



Upper Delaware Council

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UPPER DELAWARE COUNCIL MEETING MINUTES

November 2, 2023

The Upper Delaware Council held its monthly meeting on Thursday, November 2, 2023. Chairperson Robinson called the meeting to order at 7:00 p.m. Roll call followed reciting the Pledge of Allegiance.

Attendees:

Shohola Township- Aaron Robinson, Town of Hancock- Fred Peckham (Zoom), Town of Highland- Andy Boyar, Damascus Township- Jeff Dexter, Town of Fremont- Dennis Bernitt, Town of Delaware- Harold Roeder Jr., Town of Cochetcon- Larry Richardson, Town of Deerpark- Ginny Dudko, Berlin Township- Al Henry, Lackawaxen Township- Doug Case, National Park Service- Lindsey Kurnath, New York State- Ryan Coulter, Commonwealth of Pennsylvania- Tim Dugan

Absent:

Westfall Township- Michael Barth, Town of Tusten- Evan Padua, Town of Lumberland- Nadia Rajs, Delaware River Basin Commission- Kristen Bowman Kavanagh

Staff:

Executive Director- Laurie Ramie, Resource & Land Use Specialist- Kerry Engelhardt, Administrative Support- Stephanie Driscoll

Media:

Peter Becker- Tri-County Independent (Zoom), Ruby Rayner-Haselkorn- River Reporter

Guests:

Delaware Highlands Conservancy- Kaylan Hubbard; Town of Deerpark-Bill Dudko; Jane Varcoe; National Park Service- Don Hamilton (Zoom); National Park Service- Alex Garcia-Maldonado (Zoom)

Presentation: “Delaware Highlands Conservancy: Conservation, Education & Partnership” by Land Protection Coordinator Kaylan Hubbard

Hubbard introduced herself as one of two Land Protection Coordinators from the Delaware Highlands Conservancy (DHC). She apologized for Senior Land Protection Coordinator Trey Talley’s absence, as he is sick. The DHC is a private, non-profit land trust founded in 1994. It is accredited by the National Land Trust Alliance and follows their practices. In total the DHC has protected almost 19,000 acres in Pennsylvania and New York. Their mission is to conserve the forests, farmland, clean waters, and wildlife habitat in the Upper Delaware River region.

The DHC service area covers Wayne and Pike Counties in PA, and Delaware and Sullivan Counties in NY. They will work outside that boundary if the property is close enough. They partner with private organizations as well as local, state and federal agencies. Their headquarters is at the Van Scott Nature Reserve (VSNR) at 517 Perkins Pond Rd, Beach Lake, PA and they also have a seasonal office in Barryville, NY. The VSNR opened in October 2021 and has 144 acres open to the public featuring over 3 miles of hiking trails. They also offer conservation education programs at VSNR to complement land conservation efforts. They recently added a pavilion on the property that Hubbard welcomed everyone to visit.

Hubbard said the vision for the future at VSNR, after having renovated the farmhouse for DHC offices, is to convert the abandoned barn on the property to a sustainable and accessible Conservation Education Center for citizen scientists of all ages to learn about conservation, ecology and sustainability. She commented that DHC has a fantastic community of volunteers and educational coordinators.

One of their longest running and most well-known educational programs is the Winter Eagle Watch. Hubbard said we have eagles in this area year-round, but in the winter in larger numbers to take advantage of the clean waters in the Delaware River. They have over 50 volunteers that help the DHC specifically for the winter eagle season, teaching guests eagle etiquette, helping them view eagles and assisting during Eagle Watch bus tours on January 6, 20 & 27 and February 3, 17 & 24 beginning at the Zane Grey Museum in Lackawaxen, PA. More information for the Winter Eagle Watch is available on the DHC website along with other events: 11/10 – All About Deer (VSNR); 11/11 – Opening Reception & Gallery Show/Confluence: Land, Water, Wildlife (Artery Gallery, Milford); 11/17 – Turkey Talk (VSNR); 12/2 – “Over and Under the Snow” and Craft (VSNR).

