

**Upper Delaware Council  
PROJECT REVIEW COMMITTEE MEETING MINUTES  
September 26, 2023**

Committee Members Present: Jeff Dexter, Harold Roeder, Dennis Bernitt, Al Henry, Aaron Robinson, Fred Peckham (Zoom), Ginny Dudko

Committee Members Absent: Andy Boyar, Larry Richardson

Staff: Laurie Ramie, Kerry Engelhardt, Stephanie Driscoll

NPS Partners: Lindsey Kurnath, Don Hamilton (Zoom)

Guests: Freda Eisenberg (Zoom), Bill Dudko, Ruby Rayner-Haselkorn-River Reporter

The UDC's Project Review Committee held its monthly meeting on Tuesday, September 26, 2023 at the UDC office in Narrowsburg, NY. Vice Chairperson Dexter called the meeting to order at 6:33 p.m. There was no public comment on the agenda.

**Approval of August 22, 2023 & September 12, 2023 Special Meeting Minutes:** A motion by G. Dudko seconded by Robinson to approve both the 8/22 and 9/12 special meeting minutes carried.

**Resources and Land Use Specialist Update:**

**New York State Projects**

There were no Notices of Applications Received posted by the DRBC in September in the river corridor in NYS.

**Commonwealth of Pennsylvania Projects**

There were no Notices of Applications Received posted by the DRBC in September in the river corridor in the Commonwealth of Pennsylvania.

**Lackawaxen Township:**

John McKay, vice chair of the Lackawaxen Township Planning Commission, emailed Engelhardt concerned about the Wastewater Treatment Plant (WWTP) in the Masthope Community in Lackawaxen. A few years ago, they had some exceedances which is when a plant has levels that are above allowable levels of certain water quality parameters. The operator of the plant, Aqua Pennsylvania Wastewater, had to come up with a Corrective Action Plan (CAP) that was developed in either 2019 or 2020 and has been ongoing and constantly revised. They installed a disc filtration system, which did address some of the problems. When the PA Dept. of Environmental Protection told them to create the CAP, they also said that no new connections could be made to the Wastewater Treatment Plant at that time. They put in the filtration system which appeared to help for the time being. They also need to design and construct a whole new part to the WWTP, that is currently being designed. In the interim, PA requested that they be allowed to add more connections now. PA DEP approved 60 new connections. Engelhardt thinks that since they are the agency that told them they needed to stop new connections in the first place then that seems appropriate.

Engelhardt attended the Supervisors Meeting on September 18<sup>th</sup> to ask some questions about the plan. They are currently doing soil testing to determine whether the plant can discharge to the soil or to the river. The UDC will be made aware of when the design plans are moving forward between the approval phase. The plan is being reviewed by PA Dept. of Environmental Protection, the DRBC by providing the WWTP with the effluent limits that they need to meet, and the township engineer. Roeder commented that he remembers this issue and by the time they got someone to come from the company to take care of it, the residents had gone home since most of the houses then weekend houses. He's glad that something is being done to correct it. In the report, they talked about the amount of people that moved more permanently during Covid and are putting more flow through the system. That's a reasonable explanation on why they are having more water flow through the system,

but not a good excuse as it's not how the system should have been designed. It shouldn't have been designed on whether or not it would be a vacation home; it should have been designed based on the square footage and how many rooms are in the house. Engelhardt said they will fix this issue. G. Dudko asked if the homes are built waiting to be connected to the WWTP, or if they are planned to be built. Engelhardt isn't sure. Henry asked how much of the Masthope development is within the corridor. The UDC has never reviewed any houses being built. Engelhardt isn't sure what the actual number is within the corridor. Robinson thinks that Lower Independence Rd is the end of the boundary. When Google had the boundaries on their maps, it was helpful. Engelhardt agreed.

### **Open Substantial Conformance Reviews**

Project ID	Project Name	Municipality	Action	Status
2022-03	Camp FIMFO	Town of Highland, NY	Class II – Special Use Permit	NPS issued a letter dated July 17, 2023 indicating that the project does not substantially conform to the RMP. A supporting report was also issued. Closed.
2023-08	Narrowsburg Car and Dog Wash	Town of Tusten, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23.
2023-09	Green Acres Gunsmithing	Town of Tusten, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23.
2023-10	The Loosey Kit, LLC	Town of Highland, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23.

