

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
April 23, 2013

Committee Members Present: Larry Richardson, Harold Roeder, Jr., George Fluhr, Fred Peckham,
Nadia Rajsz
Committee Members Absent: Debra Conway, Jeffrey Dexter
NPS Partner: Sean McGuinness
Staff: Laurie Ramie, Cindy Odell, Travis O'Dell
Guests: Jack Niflot

The UDC's Project Review Committee held its monthly meeting on Tuesday, April 23, 2013 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 7:43 p.m

A motion to approve the March 26 meeting minutes was made by Rajsz, seconded by Peckham and carried. There was no public comment on the agenda.

Discussion Items Report

Project Review Update

Natural Gas News: O'Dell referenced his written report. He said the PA DEP's Oil and Gas Technical Advisory Board met on April 23 to consider a new draft of the Chapter 78 drilling regulation changes required by Act 13 of last year and a new proposal to change the drilling permit fees proposed by the department. The draft changes in drilling permit fees would eliminate calculating the permit fee by the depth of the well and replace it with a flat fee of \$4,200 for a vertical unconventional (Marcellus) well and \$5,000 for a non-vertical Marcellus Shale well. Under the old fee calculation, the highest fee for wells of up to 12,000 feet in depth would have been \$3,000, plus \$100 for every 500 feet after that.

The Army Corps of Engineers has approved all the necessary permit applications required for the Federal Energy Regulatory Commission's final approval of the Tennessee Gas Pipeline Northeast upgrade project. The permits allow Tennessee Gas to build a natural gas pipeline – Loops 317, 319, 321, and 323 – in Bradford, Wayne, and Pike counties in Pennsylvania, and Sussex County in New Jersey.

Town of Fremont: The Sullivan West School District is a step closer to the sale of the Delaware Valley School. Emily Yu, director of the Windsor School in Flushing Queens, has placed \$58,000 in an escrow account for the purchase of the school. The buyer has four months to evaluate the project; the contract is contingent upon securing the adjacent 57-acre parcel for sporting fields and dormitories. Members asked what the Windsor School is. O'Dell told them it is a private secondary school located in New York City. The Windsor School offers a private school curriculum and college preparatory programs for international students from China, Korea, Japan, Vietnam, and for local students living in NYC and the surrounding area. Rajsz noted that where there are good educational facilities, you do have some economic growth.

Town of Highland: Planning Board Chairman, Berry Hafkin, informed O'Dell that the planning board granted an application for a small canoe livery to be operated in Barryville, NY behind the Carriage House restaurant. The business will be operated out of a non-permanent structure and will only supply between 7 and 14 canoes.

Town of Lumberland: T. O'Dell reported that on April 10th, the town board adopted Local Law No.2, Road Preservation Law.

O'Dell noted on April 16th the zoning board of appeals held a public hearing to discuss a zoning variance request for the approval of a parking area, front yard, and the conversion of an old church into a two-room motel. The proposed site is located on a one-acre parcel at 259 Van Tuyl Road in Barryville, NY in the town's Hillside District which has a minimum lot size of 5-acres. The proposal, which preserved a historic building in the town and was consistent with the residential character of the community, was ultimately approved. The site is located in a recreational segment of the river where small motels and hotels

are appropriate special/conditional uses according to the Land and Water Use Guidelines Schedule of Compatible, Conditional and Incompatible Uses.

Lackawaxen Township: T. O'Dell said the Lackawaxen Township Zoning Hearing Board sided with Kittatinny Canoes in its appeal of a violation notice at the former Threshman River Trips property along the Lackawaxen River. Last year, the township zoning officer issued the notice because the township considered the use of the property as a livery to have been abandoned more than a year, making it no longer covered as a non-conforming use. The Zoning Hearing Board determined the township had not supplied sufficient evidence to back up that claim, and overturned the violation. Kittatinny Canoes can use the property to launch rafts, tubes and kayaks, but cannot expand the operation.

PA DEP: T. O'Dell noted the PA DEP has proposed a new policy for onlot sewer systems in high quality and exceptional value watersheds. A draft letter is enclosed in members' packets, which in supporting our member townships' and counties' position on this topic, opposes the draft policy. The letter will be addressed under New Business, O'Dell said.