The DHC helps private landowners who want to conserve their property through voluntary conservation easements. These easements protect the natural beauty, clean water and wildlife of the region, maintain connections between habitats, support sustainable agriculture and forestry, and achieve permanent conservation without removing land from private ownership or requiring public access. A conservation easement is voluntary, legally binding and individually tailored to landowners’ goals. The ultimate goal of the agreement is to permanently protect the conservation values of the property, such as water, biological, soil and scenic resources as well as ecosystem services. The landowner retains ownership, use and ability to sell the property or pass the land down to family. Even if the property is sold or handed down, all owners need to abide by the easement. The conservancy conducts annual monitoring and enforces the terms of the easement. The overall goal is to balance continued use of the property with meaningful and perpetual protection of the conservation values. Some of the general restrictions are development, subdivision, dumping, waterway disturbance, mineral/gas extraction, industrial or commercial use, and impervious coverage (any surface or structure that changes how water enters the soil.) The reserved rights include sustainable forestry and agriculture, wildlife habitat protection, passive recreation, limited or appropriate subdivision if the property is large enough, and renewable energy.

What makes a good Conservation Easement (CE)? Property that is: over 20 acres in size, within the DHC service area, agricultural or forest land, adjacent to other protected land, eagle and other wildlife habitat, water resources, scenic vistas, and if the property conservation will contribute to federal, state and/or local plans. Hubbard said to keep in mind that properties do not need to have all of these characteristics to be a good fit for a CE.

Hubbard showed examples of some Conservations Easements. Sometimes Brook CE from 2023 is approximately 49 acres of forested land adjacent to the Hickok Brook Multiple Use Area in the Town of Highland. Some key features are perennial and intermittent streams, significant wetlands, multiple seeps and springs, and approximately 43 acres of forest. This property was conserved by a combination of state and private funding from the landowner. She commented the landowner loves this property and is passionate about making sure the land is preserved after she is gone. The Confluence Flats CE also from 2023 is approximately 63.5 acres located at the confluence of the East and West Branches of the Delaware River. Conserved areas include approximately 5,300 feet of frontage on the West Branch and main stem of the Delaware River, 935 feet of frontage on Shehawken Creek, over 44 acres of 100-year floodplain, and over 881 identified species.

Hubbard said if anyone has any questions about CE or DHC to reach out to her or Trey Talley. Any questions about programming, registration or volunteering, contact DHC’s Education and Volunteer Coordinator Rachel Morrow. Henry asked if there were any tax benefits associated with a CE. Hubbard said there can be, she isn’t an expert on that question, but any portion of those development rights that are donated to the conservancy are potentially tax deductible. The DHC also requests a one-time donation to their Stewardship Fund at closing that may be tax deductible. She said that for specific questions like this, she and Talley put on two webinars a year called “Conservation Conversations” that go into CE in detail. G. Dudko asked if you donate your land to the CE, are you giving up your right to the land forever? Hubbard said yes, it is in perpetuity. You have relinquished the rights to clear cut, subdivided, develop the land, etc. Peckham said that if you put your land into a CE, you are de-valuing your property. Hubbard said it’s not that you can’t do anything with the land, but placing a CE does typically reduce the fair market value of the property. The owner can still recreate on the land, hunt, fish and it’s something the landowner has chosen to do. Richardson asked if there is one objection DHC has to overcome most often. Hubbard said a common misconception is that they are the Government and that public access is required. Those are not true; they are not a Government agency and the land remains completely private. The only property DHC owns outright is VSNR. Robinson said one of the benefits of the program is that it is voluntary, if the landowner is inclined to project their values into the future this is a good route to do so. Hubbard commented that it is important that it’s voluntary; especially given the history in this area. Robinson asked if the DHC is busy. Hubbard said yes, they have active projects in both NY and PA. Robinson said from what he understands, the tax benefits are significant. Hubbard said it all depends on easement values and other factors. She’d be happy to give more information at one of the webinars that go into more detail, but the tax benefits can be a draw. Robinson asked if they do appraisals. Hubbard said yes, they do appraisals with the CE and without.