Engelhardt reported no new applications were received since the last meeting. At the last meeting the committee recommended 3 different applications for substantial conformance, and she had sent those letters to NPS.

### **Camp FIMFO**

Engelhardt said that FIMFO is technically a closed application for the UDC by receiving the determination from the NPS. The normally scheduled Town of Highland Planning Board meeting is tomorrow, September 27<sup>th</sup> at 7pm. At 4:30pm today both the *River Reporter* and the *Sullivan County Democrat* said that the Town of Highland issued a notice that the meeting will be moved to the Eldred High School. The KNOW FIMFO group is trying to get a lot of people to attend, so a change in venue is understandable. The *River Reporter* stated the meeting is going to be on September 28<sup>th</sup> and the *Sullivan County Democrat* said the meeting would be on Wednesday, September 28<sup>th</sup>. There is a lot of misinformation currently and hopefully they will have a firm date and venue soon. The council sought an opinion from Tom Shepstone who got back to us with a letter that was sent to the Town of Highland.

### **New Business:**

**9/18 Shepstone Analysis: UDC 2022-03 FIMFO Special Use Permit, Town of Highland:** Robinson said he had looked over the analysis in detail and compared it to Engelhardt's analysis and the NPS. His opinion is that Shepstone's analysis is very valuable by stating the reasoning behind each objective referencing the RMP. He said Shepstone has been around since the creation of the RMP and is experienced in that area. Knowing FIMFO is not something that directly affects his town, Robinson looks at it as a project under review by the standards set forth by the RMP. The burden was on the UDC to see if it would conform and after the review it was determined it conforms. Shepstone reiterated that decision. When Robinson read over the NPS position paper, he felt like they were trying to find reasons to reject the project. RVs are not a permanent structure. For the NPS to conclude that RVs are a permanent structure is outside any boundary and is something neither the UDC nor Tom Shepstone could find. NPS didn't identify any laws, regulations

or rules stating that RVs are permanent structures. Robinson's other frustration was that the decision on the project will have some unintended consequences. If you're going to go into a business venture, you will do your research on how any other venture was treated in that area. If someone wanted to pursue an outdoor recreation activity within the corridor and finds this project, they won't think there's much investment in outdoor recreation here. The RMP clearly states that it is a high priority that outdoor recreation facilities be maintained by the private sector. The burden is on the private sector to provide it, but if the NPS says you can only go so far that is inconsistent with the intent of the RMP. Robinson said he's bringing up these points because they conflict in his opinion.

Engelhardt said she thought Shepstone's discussion on the independent onsite sewage disposal and water supply systems was interesting. She did not realize that the point of that was so that individual campsites (or lots) couldn't have people living year-round in the RV and could be shut down by the campground itself.

Henry mentioned Shepstone's involvement with FIMFO and the Town of Highland previously. He knows there was some concern from different members of the council. Henry thinks Shepstone was straightforward and thorough and doesn't see how he could benefit one way or another. The UDC contracted with Shepstone to help with project reviews when they were in between Resources and Land Use Specialists, and he always did a good job. Henry's concern with the NPS is that the UDC has no idea who is making the decisions (other than Kurnath.) Are they people in this region making decisions or people that have no idea about this corridor? He feels they have no understanding of the Upper Delaware River corridor. He said there's no one who could give an analysis better than Tom Shepstone since he knows the area and helped write a lot of the RMP.

Roeder said he has known Shepstone for many years and worked with him on different occasions and knows that if he found an error by the UDC, he would add that into the report. Roeder felt it would be an injustice to a member of the UDC organization to withhold this information. The Town of Highland will make the decision now with the reviews both the UDC and NPS have given them. It's up to them now. He thinks it's important we don't forget that a member town has the right to information.

