jennifer Claster to continue work on project review issues. On 9/11 Golod offered a presentation on the RMP/LWUG to the NPS's Wild & Scenic River Steering Committee. On 9/18 Golod and Claster conducted a UDC/NPS River Management Plan/Land and Water Use Guidelines training session with Wayne County Planning. Claster and Golod will be holding a training session on the same topic with Pike County on 10/2.

Old Business:

Amendment Process for River Management Plan and Land and Water Use Guidelines: Ramie said the committee initially said we were going to take this off the agenda because a consensus could not be reached but then we were told to leave it on the agenda. Richardson did some research on majority votes and found what a super majority consists of. The definition is: any number greater than a simple majority. In Congress, for example, they often require a 2/3 super majority vote. In that case a simple majority of 100-member senate would be 51 votes but a 2/3 super majority would be 67 votes. There had been previous discussion on using a different standard than unanimous for any minor amendments and if so, what should that be, and could we agree on it? Henry suggested coming up with our own percentage. He is compiling information similar to Ramie's Outline for a Supplement to the 1986 Upper Delaware River Management Plan and/or the Land and Water Use Guidelines and will provide it at the October Project Review meeting. It's an outline of some of his concerns he's expressed with the changes that have been made for various and sundry items he feels that are not in accordance with the verbiage and spirit of the RMP. Henry said precedence has been set with 36-CFR. He said the UDC is assigned to interpret the Land and Water Use Guidelines. Henry said he doesn't care if it's a Supplement or Recommendation. He said the NPS in their 2014 Foundation Document saw the need for it and it's provided on page 14 of their document. Henry spoke of Tom Shepstone's concerns, one being: will NPS ever be able to use eminent domain? He said likely not because they could never afford it and they are not going to get the money. He also said no money, no interest. Henry said Shepstone believes it would be sound practice to go forth with either a supplement or a recommendation. Henry said there is enabling Upper Delaware legislation that tells exactly how the Land and Water Use Guidelines will be updated. The verbiage in that law would supersede the plan, he said. Ramie read Shepstone's comment to the rejection of his \$10,000 proposal to develop Land and Water Use Guidelines recommendations for utility-scale renewable energies: "I completely understand. The only way to cut the Gordian Knot, however, is to recognize that both the UDC and NPS authorities are ones of persuasion, rather than law, as the law doesn't provide the funding to follow through on any NPS threat. It is partnership of persuasion and good faith, in fact, and no progress will be made until everyone, including the NPS, recognizes that. I'm ready when you're ready, in other words!" Richardson said if we can come to an agreement on what we want to call this then part of that becomes what is UDC going to require for an agreement? Is UDC going to require unanimous agreement on an interpretation letter or will UDC do something less than unanimous? He feels progress is being made and this will be discussed at the next meeting.

Other: Robinson said he would like to discuss something related to the Rt. 97 Project (SBL #27.-9-1) that has been controversial over the last year. Superintendent Heister sent an email to Golod on 8/28 cc'ing Ramie saying: "In this situation you have Aaron [Robinson] who failed to recuse himself and has a long running feud with the property owner in part over this specific property. That immediately undermines any credibility the UDC may have had and your ability to be successful in any lawsuit as a UDC rep." Robinson said he's offended and insulted by that statement and it's inaccurate. He said he hasn't had any interaction with the property owner, Jules Robinson, in over 15 years. Robinson knows the property intimately because he lived there and has been aware of the property for over 50 years. He grew up on the property and went to school locally. He maintained the property and cared for his mother after his father died. He knows the physical attributes of the property. He knows where the boundaries are, where the septic system is, where the well and the overflows are. Robinson said that's fact, that's not hearsay or conjecture. He said while he brought up these issues while UDC was reviewing this property he was talking out of fact-based information, not a guess. Robinson said the comment that he's undermining any credibility the UDC may have had is convoluted. He said he's just advancing what UDC is sitting here for and that is to make sure that projects go forward consistent with the River Management Plan (RMP) and the Land and Water Use Guidelines. He asked how could someone convolute that to say there is some prejudice involved and pursuing the law is perverted or

corrupted? When Robinson reflects back on Heister's statement it's like UDC should give a project a waiver because of him. He said there hasn't been one comment when reviewing the record that was inaccurate or improper regarding this property or the individual, because it's public knowledge and nothing new. To have the Superintendent target a credible member of the UDC is uncalled for and brings into question what side is the NPS on. Robinson's interpretation is that it is an irrational analysis and the statement has no merit to it. He wishes that Heister was present at the meeting because it was Robinson's intention to speak with her straight on. He wanted to share this with the committee because it's behind-the-door nonsense and if he spends the time on this committee in a sincere manner and this email pops-up he starts to wonder who's protecting who? Robinson said this is obstruction. Robinson said for him to recuse himself would be obstructive of the facts because he has the facts. Just because there is a member that is very familiar with something shouldn't disqualify them from speaking up and that is the intent from Heister's email. He said he wants all the members to be aware of this and said if that's how we're going to operate, he's out because that's not how a committee moves forward. He's upset over it and if anyone else in the room had an accusation like that he feels they would want to share it. He said it's out in the open, you have my opinion and he requests that it be in the minutes. Robinson said all the points he's brought up are public records, documentary evidence. Robinson said the intent of this committee is to advance the Land and Water Use Guidelines, not to obstruct them. Richardson said he doesn't think he's ever heard anyone on this committee question Robinson's integrity or what Robinson's knowledge of the facts are. He thinks the only way legally it could be a problem would be if UDC's decision was based on information Robinson presented and it wasn't correct. He also said opposing sides will look for a reason to get something thrown out. Richardson also said if UDC made a determination and Robinson's vote was the deciding vote for or against this action, somebody could argue you should have recused yourself but Richardson doesn't see any vote that was passed by one vote. Robinson's vote wouldn't have been a deciding vote in any actions UDC has taken.