Robinson presented Hubbard with a UDC lapel pin as a thank you on behalf of the UDC. Everyone thanked her and she departed the meeting.

Approval of October 5th Minutes: A motion by G. Dudko seconded by Bernitt to approve the October 5, 2023 meeting minutes carried.

Public Comment on the Agenda: Jane Varcoe asked what if the next generation decides they want to subdivide the land in a CE. How do they enforce the easement? Engelhardt said you won't be able to. Robinson said it's in perpetuity.

Committee Reports: There were no questions regarding previously distributed minutes: Water Use/Resource Management 10/17 (G. Dudko), Project Review 10/24 (Larry Richardson), Operations 10/24 (Aaron Robinson).

Status Reports:

Delaware River Basin Commission: Absent. The most recent Hydrologic Report is included in the packet for review.

NYS Dept. of Environmental Conservation: Coulter reported that white-tail deer bow season is happening and that the rut is in full swing. Crossbow season starts this weekend in New York and 11/18 starts rifle season. He said Northern Snakeheads have established a spawning population in the Bashakill Marsh. The Bashakill Marsh is attached to the Hudson River drainage via the D&H Canal. Last summer a temporary barrier was installed to prevent Snakeheads from entering. This week contractors were at the D&H Canal in Wurtsboro to put in helical piles. Once the helical piles are installed, another contractor is designing and installing the fence. The fence will be chain link with two layers of quarter inch fencing, something like chicken wire, that won't disturb the flow but will prevent any young of year Snakeheads from getting through. He commented they hope this is something that will stop the spread. Robinson asked if there were any pictures and Coulter replied yes, he would send them to Ramie to distribute. Richardson commented that Snakeheads have been in the Bashakill for a while. Coulter agreed.

Pennsylvania Dept. of Conservation and National Resources: Dugan said to check Pennsylvania Game Commission's website about what hunting seasons are coming and going. He reported PA had their early antlerless muzzleloader hunting season a couple of weeks ago. They saw a lot of people out enjoying the warm weather we had during that start of the season, although with the leaves still on the trees it was a bit harder to hunt. Fall turkey season is starting right now, and the traditional deer and bear hunting seasons will start after Thanksgiving.

A lot of people were concerned earlier in the spring with drought conditions, as well as Spongy moth defoliation, but there is a decent mast crop. He said fall foliage season is wrapping up, it had taken a while to kick in but there were about 8-10 days that the state had some great color. With the leaves coming down, fall fire season is starting. He commented fall fire season is generally pretty low key, but it's something to be aware of. Fish and Boat Commission have started fall stocking of trout, fingerlings and fry. PA seasonal staff is coming to the end of their season and they will be going on leave without pay for about 2 ½ months. The Forestry Strategic Plan is coming closer to being publicly available and once it is available, he will let the Council know.

At the end of summer/early fall forestry staff go out to count Spongy moth egg masses. They did find a high volume in the Pike County area and are planning to treat again next year on State Forest Land. A couple of blocks in Pike County will receive a double treatment, which is something PA hasn't done before. They will do a treatment and then in about one or two weeks later they will do a second treatment in the same area. Egg masses don't all hatch at the same time, so the idea is to target a couple of areas to get control. If there are any private landowners or clubs that have had Spongy moth issues, this is time to get contracts with vendors to start prevention. B. Dudko asked when Spongy moths start hatching. Dugan said end of April and early May. Last year they had luck with a warm spell at the beginning of the season which resulted in natural mortality.

G. Dudko said that they have no acorns on their property and had some lacing on some of their oak trees. Dugan said the acorn crop is spotty. Coulter said his backyard is covered, but there may be some spots that aren't. G. Dudko commented there are a lot of pinecones. Dugan said PA sent two pick-up trucks full of white pinecones to their nursery. Henry asked if the leaves will be spotty or completely covered with the black leaf disease on hard maples. Dugan said that may be sooty mold, but it will dull the whole leaf out.