Peckham said Shepstone did a great job on his review, that he got into a lot more detail that the NPS report lacked. Shepstone quoted sections from the RMP in detail to support his findings. He said the people that made this report at NPS were not around when the RMP was written, while Shepstone was. He encouraged Kurnath and NPS to listen to Shepstone. He made a motion to submit the analysis from Shepstone to the Town of Highland. Engelhardt told him it was sent last Friday. Engelhardt said the Town of Highland Planning Board normally requires that items be submitted 10 days prior, which this wasn't. In her email to Chairperson Sutherland, she recognized the late submission and apologized since the council had just received it. Ramie added that there was a majority vote by email to approve sending the analysis to Town of Highland on September 22<sup>nd</sup>.

Kurnath said she has no comments on Shepstone's opinion. As discussed at the August 22<sup>nd</sup> meeting, this report was never going to change the NPS determination. She doesn't think the analysis presented any new information that NPS hadn't already considered. Although she may not have learned much from the report itself, she feels she has learned a lot about the Project Review Committee as a group and how it operates over the last several weeks. The committee had agreed that the report from Tom Shepstone would be educational only and would be first and foremost an internal discussion. She finds that misleading. As a representative of the NPS on the committee she feels she was ignored and disrespected when she voiced concerns. She doesn't see how, as a NPS representative, she can trust the Project Review Committee to do what they agree. She clarified she means the Project Review Committee, not the UDC staff and not the UDC full council. Kurnath said that in the last 8 months she has been a representative for the NPS she has showed up, listened, shared what she could, and respected what members have said and shared. She wanted to move forward past the Camp FIMFO conflict and was confident that all sides were coming from a point of integrity, working toward a common goal of what is asked of all of us: to protect the corridor. She added that

we are not the only place dealing with park model RV/homes/cabins, or whatever the industry wants to call them. There are communities all across the country dealing with the differences of what is their code on what a park model RV is, what it's doing to their communities, and what they want their community to look like. She named examples in Colorado, Massachusetts, North Carolina and Washington State, to name a few. A quick Google search will show you what the park model RVs are doing to a neighborhood and the fabric of an area. The communities are struggling with what this new technology/product is going to do to in terms of what we envisioned for this corridor. She thinks everyone needs to spend some time and question what we're actually looking at and whether it is actually an RV or if it's something permanent that will be placed on the landscape. If we don't do that research and ask those questions, then she feels we haven't done our jobs in protecting the corridor. She was concerned about this report from Shepstone from the beginning but gave the committee the benefit of the doubt that it would be a discussion. Ultimately, she feels the committee has let her down. She asked what the members would do if they were in her position. Trust is the cornerstone of a functional partnership, and she truly doesn't know what to do now that she can't trust what will be committed to. She mentioned at the Special Project Review Meeting on TAGs that the committee wasn't coming from a point of what was in the RMP and what was in the best interest of the Delaware River. It seemed to be personal opinion to make those decisions and leaves her at a loss on how to be a part of the committee. Her job is to be the manager of the Scenic and Recreational River and manage it in accordance with what Congress told NPS to do to protect this place. The recourses at her disposal are her responsibility to make sure that the hardworking Americans' tax dollars are spent in a responsible way. She's not sure she can keep coming to a committee that she can't trust and tell Americans that this is a good investment of their money. She asked again, "What would you do?" She said the question is a bit rhetorical and she doesn't have an answer either. She said this is probably not what the committee intended and hoped that she would take away from Shepstone's report, but she appreciated the opportunity to express it.

Henry said he respects Kurnath's emotion. He said that the Town of Highland is a part of the UDC and in the minutes it stated that this report was something that would be shared between the UDC and NPS; Town of Highland is part of the UDC and has a right to know the information. What would be the benefit of holding back the information? Kurnath complimented Engelhardt on doing an exceptional job transmitting the report to the Town of Highland. She agreed with G. Dudko's comment she had made via email, of information being helpful, but she wanted the chance as a committee to be able to talk about it first which is thought she agreed to. The report was supposed to be discussed between the UDC and NPS to figure out how to get the information to Town of Highland without "muddying the water." Her opinion, while trying to keep up with what was happening, she felt as if she was on mute. G. Dudko said maybe it was similar to the way the UDC felt when NPS released their report without discussing it first. Kurnath said they did on June 12<sup>th</sup>. G. Dudko reminded Kurnath that it was the first time that UDC and NPS did not work it out first with a disagreement before releasing information. Kurnath commented that she was handed a complicated situation as she took over the Superintended position. G. Dudko said they recognize that and she has gotten caught in the middle of it. She apologized for anything Kurnath may have taken personally.

