

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
May 22, 2018

Committee Members Present: Larry Richardson, David Dean, Al Henry, Jeff Dexter, Harold Roeder, Jr., Aaron Robinson, Susan Sullivan, Jim Greier
Committee Members Absent: Fred Peckham, Deb Conway
NPS Partner: Kris Heister (7:31 arrival), Carla Hahn, Jennifer Cluster
Staff: Laurie Ramie, Pete Golod, Linda Drollinger
Guests: Roger Saumure

The UDC's Project Review Committee held its monthly meeting on Tuesday, May 22, 2018 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:31 p.m.

A motion by Robinson, seconded by Henry, to amend the April 24 meeting minutes was carried. There was no public comment on the agenda.

Discussion Items Report: Golod reviewed his written report, including as highlights:

Town of Delaware: On 4/25, Golod attended a Special Meeting of the Town of Delaware Town and Planning Boards to discuss changes to the renewable energy system section of the Town Code. With two bigger-than-anticipated large-scale commercial solar projects currently underway, tweaking of the town's existing solar ordinance seemed timely. Roeder provided history and background information on the projects' deviation from proposed plans. He said evolving state requirements combined with changing Delaware River Solar aspirations made for projects with larger footprints. Noting that proposed projects were approved on the basis of energy production from each, which has since changed, Roeder suggested that renewable energies land use planning should be concerned primarily with limiting project footprint, not with energy production quantity. Roeder also noted that neighboring property owners are concerned with potential property devaluation. Likening commercial solar to the Marcy South high voltage electric line, Roeder said appraisal studies for properties near the Marcy South line have not reflected significant devaluation. But he also said appraisal data is based solely on property sale prices and that appraisal before sale is considered an unreliable indicator of real property value. Sullivan and Saumure agreed that footprint should be the prime criterion for renewable energy land use planning; Saumure noted that rapidly evolving solar technology could dramatically increase production with an ever diminishing footprint. It was mentioned that a commercial solar site could have an enormous footprint, as long as it poses no threat to the viewshed; Golod said the Puerschner Project site, one of the proposed commercial solar sites, is visible from Rt. 97.

Town of Highland: A copy of Golod's 5/1 letter to Town Planning Board Chairman Berry Hafkin regarding the PR Committee's determination for the proposed parcel subdivision and lot improvement on River Road was included in the meeting packet. It concluded that the Town of Highland was in substantial conformance with respect to the River Management Plan and the Land and Water Use Guidelines, and therefore subject only to Class II significant project reviews. After review of Highland's site plan, the Environment Assessment Forms (EAF), GML 239, and the town's current zoning ordinance (including schedule of regulations) for compliance with the Final River Management Plan and the Land and Water Use Guidelines, the Project Review Committee found the resulting adjoined lots of 0.75-acre Robinson property and 0.853-acre Cambio property meet the Land and Water Use Guidelines criteria for Hamlet Commercial properties and do not meet the threshold of a Class II significant project, per the Upper Delaware Council Project Review Workbook.

Resource Specialist's Update:

- Golod and NPS Management Assistant Carla Hahn continued work towards a Project Review Guide final draft 5/31 deadline. Next work sessions are scheduled for 5/24 and 5/31.

- On 4/25, Golod attended the NPS's Long-Range Interpretive Plan workshop held at the Chamber of the Northern Poconos in Honesdale, PA.
- On 5/4, Golod attended the NPS Water Safety Partners meeting. He will give a verbal report during the Operations Committee's Old Business segment.
- On 5/21, after completing a preliminary investigation of the Barnes Landfill leachate issue, Golod drafted and mailed a copy of the letter provided in the meeting packet, which will be discussed under Old Business.
- On 5/24, Golod will attend the Upper Delaware River Tailwaters Coalition (UDRTC) Project Advisory Committee (PAC) meeting for review of the Stream Corridor Management Plan.

Richardson noted that at its May 9 meeting the Cochecton Town Board adopted, with one minor change, the summer camp/private school zoning amendment reviewed in draft form by UDC/NPS. Richardson asked that a copy be sent to the UDC.

Old Business:

Responses to RMP/Land and Water Use Guidelines Issues Input: The collected responses to the UDC's 3/16 memo from Lumberland, Shohola and Damascus were included in the meeting packet. Additionally, the Towns of Tusten and Fremont had indicated no issues with the RMP or Guidelines. Lumberland's Planning Board Vice-Chairperson Suzanne Edzenga responded on behalf of her town with a brief letter that said the 1986 advisory documents are still successfully meeting the current needs of both the designated river corridor and the municipality. Edzenga also said the guidelines were extremely helpful to Lumberland's land use policy development. Damascus and Shohola each cited problematic issues with the RMP: Shohola with the definition and criterion of minor commercial development; and Damascus with the definition of major commercial development as applied to cell towers. Robinson reminded the committee that the purpose of the query was to get information from municipalities about the usefulness of the RMP in land use planning. Referencing the fact that most of the towns and townships had said they had no problem with the RMP, Dean said there was so little developable land within the river corridor portion of the Town of Deerpark that the RMP is almost moot there. Robinson, who initiated the query, said he hoped responses to it would point out any uneven application of the RMP throughout the corridor. In any case, he thought the committee should review the Damascus response, which he found interesting, in part because it was drafted by a code enforcement officer with decades of experience. Ramie said that the Damascus and Shohola responses will be added to the June meeting agenda for further discussion.