Henry said on DHC website they are reporting they have the Spotted Lanternfly. Dugan said they are unfortunately everywhere at this point, but it seems the numbers are lowering. Case commented he killed about a dozen by his house. Dugan said in the last few weeks at his house, he's seen about 100 if not 1,000 Spotted Lanternflies.

Robinson commented he recently saw white-tail deer eating Knotweed. Coulter and Dugan said they haven't heard about that, but it would be great if they did. Dugan said to keep an eye on it. Deer will try a bite of anything at least once. Robinson said the acorn crop is awful in Shohola. Dugan said there was more defoliation in that area.

National Park Service: Kurnath reported that October was busy for NPS. They hired an Administrative Officer who is fully remote, and are adjusting to someone not working in the office. Their Strategic Plan hasn't been updated in some time, so she anticipates working on that in the coming months. She will share the progress on that with the Council. The final submission was provided for the Inflation Reduction Act spending. A year ago, National Park units were able to staff up at the park unit level. Half of the funds were put toward the Visual Information Specialist position for four years, who will start on November 20th and the other half, if approved, will go toward restoring an administrative position and bringing in some staff to help with seasonal maintenance.

Kurnath attended multiple meetings and events last week: the new Lackawaxen River access in White Mills; the Water, Water Everywhere conference put on by Friends of the Upper Delaware River; and a meeting about Holbert Quarry. There is a draft scoping document regarding Camp FIMFO that NPS is preparing a response document to submit by November 22nd.

A month or so ago, NPS was able to connect SUNY Environmental Science and Forestry (ESF) with a grant from the National Park Foundation to bring indigenous youth and elder groups back to the river and reconnect them with their ancestral homeland. NPS is partnering with ESF to bring the groups to the Upper Delaware region to experience the annual eel migration, see how they are caught, and to reconnect them with the cultural and natural resources of the Delaware River. Kurnath thanked Doug Case for helping with the logistics of the project. She said Hamilton has recently been working with a past NPS intern who is working on her Master's degree and interested in doing her project on submerged vegetation. She will come and add to the current portfolio of work.

Kurnath said there were some trees cleared on the New York side of the river at the Roebling Bridge that was not done by NPS. If anyone hears anything or saw anything, please let her know. Henry asked how many trees were cut. Hamilton replied that it was a cluster of about 3 or 4 small trees, possibly box elder trees. Kurnath said there is a law enforcement investigation.

Kurnath announced that Hamilton will be retiring from the NPS at the end of December. There was a round of applause to thank Hamilton for all his years of hard work with the NPS and partnership with the UDC. His retirement party is planned for December 9th at the Damascus Community Center. Hamilton said he's enjoyed working with everyone and he's looking forward to the next chapter.

Robinson said about 4 or 5 years ago the NPS was considering making the Zane Grey Museum a visitor center. Kurnath said that project will probably not happen. NPS already has a lot of liability and cost to maintain what they have; they are asking if it makes sense as a financial investment to create an accessible visitor center at Zane Grey. She said that does not end hope for a visitor contact center in this area, but it won't be at Zane Grey. The Upper Delaware River isn't a National Park that has a welcome gate. People come in from all over the place. They are trying to figure out the best ideas to get safety and visitor information to guests of the Upper Delaware River region. Robinson said there is a tremendous amount of history the Zane Grey property area is, and asked if the NPS would consider the building on the NY side on the corner. Kurnath said she's not sure if this area will get a visitor center. Boyar said the river is 73.4 miles with only one location with the oldest bridge, Roebling Bridge, close to Zane Grey and an eagle watch area. That would be the best spot for a visitor center. Kurnath said that it isn't a question of what the best space is for a visitor center, it's why? Why would the Upper Delaware need a visitor center? G. Dudko said people come to the Delaware River to go on the river, not to go to a visitor center. Kurnath said NPS is thinking about it; the project isn't completely dead. You can reach more people with a QR code and going online. The Visual Information Specialist will help bolster the website for this reason.