Roeder understands that the determination made comes from a lot of offices outside this area. He said if the NPS is firm and there was going to be no change, why bother talking about it? What discussion would there be? He isn't criticizing Kurnath because he knows the position she's in. He said in the history of the UDC as an organization there have been a lot of issues with trust. The UDC has worked for 35 years trying to get the people of this corridor to respect the NPS. He cares about the relationship between the people we represent and the NPS, the management of the Delaware River, to help the corridor and protect private property rights. He understands that the Federal Government can't be involved because that's not their job, but it's the UDC job. If the project goes through, and it's up to Town of Highland on what they decide to do, he's afraid there could be tremendous damage with trust. He hopes that the relationship can be mended.

Robinson said that the UDC is a service organization for the members and are obligated to support the members. The UDC was created as an offset of the Federal Government. The UDC based on the RMP is a powerful organization that is responsible for project reviews and more. It isn't an optional organization.

Robinson was the first to suggest sending the report to the Town of Highland because the information was very relevant. Information should not be restricted and when you restrict information, it's corrupt. Any time information is withheld, something goes wrong. If the NPS is strong in their argument, Shepstone's report should have no bearing. If the town finds Shepstone's information useful, it's to the benefit of one of the UDC members. It shouldn't be interpreted as throwing Kurnath under the bus; that was not the intent. The intent was to give our member a resource that the UDC engaged to get. The UDC got this report to see if we failed the analysis when the UDC decided it was conforming. That would be the first time the UDC failed, and he wanted to know where and why we failed, if we did. That was the reason Shepstone was hired. He knows the RMP. He would think the NPS would take the analysis seriously. It isn't a personal insult to Kurnath. It's to fulfill the obligation of assisting a member and to assist the UDC. After he read the analysis, he was happy to see we did our job researching. What the Town of Highland decides is not our job, it's their business. He commented that it's good when people disagree, when everyone agrees all the time no one is thinking.

Henry said that with Kurnath being relatively new to her position, in the RMP, the thing that angered people the most was 36 CFR: the NPS jurisdiction on the water. Eventually in 1996, with no forewarning, it went from that to the Ordinary High Water mark. The NPS now has jurisdiction on private property. He said that is something that exceeds FIMFO. Congress has said they didn't but by virtue of NPS rule and regulation, they went through the right process, but never told the council. Henry said that created a trust issue as well.

**FY 2024 Technical Assistance Grants Recommendations to 10/5 UDC:** Engelhardt said at the Special Project Review meeting on August 12<sup>th</sup>, two applications were presented and discussed. The first was Town of Tusten creating an Open Space and Recreation Plan for the town with the total cost of the program estimated at \$150,000 and requesting \$25,000. At the meeting there was much discussion about how much of the town is within the river corridor. An award of \$3,750 was settled on, which is 15% of what was requested. There was also a lot of discussion on whether this was going to be added ordinances, restrictions or conservation easements. Engelhardt reached out to Jane Luchsinger to clarify that topic. Engelhardt forwarded information that the planning consultant prepared for Town of Tusten to the committee, as well as two other Open Space Plans that consultant had also prepared for other towns in the State of New York so we could have a better understanding on what the deliverables would be. The deliverables are a printed plan/report similar to a Comprehensive Plan that talks about where preservation could happen and what sort of environmental inventory there is within the town. It may be a guide for future zoning, but in itself the plan does not involve any zoning changes or ordinance revisions. Engelhardt encouraged the committee to give more than the \$3,750 that was discussed at the special meeting. Ramie said the budget allows for more to be given than what was recommended with a budget of \$16,140. Engelhardt mentioned how much had been awarded in previous years: Fiscal Year 2023 it was \$8,622.50 with Tusten being the only applicant, and Fiscal Year 2022 it was \$4,700 with Tusten being the only applicant. In Fiscal Year 2021 there was \$25,000 awarded that was \$9,000 to Tusten, \$6,000 to Delaware and \$10,000 to Hancock. In 2015 over \$28,000 was awarded. In 2014 \$25,000 was awarded and in 2013 over \$32,000 was awarded. There is a history of awarding more money and the money is in the budget. This is something that we can point to, to show what the UDC provides for our members and municipalities. Engelhardt feels that the proposal from the Town of Tusten is aligned with the RMP and is exactly what we're supposed to be funding.