Berlin and Damascus Townships: T. O'Dell reported that Berlin and Damascus Townships are currently updating their floodplain ordinances. These updated ordinances are mandatory in order for the municipality to be enrolled in the National Flood Insurance Program, otherwise known as NFIP. In addition to the insurance, the township also needs to be in compliance with the updated ordinance in order to receive disaster relief funding from FEMA in times of emergency. The municipalities are required to have these updated ordinances adopted by May 16, 2013. McGuinness asked O'Dell if he had any idea how the ordinances will read. O'Dell told him they were model ordinances from FEMA that had a lot of optional language. O'Dell contacted Ernie Matern from Damascus Township to see what they are reviewing. Berlin Township has adopted theirs and O'Dell contacted the secretary to see about receiving a copy of it. O'Dell said he would have liked to have gotten the ordinances earlier.

Project Review Workbook: O'Dell said that under New Business, members will review draft revised report forms and cover letter for municipal officials.

TAG Update: T. O'Dell noted there was nothing new to report for the TAGs. He did remind members that the deadline for project completion is July 26, 2013.

Training Update: T. O'Dell reported he has been participating in a Climate Solutions University Model Forest Policy Program as part of a team from the Common Waters Partnership. Currently the group is seeking members with expertise in forest, water or economics to identify areas that are at high risk to extreme weather events and help develop a guidance plan to make the identified areas of the region more resilient to these types of events. O'Dell said he does have more information and to contact him if interested.

O'Dell said he attended a free iMap Invasives training session with the Catskill Regional Invasive Species Partnership (CRISP) on April 3rd in Arkville, NY. The training provided a mapping tool for detailed information about infestations, surveys, and treatments of invasive species. There was a lot of talk about the hemlock woolly adelgid and the emerald ash borer.

On April 17th, Dorene Warner of Wdesign came to the UDC office and provided O'Dell's second training on how to properly insert photos on the website.

McGuinness noted the Park Service is beginning to work on climate related issues. He said there may be opportunities to work collaboratively with the Common Waters Partnership on the Climate Solutions University Model Forest Policy Program. O'Dell noted that Don Hamilton is somewhat involved, but said he does not have much time to dedicate to the project currently. McGuinness said it is important to be prepared for what comes along with climate change. Fluhr spoke of 1816, the "year without a summer". He said there was snow in July and people didn't know what was happening. A volcano in Indonesia had erupted and the ash blocked off the sun that year.

A brief discussion about Japanese knotweed took place. Richardson stated that "if you want to control it, find the value in it".

New Business

Draft Letter to PA DEP: Proposed Onlot Sewage System Policy: Richardson noted that the comment period has been extended through June 3rd. Ramie said a press release to that effect was included in members' packets. As a result, the Council will have the opportunity to address this letter at the May 2nd full Council meeting if that is the committee's pleasure. Richardson said the draft letter was sent out in advance for review. He asked if there is any more discussion on it from this committee. O'Dell pointed out the changes that had been made to the letter. O'Dell said he had received an addition suggested by Tusten Representative Susan Sullivan among other minor changes. O'Dell pointed out that copies of letters sent by Westfall, Damascus, Shohola, and Lackawaxen Townships on this subject were included in members' packets for reference. Richardson asked Fluhr if he had any comments on the letter. Fluhr said he would like to show a copy to his townships' supervisors and said he feels the Council stands to gain a lot of support from some of the local boards as a result of this letter. Fluhr suggested sending a copy of the UDC's letter along with copies of the township letters to Buckingham and Manchester townships. A motion to send the letter to the full Council on May 2nd for consideration was made by Roeder, seconded by Rajsz and carried. Richardson asked Fluhr to have any comments on the letter back by the full Council meeting. Discussion took place about sending the Council's draft letter out to townships for their review before the full Council meeting. Richardson said the letter is well-written and he thanked O'Dell for writing it.