UDC Executive Director: Ramie reported that earlier this week the UDC received two donations through PayPal for \$100 each, minus fees. Each one had a note "in memory of Phyllis MacKinney." Ramie found out through an online obituary that MacKinney had passed away on October 25th in New Jersey at the age of 87 and the UDC is

listed as a beneficiary for memorial contributions. Ramie read that MacKinney enjoyed spending time at a family cabin on the Delaware River, which provides the tie-in to the UDC. Ramie sent thank you notes for the donations as well as posting a message on the funeral home's message board offering condolences on behalf of the UDC. In yesterday's mail there was a check for \$5,000 from the charitable family trust that provided the UDC with a \$10,000 donation earlier this year, in memory of Robert Cella of Barryville, NY. The initial donation was also in tribute to Robinson as a lifelong friend of the Cella family. Ramie recommends investing the \$5,000 check into the Vanguard account that the initial \$10,000 check started. This donation was completely unexpected and we are tremendously grateful. Robinson co-signed a thank you letter to send to the family.

With Federal Fiscal Year 2023 coming to an end on September 30th, it's time for our auditors to come in. Dick Eckersley called Ramie on Tuesday to set up their schedule and will be here on November 13th in the office to do a review of our financial books. On November 28th at the Operations Committee meeting, Eckersley will give a report of his findings. We traditionally switch the order of Project Review and Operations, so he has a definite starting time. Ramie said she has all the data for the Federal Financial Report (FFR) that goes to the NPS through the Grant Solutions online program and she will be filing that imminently. We also have the Annual Performance Progress Report (PPR) to file, and that will take some time. The newsletter deadline is November 27th and Ramie read a brief letter from a resident of Washington D.C., Charles H. Ellis III. He's enjoyed the UDC's seasonal newsletters and said "*The Upper Delaware* has been well written, thorough and interesting." He wants one day to visit along one of both sides of the Delaware River, and said to "keep up the good work!" Ramie commented that it's gratifying to hear that people are reading the newsletter and that it is inspiring enough to spark someone to come visit.

The November and December calendars were included in the packets with various meeting dates, deadlines, events and office closures. December is the month we hold our three regular committee meetings jointly due to the holidays. That will take place on December 12th. We have extended an invitation for our December meeting presentation for an update on the Sullivan County broadband fiber optic partnership.

We were contacted by a reporter with *The Epoch Times* interested in the UDC funding issue, after learning from our press release about the letters issued to the Governors. The reporter called Ramie this afternoon for part 1 of the interview and tomorrow will be meeting with G. Dudko for the second part. Their coverage area is Orange County, so they were interested in hearing from a board member in that area about the lack of state funding and how that has impacted the UDC. She will also get some photos. Ramie thanked G. Dudko for meeting with the reporter and said that she is a good person to talk to, being a second generation UDC representative, in this case from the Town of Deepark. Boyar asked if the Governors have replied to the letters. Ramie said there is nothing from the Governors yet.

New Business:

- a. **Appoint a Nominating Committee for 2024 Officers:** Robinson appointed Henry, Richardson and Roeder to serve on the Nominating Committee. Ramie said they will announce the slate in December and the election will take place by ballot vote in January. Richardson said if anyone has interest in serving in any of the positions to contact them.
- b. **River Access Update:** Coulter said that the Long Eddy Access work is planned to start on November 20th. The new access will make it easier for drift boaters to come in and out. He reached out to their real estate personnel about the Ten Mile River Access and said that it's a huge project with dams that need to be inspected, etc. He said former UDC representative for NYS Bill Rudge mentioned this will be the largest parcel the DEC has purchased. G. Dudko asked how many acres it is. Coulter said he could find out. Ramie mentioned in the Town of Hancock they are updating the Junction Pool Access to be more accessible. There was a note in the *Hancock Herald* that the Mee Foundation provided a \$60,000 grant to Hancock Partners, Inc. to move forward with the upgrade of the Junction Pool River Access. The Partners were also awarded a \$25,000 Major Capital Improvements grant from Delaware County's Office of Economic Development last year.