Robinson asked if the intent of the project is to create an inventory list of flora and fauna on private property. Engelhardt said that may be a part of it, although she doesn't think anyone will be going onto private property to count individual animals or plants, but it's looking at land use and habitats (for example, Bald Eagles being near water.) Ramie said that it would only be voluntary and with permission. Engelhardt said she believes they will be looking at maps and inventories that exist and building off that. Robinson asked if it would accept public lands like the Boy Scout property, etc. Engelhardt said it is supposed to show how the town works together. Habitat, green space and open space is more valuable when it's connected together rather than fragmented. Ramie said Luchsinger emphasized the Boy Scout property being one of the premier lands they wanted to look at because of the biodiversity. Robinson asked if it was stipulated that it doesn't

become a function of zoning. Engelhardt answered that it's a tool that they may use in the future, but there are no zoning changes as part of this plan. Robinson said the downside of creating inventories and lists is not current, it's in the future. Engelhardt does understand the concern of private property and restrictions. Information is good, and having more information and knowing what we have and where we have it is only going to inform good decision making going forward. She doesn't see a downside in knowing what the resources are. Ramie added the goal is environmental protection. Henry asked if anyone had heard back from Luchsinger about how the Town of Tusten public meeting went with the announcement of the Open Space Plan. Ramie asked Rayner-Haselkorn if she had covered the meeting for the *River Reporter*. Rayner-Haselkorn said there wasn't much discussion on it, there may have been one person who asked how much money would come from the town for the project versus the matching grant, but there was no public pushback. Ramie agreed with Engelhardt on showing the UDC's value to its members. If we give such a small amount of their request; what message is that sending? We can afford it, so she agrees on increasing the amount. G. Dudko asked why we aren't getting more TAG applications. Engelhardt said she isn't sure. G. Dudko said she knows that some years there are different qualifications for the grants. Ramie said that what the Town of Tusten is proposing is the type of project that would be covered without question. Henry asked the NPS had a chance to look over this application. Kurnath said that her approach would be similar to what Damascus did to amend their proposal this year, to show the connection to the river. Henry said back in 2015 the salaries were different than what is paid today, so the budgeting was different for what the UDC could give for grants. Engelhardt said that we do have a budget this year of \$16,140 so we should use it. Henry asked between Tusten and Damascus how much has been spent so far. With the proposed amounts it was approximately \$5,500. Henry asked if anyone from Tusten has come back asking for more money. Ramie said we hadn't communicated any figures yet. Engelhardt proposed giving \$10,000. She feels the UDC has an important role in the corridor and this is a tangible way to demonstrate that we are a resource for our towns. Ramie said it could also be shared as a model for other towns and townships, once established. Henry asked if there was extra money for last minute concerns in the Fiscal Year. Ramie said yes, we zeroed out our federal funds for this Fiscal Year, starting fresh on October 1<sup>st</sup>. Robinson asked what happens if Town of Tusten's Open Space Plan is rejected. Engelhardt said then they don't get the money; we don't reimburse until the end of the year. Robinson asked if a vote by the board is required. He assumes there has to be some accountability by elected officials. Engelhardt said she imagines the Town Board has to vote. Ramie reminded everyone that Town of Tusten received a Delaware Watershed Conservation Fund grant for this project, and in order to apply for that grant she assumes they had buy-in from the Town Board since now they are committed to coming up with a \$37,500 match. Ramie said there is a TAG contract with the scope of work in it and if the deliverables they present to us isn't done to our standards, they don't get the money. Motion by G. Dudko to approve the \$10,000 TAG to Town of Tusten, seconded by Henry carried with Roeder opposed. The resolution will go to the full council at the October 5<sup>th</sup> meeting.