New Business:

Revised FY 2020 Berlin Township TAG Application: Golod said when the Project Review Committee held its Special Meeting for TAGs on 9/10 the committee approved Berlin Township's initial application pending they were willing to accept UDC's recommendation to use all of their funds to update the Township website. Golod said there was an issue of whether the sign ordinance they had asked to print was in substantial conformance because it was never reviewed by the UDC. The committee's recommendation was to utilize \$710 towards updating the Township website. Golod provided a copy of the amended application in the meeting packets. Ramie said there is also the 9/20 cover memo she sent to the NPS after the meeting with the revised application. Heister's response was received today. The majority of it is comments that Patrick Reidy, Contracting Officer for NPS, shared after reviewing the full applications. Ramie said Reidy expressed concern about the Berlin Township application. She asked the committee to read that message. She said as one clarification, there was a typo that led to a misunderstanding about which TAG previously funded Berlin Township's development of the website. Henry said if you read the second paragraph it reads that Heister recommends that UDC not approve any of the TAGS prior to FY2020 funding. Ramie clarified that's Reidy's recommendation. Ramie said they recommended that last year too and we thanked them for the advice and said this is the schedule we opted to follow. Henry said he would like on record to say this is executive overreach. He said the NPS's role is to manage the recreational use of the river, monitor land owners, and to assist Towns and Townships with resource issues. This is what has been empowered to the Council. This is the Council's job.

After Richardson read Heister's 9/24 email he reached out to Golod and asked him to research how many Technical Assistance Grants UDC has given for websites or website upgrades over the years: Town of Fremont 2002-09 "Develop a Town Web Site \$1,300; Town of Delaware 2002-04 "Develop a Town Web Site \$1,900; Town of Cochection 2011-06 "Develop Town Website/Post Laws \$3,880; Town of Tusten 2016-01 "Design New Town Website \$2,300; Town of Highland 2004-07 "Develop a Town Web Site" \$2,625; Town of Lumberland 2002-10 "Develop a Town Web Site \$1,000; Town of Deerpark 2001-01 "Develop a Town Web Site \$3,000; Berlin Township 2016-09 "1-Create "Base Map" of Township" "2 "Develop Township website" \$3,040; Damascus Township 2009-01 "Training & Installation for E-mail Document Server" \$1,000; Shohola Township 2012-07 "Expand Twp. Website & Emergency Management" \$2,700. Richardson said the total for 10 municipalities is \$22,745 in TAGs for websites over a long span of time. Richardson looked up the Superintendents that were here to approve these TAGs include John Hutzky, Cal Hite, Vidal Martinez, Sean McGuinness, Assistant Superintendent Sandy Schultz, and Dave Forney. Robinson said now there seems to be an issue over websites. Claster said it's not really all of a sudden; this isn't the first year that the Superintendent has reviewed the TAG applicants. Claster said

she thinks Acting Superintendent Marliou Ehrler tried to explain there has been a change and it's nothing to do with who is in the Superintendent's seat. It's a change in the Federal Government and accountability for spending money that goes out through contracts. That's something that is felt across the government and something that the NPS has been under a lot of scrutiny for apparently in recent years. There is much more emphasis now making sure that the money that flows through the NPS to contractors such as UDC is spent in a way that is consistent with agreements that are in place. Claster said she doesn't think it's necessarily fair to say previous Superintendents did things differently. The whole system was different back then and the system has been rapidly changing for all those years. NPS is not operating under the same rules. Claster said you can reflect on events on the National stage in the last ten years and the amount of scrutiny that has been given to federal spending. She said you will see through UDC's own experience and understanding there has been a shift in public perception in spending of federal funds and demands for accountability. Claster said it does not come down to someone sitting in the chair it's a larger structural issue and please try to understand that. Golod asked Claster if she knows when that change was implemented within NPS? She said she doesn't know as she wasn't here at that time. Golod referred back to the handout because two of the websites were approved under Superintendent Heister's tenure in 2016. He asked if the radical changes happened in the last two years? Claster said they may have and Golod said he respectfully disagrees. Claster said outside of this experience, from years of working on projects that are funded by external sources, she personally, not under the NPS, has experienced that herself as well in the work she has done elsewhere. This is something that isn't confined to the Upper Delaware. It seems to be something that is happening in the broader world. Richardson said he doesn't disagree with that but in the past the Superintendents were UDC's advocates in Washington. They wanted this project to work and he hopes we haven't lost that. Robinson said he thinks a Superintendent can be of great value as an advocate for funding and he doesn't feel UDC gets much support in that area from this NPS Unit.