Ramie showed some photos that she and former UDC staffer David Soete took of the celebration of the White Mills River Access Dedication on October 27th. Engelhardt asked who owns the property and Ramie said it was donated by Rudy Schemitz's family. Ramie said Soete had some comments: the access sign by the property pad should be double sided so you can read it from the river; there should be a sign saying to "wear your lifejacket"; and the bench and garbage can should be chained down. Henry said he had spoken

to a few local politicians at the event that hadn't heard anything about the Lackawaxen River Conservancy trying to get a Wild and Scenic River designation. Ramie reminded him that they are still in the infancy stage of the proposal. Henry said it is a good idea, but they need to make more people aware of it.

- c. **Other:** None.

Old Business:

- a. **NPS Substantial Conformance Final Determinations: Narrowsburg Car & Dog Wash (2023-08); Green Acres Gunsmith LLC (2023-09), The Loosey Kit, LLC (2023-10):** Copies of the letters were included in the packets. Engelhardt said these close out all outstanding projects.
- b. **Other:** Richardson presented a check on behalf of the Upper Delaware Scenic Byway to Robinson of \$1,500 as a donation to the UDC, noting it's an increased amount in appreciation for the Council's facility support.

Robinson said that a few weeks ago, a local resident brought the group "Know FIMFO" to his attention. He read a portion of the posting by the group from Facebook: "Thankfully, the Environmental Impact Study of the proposed FIMFO project is now a reality, but this story is far from over. There remain many questions, not least of all, why would the UDC hire a compromised engineer - who has worked for both Northgate Corp and the Town of Highland - to write a report shilling for the camping industry, which only serves to further inflame tension between the National Park Service, the UDC, and the Town of Highland? And why was this one single report read out loud at the recent planning board meeting as the lone example of "correspondence," when other legitimate correspondence from the Delaware Riverkeeper Network, and letters from the public were not even mentioned?" Robinson looked up Shepstone being referenced in the RMP. He read an excerpt from his resume: "Mr. Shepstone chaired and provided professional leadership to the federal, state and local planning team that prepared the innovative Land and Water Use Guidelines adopted by the Secretary of the Interior in the Upper Delaware Scenic and Recreational River. These guidelines represented a new, flexible approach to federal involvement in protection of valuable natural resources." Robinson read Shepstone's contributions prior to 1986. He said that in response to why the UDC hired him, no one knows the RMP better than Shepstone. He thinks the criticism is personal, not of his work. It frustrates him that the group is anonymous; a "group of concerned citizens", and we can't respond. He doesn't think that any member on the UDC would take an approach that is not technically correct; we did our best. The NPS came out with a different conclusion and it will get worked out. He hopes the individuals involved in "Know FIMFO" will identify themselves. Robinson wanted to bring the issue up to the full council so everyone was aware. Boyar said he wishes he hadn't brought it up, since he agrees that Shepstone had an obvious conflict of interest. Robinson asked where the flaws are in Shepstone's technical report? Boyar said he doesn't doubt that Shepstone is qualified, he personally differs in opinion about FIMFO. Robinson said he is entitled to his opinion, but he wants to see the flaw. Boyar said it's a conflict-of-interest situation that should be obvious. It is the largest \$46 million project in this corridor. Robinson said he is not engaging in an argument about the project, he's saying that Shepstone was attacked personally and that's wrong. Robinson asked Boyar if he knows who is behind "Know FIMFO." Kurnath said individuals from Know FIMFO came to the UDC meeting in June. Henry recommended that we post Shepstone's review on the UDC website. Robinson said it is a "lowball" move to attack an individual.

Public Comment: There was no public comment.

Adjournment: A motion by Roeder seconded by Bernitt to adjourn the meeting at 8:43 p.m. carried.

Minutes prepared by Stephanie Driscoll, 11/7/2023