Engelhardt said Damascus Township requested \$2,822 to update and distribute their emergency preparedness brochure. At the special meeting, Kurnath expressed concerns that the brochure was too general and did not focus enough on the river. She passed the comments along to Damascus Supervisor Steve Adams, who amended the application to add a paragraph (included in the handouts) that has a QR code directing people to NPS to get information regarding river status. They will also add general safety information like "always use your lifejacket when using the river."

Kurnath said Damascus addressed her concerns. She said you can direct people to NPS site, but really, they should be directed to USGS sites for river status. She did like the addition of "always use your lifejacket." Adding in the UDC logo with the water safety logo would have avoided the amendment. Dexter said the old brochure is very out of date. Kurnath said that there was also discussion of adding ready.gov, and asked for it to be linked on the brochure. Henry made a recommendation to add "lifejackets save lives." Ramie said in this case, you are accepting the revised application with the same amount. Motion by Henry to approve the revised TAG application, seconded by Robinson carried. The TAG resolution will go to the full council at the October 5<sup>th</sup> meeting.

**Other:** B. Dudko asked if a water safety logo sticker could be added to rafts and boats from liveries. Kurnath said it was a good idea, and she would look into it.

Old Business:

**2022 Annual Code Enforcement Report Update:** Engelhardt reported she still has not gotten a response from Town of Tusten; she has started adding Supervisors to the CC list. She got a response from Town of Highland today. The way their applications are set up, they don't have zoning or river corridor on it. She received 21 pages of building permits today and will be going through that. Aside from those, she has spoken with everyone. It is similar to previous years. Tons of work is going on in Lackawaxen with 126 building permits in 2022. Westfall also has a lot going on. She just had the opportunity to go through the new information for Westfall, since also got a list with everything in that township which includes Matamoras. Henry asked if those numbers were for permits within the corridor. Engelhardt said yes. Henry asked if we looked at that many applications within Lackawaxen. Engelhardt said 39 of those were short-term rentals and 21 were decks. But no, we didn't look at 126 permits over the year since they are just building permits. She mentioned that Damascus had 12. This is still a draft and she's hoping by next month she will have a final version to send to NPS to fulfill the UDC's Congressionally required duties of providing them this information.

**UDC-NPS Telecommunications Meeting Update:** Ramie reported they had a staff meeting with Engelhardt, Kurnath, Carla Hahn and herself present on September 11<sup>th</sup>. They went over the procedures, where they stand and what comes next. Ramie said they would like to resume the work sessions of the Telecommunications Subcommittee on October 5<sup>th</sup> at 6pm, in advance of the full council meeting at 7pm. At that work session, staff can bring more information to the subcommittee.

**Status of River Corridor Maps Distribution:** Engelhardt gave the completed Town of Deerpark map to Ginny and Bill Dudko at the last meeting. It is currently at the Deerpark Town Hal. They plan to present it on Monday and will send a picture to Ramie. Engelhardt still needs to get maps from Pike and Wayne Counties and will reach out to them again.

**Other:** None.

**Public Comment:** Eisenberg said that the current park model RVs are not the dominant type when the RMP was developed. They are not specifically addressed in the RMP nor are they addressed in town zoning. The RV industry has lobbied hard to get the RV designation so that they aren't subject to specific housing regulations. When you look at how the industry markets them, they are not referred to as vehicles, they are referred to as cabins and homes. They are marketed as second homes, retirement homes, starter homes, etc. From a planning perspective you need to consider not only what the technical definition is but what the actual impact is. She said it was mentioned that anyone can drive off the lot with an RV, but what she's read that more than 95% of the park model RVs in the first 6 months of this year require a wide load permit. The portability and ease of getting them on the road is a hinge of the town's definition of what an RV is.

Adjournment: A Motion moved by Dexter, seconded by Henry to adjourn at 7:58 p.m. carried.