Project Review Draft Report Forms/Cover Letter: T. O'Dell said he drafted two different report forms, one for towns/townships that are in substantial conformance and one for towns/townships that are not in substantial conformance. He explained the differences in the forms and said the difference is not noted on the forms. Fluhr commented that towns are either in substantial conformance or they are not and that determination is one that is made by the Council, not staff. Richardson elaborated that it is the Council with agreement by the National Park Service. Rajsz questioned if it can be determined that a town's project is not in substantial conformance. Richardson said it could be stated that it is not within the guidelines of the River Management Plan. It was discussed that there has been no action taken or decision made by the Council or the Park Service in determining the Town of Hancock's substantial conformance status. Peckham said that nothing has happened along the river in the town to warrant it. Peckham added that although the Town of Hancock does not have zoning, they do have ordinances and the ordinances basically follow the River Management Plan. Fluhr cautioned how the towns and townships are approached noting situations need to be handled extremely delicately if someone needs to be told they are doing something wrong. O'Dell said he agreed and that is why he has been struggling with this. He noted Woodrow Wilson said "If you want to make enemies, try to change something". This could possibly be changing something for the individual who has been on the board for 20 years. He said that is why he didn't want to send these out in a generic letter to our member towns and townships. He wants to tread lightly and meet on an individual basis with them. He did say he is not sure how easily it will be accepted, but this is how the Plan intended for the process to go and it hasn't happened. Peckham noted many lessons were learned through dealing with the Holbert issue in Lackawaxen Township. Peckham suggested proceeding with just the longer form asking, "How much more is it to check off just 8 extra boxes?" O'Dell said it is a big difference considering they don't have any boxes to check off right now. McGuinness said he recommends sticking with the two forms. T. O'Dell said an advantage of being found in substantial conformance is that you are subject to less project review. McGuinness said the river valley is still in great shape. It's not much different than 1978 except for a few things here and there, he added. We do, however, need to be prepared as to how to handle projects, especially big ones, when they come along. Richardson feels the forms should be an internal document, and the committee should be able to work it out internally about what information is needed and then take the show "on the road". Roeder said that when the people in the towns and townships realize they have something they can do simply, and understand what their role in the Council is, it will help with the communication between the towns and townships and the Council. Roeder stated we need to focus on the positive aspects of working with the Council. McGuinness added to keep the spirit of protecting the river and the corridor, only the percentage of the towns or townships that is in the corridor, in mind. O'Dell asked the members if they want him to start with the forms he prepared, to tread lightly and start initiating this project review process. Ramie said he has been waiting for the committee's approval of these forms so that he can set up meetings and approach the towns and townships. Roeder suggested that the experience we gain using the forms will teach us. If we have to tweak them, we'll tweak them. Fluhr told O'Dell he hoped he did not see this discussion as criticism of what he is doing. He told him he is doing

a good job, but he thinks a lot of people are not going to understand. O'Dell said he does understand, that he grew up in the area, he is a local person. He understands this is not going to be readily accepted, but he has been reading and learning this is how the project review process is supposed to happen. Richardson told O'Dell he does not see anything antagonistic with the process and does not know why it would not be accepted. Peckham said it is a check list; that is all it is. Roeder suggested communication is the key. We can ask that they implement what they agreed to years ago now and show them what we need and ask them for their input. Richardson suggested some language that could be used. Peckham commented that the forms did not indicate these were just for projects in the river corridor. C. Odell said that is stated in the draft cover letter provided. She said it reads, "The enclosed form is for use by the town's code enforcement officer and planning boards to report significant projects to the Council that are proposed within the federally-designated river corridor boundary." It was suggested that clarification be addressed on the forms. Richardson said the cover letter is good, but there is a chance that letter could be lost and lead to confusion if only the forms are left to address. T. O'Dell said the forms he provided are condensed versions of forms from the Project Review Workbook. McGuinness said another role of the Upper Delaware Council is education and that has not been happening a lot in the three years that he has been here. He added that this is an opportunity to educate the towns and townships about the River Management Plan, substantial conformance, project review, and do it in a positive way. He said there was a wonderful educational opportunity with the Town of Delaware recently. Roeder agreed and said people really responded to it. McGuinness said we could include copies of maps that show the boundary on them. Richardson suggested changing the wording of the title from "Significant Projects, Variances and Challenges Report Form" to "Significant Projects, Variances and Challenges Report Form for Projects Within or Affecting the River Corridor". Richardson said the reason he says "affecting" is because if there is a zoning change or something else that may not be a physical project, but could affect the corridor, we should know about those as well. McGuinness referenced the River Management Plan and stated there are so many good lines in it. He read from page 48 "The Land and Water Use Guidelines establish a program designed to permit each unit of local government to meet the overlying principles and objectives in its own way." Ramie noted that is why O'Dell stressed the "home rule" aspect in the cover letter. McGuinness continued and read from page 47 "The Land and Water Use Guidelines are intended to be standards for the fifteen towns and townships to use in the development or modification of their relevant plans, laws, and ordinances to carry out the purposes of this River Management Plan." O'Dell said this is a work in progress. A motion of endorsement of the forms with the suggested edits was made by Roeder, seconded by Rajsz and carried. Fluhr suggested looking at the forms again in six months or so, and gathering reactions from people who have used them. Richardson said it is a work in progress and the forms will be evolving documents. Fluhr noted this may be the only introduction that a lot of people get to what this whole river corridor is all about. It has been Fluhr's experience that when people know about it, they recognize that it is to their benefit to have the corridor protected.