Robinson has witnessed a withdrawal of funds in many corners, a critique of what UDC does, and audits. He said in reality the UDC is the glue that keeps this together. Robinson believes a study needs to be done, with NPS approving the funding of the study, to see what has changed in this relationship. Robinson said you start talking to the people that started UDC and supported this structure and concept and the mention of there being no TAGs for cultural projects gets them upset because that was not the deal. He said George Fluhr can rattle off all of the things Shohola Township did which were very beneficial and now don't get support. Claster said the ground rules have changed since Fluhr has been on UDC. It is not fair to compare what happened then to what's happening now. Robinson said he respectfully disagrees. As Townships they restricted their zoning; that didn't change. He said UDC doesn't come in and say we are going to change the deal because times have changed, we need economic growth in our Towns, we're going to expand this part of the development within the corridor. Conversely, the Federal Government has changed how it supports the UDC and this corridor. He said UDC has been living up to our bargain and he doesn't think the Federal Government has. Peckham said it's no longer a partnership and it doesn't function the way it should. He said what the NPS says, ultimately goes. Richardson said the law and the wording in the RMP has not changed. This body has tried its best to carry out its responsibilities as written in the RMP. That has not changed. How the government decided they want you to account for your money changed he understands that, but the broad objectives have not changed and Richardson believes we've tried to be true to that. Henry said that's because the NPS never went into the RMP and have never done the appropriate process to amend it the correct way. They changed the mechanism through the years. They didn't have the decency to come to UDC to tell us or put anything in the RMP to modify it. Henry said for the amount of money that is being doled-out through TAGs management should hang their heads in shame for micromanaging that amount of money. Especially since \$3.5 million is being spent for Roebing Bridge and another \$1 million for Zane Grey museum. Henry said that money is coming from taxpayer funds. There is something drastically wrong with the procedure and mechanism. Henry suggested calling Pennsylvania Congressman Matt Cartwright who sits on the House Appropriations Committee. Richardson said he doesn't think we are at that point, yet. Robinson asked about the 10% of the budget that's fully discretionary for the UDC. Ramie said UDC is allowed to deviate 10% from what UDC budgets in the beginning of the year compared to the end. It's still federal funds unless we are paying it out of UDC funds. Golod said something Reidy expressed was it was not clear to him the connection between Berlin Township's website and the RMP. Golod said one of the River Management Goals is: "Foster a public recognition of the Upper Delaware River Valley as a place with its own identity, continuing history, and a destiny to be shaped by its residents." That is from page 14 of the RMP. By that description of the Goal, Berlin Township is attempting to create their own identity by informing the public via their website as to who they are, and how they fit into the Upper Delaware River Corridor as one of the 15 river municipalities. They currently have a small section on their website on the History of Berlin Township. However, it can be expanded to include a Township map, links to the RMP and Land and Water Use Guidelines and eventually our Project Review Guidelines. Additionally, the Township would like to include links to their

Subdivision and Land Development Ordinance as well as other ordinances, and a link to their building permit applications which is currently defunct. Page 114 of the Land and Water Use Guidelines states: "Provide for public safety". The Township stated in the 2020 grant application through upgrading the Townships website residents and visitors will have access to Township meetings schedules, road closures, and other various information valuable to the public. A motion by Dexter seconded by Peckham to recommend approval of the amended application from Berlin Township carried unanimously.

Draft Resolution 2019-09 – Approving Technical Assistance Grants for Fiscal Year 2020: A motion by Henry seconded by Dexter carried unanimously. Ramie said in deference to Reidy's comment about the timing, somewhere in the resolution it should say "subject to the availability of funds." Richardson also recommended that be included in the Standard Contract. Golod says it is.

Project Review Guide Special Meeting 10/3 at 6:00 p.m.: A reminder that there is a special Project Review meeting to review the Project Review Guide 10/3 at 6:00 p.m.

Other: Henry said relative to the incident brought up in the 8-27-19 Operations Executive Session, he feels the Superintendent was out of line for discouraging Golod and UDC for going to that property for that contact on the Robinson lot. He thinks one thing Superintendent Heister missed was when you see something, say something. He feels anybody on the UDC that didn't back Golod was wrong. Henry said he ran it by three attorneys he knows and the bigger concern is getting sued by the UDC employee, not the UDC getting sued by that particular person. Richardson said there was never a vote to not support Golod. There was one person who expressed their opinion via email after the meeting. He doesn't believe there was sentiment to not support Golod; it was his choice not to go forward.

Public Comment: None

Adjournment: A motion by Robinson, seconded by Roeder, to adjourn the meeting at 7:30 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 10/2/19