Barnes Landfill Status Inquiry: Golod went through the files of former resource specialist Dave Soete for historical information on the landfill and met with Ned Lang, whose company, Lang Industries, was hired to dispose of that landfill's leachate while an escrow fund was in effect. Since that fund expired years ago, Lang claims to have recently filmed evidence of leachate tank overflow. As spillage at a site so close to Beaver Brook tributary would mean almost certain contamination of the Upper Delaware, Golod drafted a letter to Bill Rudge, Natural Resources Supervisor for Region 3 of the New York State Department of Environmental Conservation, with copies to the DRBC, National Park Service, Governor Cuomo, the Environmental Protection Agency, The Delaware Riverkeeper Network, the Town of Highland Supervisor, the Town of Highland Code Enforcement Officer, and Kittatinny Canoes owner David Jones. In the letter, Golod requests a written update on the status of the leachate collection, water quality monitoring, and any remediation plans. It asks specifically if the DEC has been sampling and analyzing groundwater of local wells in the direction of groundwater flow from the landfill. If so, it asks for the dates the samples were obtained, for the credentials of the sample taker(s), and for the results of the analysis. It also asks if the Barnes Landfill leachate containment system was approved by NYS DEC prior to implementation and if it has been inspected since the 2003 depletion of the escrow account set up by Robert T. Liguori in the 1990s to manage the landfill following its closure. The letter concludes that allowing leachate to overflow is unacceptable, and it urges the DEC to continue monitoring, evaluation, pumping and environmentally responsible disposal of residual leachate. Richardson recalled that the DEC's standard response to questions about Barnes Landfill leachate containment was always, "The leachate is within limits." But the limits, said Richardson, were never specified. Henry suggested that NPS should take water samples for testing from the tributary and, if it finds contamination, should enforce the "clear and direct threat" provision of the Wild and Scenic Rivers Act. Sullivan said UDC should wait no more than 30 days for a response to its letter before initiating follow-up action. Richardson said the Barnes

Landfill issue must remain on Committee and Council agendas until the matter has been resolved to UDC satisfaction.

New Business:

Minor Amendment for Renewable Energy: Golod presented a first draft of the proposed renewable energies minor amendment to the Committee for review and comment, a copy of which was included in the meeting packet. It provides definitions for a utility (commercial) scale solar energy generating system, a utility scale wind energy system and a utility scale geothermal energy system and states the conditions under which each would be permitted in the various designated river sections. The three definitions would be added to the LWUG and included in the Schedule of Compatible, Conditional and Incompatible Land Uses. Richardson asked that each minor amendment include a footnote identifying it as such and indicating the date on which it was adopted; he was assured that would be an inherent part of the minor amendment process. The UDC and NPS concluded in their position paper conceptually adopted on 8/3/17 that potential impacts associated with utility-scale solar energy systems, including those to scenic, recreational, and ecological resources and values, can be adequately addressed by the special use/conditional use criteria of municipal ordinances. Significant negative impacts to scenic resources, recreational resources and ecological resources from utility scale wind energy systems made them an incompatible land use within the corridor and would reflect that in the LWUG's Schedule of Uses. Geothermal electricity produced by conventional power-generating technologies using hot water or steam existing in the upper two miles of earth's surface was also determined by UDC/NPS to be an incompatible land use within the Upper Delaware Corridor. It was, however, noted that there is little to no potential for geothermal energy development within the corridor. Henry said he thought the three sources of renewable energy should translate into three separate minor amendments. That triggered a debate on whether new land uses might be better addressed with a Letter of Interpretation. Richardson interjected that NPS has told us they would not accept a Letter of Interpretation for that purpose. Heister said solar is a new land use and therefore can't be interpreted against existing definitions in the LWUG, according to the NPS solicitor. Hahn stated that NPS feels the position paper should be revisited because certain policies have since changed. Henry read aloud from Page 27 of the RMP regarding the amendment process. Larry suggested that NPS should provide a step-by-step outline for the amendment process. Heister said they had already done so twice but will recirculate it. Robinson said the RMP declares the UDC to be the interpretive agency of the RMP.

Other:

Dollars and Sense of Preserving Community Character: Richardson announced that Ed McMahon, a nationally known planner, will be speaking at the Narrowsburg Union on July 21 from 10:00 to noon, sponsored by the Upper Delaware Scenic Byway. McMahon is recognized for helping communities identify and promote the unique features that inform their character. Targeted to planners, municipal officials, business owners and beautification groups, the talk will offer constructive strategies for promoting economic development while preserving scenic values. McMahon is the co-founder and former president of Scenic America, a national nonprofit organization devoted to protecting America's scenic landscapes. He is regarded as a leading authority on topics related to sustainable development, land conservation, smart growth and historic preservation. A Senior Fellow with the Urban Land Institute, McMahon has long championed the "special character" of American villages, towns and cities, something he believes is fast disappearing. This presentation will explain how preserving community character translates into increased property values and tourism spending and will provide tools for avoiding conflict between conservation and economic development. Those interested in attending can register online at www.byway.eventbrite.com or RSVP to info@upperdelawarescenicbyway.org. For more information, contact UDSB Secretary Ramie at 845-252-3022.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Sullivan, to adjourn the meeting at 8:08 p.m. was carried.

Minutes prepared by Linda Drollinger, 05/24/18