Discuss Identifying Sites in River Corridor for Open Space Inclusion: Richardson said he feels we should have a list in place of what we consider critical needs along the river so if funds become available we can identify them. T. O'Dell said he feels it is the towns' jobs to identify those areas themselves. Rajsz noted that the towns were not involved in the NYS Open Space plan. Richardson agreed that we could approach the towns for their ideas in order to be prepared. Richardson said he did not realize until Bill Rudge of the NYS DEC spoke of it at a past UDC meeting; that the criteria of the Open Space Plan is that a parcel has to be listed in the plan or it is out. He reiterated that we need to identify general areas where needs, such as accesses or rest stops, can be met. Rajsz said it is her opinion that more attention needs to be paid to the western end of Sullivan County when it comes to plans such as this Open Space Plan. Richardson said the River Management Plan talks about the services that should be along the river. He said we could identify the needs, approach the towns to inquire if they have any ideas as to how the need could be satisfied in their segment of the river, and get some feedback from them. Roeder said it will boil down to willing-seller, willing-buyer. Richardson agreed, "No question about that." McGuinness spoke of areas the Park Service has identified they would like to purchase if they became available and the money was there. Richardson said we need more places along the river where people can get off and relieve themselves, and take a rest. McGuinness said that the Delaware Highlands Conservancy and the Nature Conservancy have also identified lands in the valley for certain purposes. McGuinness said it would behoove the UDC to find out what these lands are that have already been identified. Richardson said we could solicit their help. Richardson said it frustrates him that we can't pull out a map and identify these general areas to meet the

specific needs that there are. Ramie commented that is a good item to include in the committee's work plan.

Other: None

Old Business

NPS Comment Letter & FERC Reply Letter: Hancock Compressor Station: Ramie said those two letters were provided in members' packets for their information. We received them and wanted to share them with members as we had written on the same subject. McGuinness, in reference to the Millennium Pipeline letter to FERC, said that just because they said it, doesn't mean it is true. Lawyers representing Millennium did not address it to the satisfaction of McGuinness himself. He said that they misinterpreted, or don't understand, what the River Management Plan says. Ramie said the letter addressed the UDC's letter as well, noting the fact that the project is not in the river corridor. That is a point, Ramie said, we acknowledged in our letter but asked that they consider the proximity of the project to the river corridor. Ramie said we were successful in letting FERC know that the river corridor is here. McGuinness said they know now that the UDC and the NPS are paying attention. McGuinness said it was his intent to let them know that we're here working together in the valley to protect the river and the corridor.

Use of the 1988 Project Review Workbook: The consensus of the committee was to table this review until next month due to the time.

Other: None

Public Comment:

Adjournment: A motion by Rajs, seconded by Roeder to adjourn the meeting at 8:59 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 4/30/13