

Upper Delaware Council
OPERATIONS COMMITTEE MEETING MINUTES
August 23, 2011

Committee Present: Larry Richardson, Scott Rando, Harold Roeder, Jack Niflot, Fred Peckham,
Nadia Rajsz
Committee Absent: None
NPS Partner: Sean McGuinness
Staff: Laurie Ramie, Dave Soete
Guests: Tony Ritter, Anne Willard

The UDC's Operations Committee held its monthly meeting on Tuesday, August 23, 2011 at the Council office in Narrowsburg, NY. Chairperson Larry H. Richardson called the meeting to order at 6:38 p.m.

Approval of July 26 Meeting Minutes: A motion by Rando seconded by Peckham to approve the July 26 meeting minutes was carried with one abstention from Rajsz based on her absence from that meeting. There was no public comment on the agenda.

Public Relations/Fundraising Specialist's Report: Ramie reviewed highlights of her written report. From May 24 to Aug. 19, she has accumulated 37 overtime hours to fulfill secretarial duties for the vacant position. Those extra responsibilities will end when the secretary starts on Aug. 29, although Ramie noted that support will be required during the training period. She drafted the employment agreement for the new hire; sent 42 notification letters to the total of 46 other applicants who had provided local mailing addresses; has been updating documents such as employee sign-in sheets and mail routing slips; and has advised the bookkeeper, webmaster, and health insurance broker about the new employee for the sake of tax forms, payroll, e-mail integration, and benefits.

In terms of other special activities, Ramie said that the UDC's legal appeal of the Lackawaxen Township Conditional Use Permit for the Holbert Quarry has taken extra staff time for numerous conference calls, research, and proofreading of documents, although Soete took the leadership role and has done yeoman's work in finding appropriate legal representation for the PA land use issue and working closely with the attorneys on their preparation of the appeal by the required short-range deadline.

Ramie noted that there would be discussion later on the agenda about the UDC's Aug. 7th Family Raft Trip and a rescheduling of the next newsletter issue. Her other written report topics included Media and Public Outreach; Grants Administration; Scenic Byway; Other Pending Projects: Public Relations Calendar; and Documents Produced by the P.R. Specialist.

Executive Director's Report: Bill Douglass was absent and did not provide a report. Richardson said that he plans to call for an executive session at next month's Operations Committee meeting to discuss personnel issues.

New Business

Land Use Appeal vs. Lackawaxen Twp. Board of Supervisors: A copy of the Civil Action Law Land Use Appeal of the "Upper Delaware Council, Inc. vs. the Lackawaxen Township Board of Supervisors", as filed in the Court of Common Pleas of Pike County, Commonwealth of Pennsylvania, on August 19, 2011, was included in the packets. The 12-page appeal was submitted jointly by Jordan B. Yeager, Esq., of Curtin & Heefner LLP, and J. Jeffrey Zimmerman, Esq., of Zimmerman & Associates, counsel for UDC as the appellant. The proposed action at the conclusion of the appeal states, "Wherefore, Appellant requests that the Court reverse the decision of the Board of Supervisors of Lackawaxen Township and direct that the application of Wayne Holbert, Dave Holbert and Holbert Brothers Bluestone Company, Inc. for conditional use approval be denied and dismissed. In the alternative, Appellant requests that the Decision be vacated and the matter be remanded for a properly noticed hearing at which Appellant would be allowed a meaningful opportunity to participate, cross examine witnesses and offer evidence."

Roeder commented that he was under the impression that the UDC had hired attorneys to appeal the fact that we weren't heard at the meeting. This document seems to have expanded beyond our original idea by wanting to rescind the township's finding, he suggested. Richardson said that the UDC had issues besides not being allowed to speak. The court would have to vacate the township's determination granting the Conditional Use Permit for the Holbert Quarry if the court ruled that the township needs to re-do this process. The court may also decide that the UDC doesn't have grounds to file this, in which case the township's determination would stand. Rajsaz said that the court would essentially have to roll the clock back to re-open this case so we could be heard. The more substance is included in the appeal, the greater are its chances for success. Richardson agreed that the relief sought is "part and parcel" with the Council's desire to be heard. The points raised in the appeal were the same arguments that the UDC used in 2008 when this 40-acre quarry expansion proposal first came before the township board. The UDC was allowed to offer testimony at that time and the application was ultimately withdrawn. Peckham said that if the court rejects this appeal, we should turn it over to the National Park Service and let it be their job to pursue further. Richardson countered that if the court does allow this case to proceed, we may decide we need to continue with these attorneys to represent us. At this point, however, filing this appeal is all that the UDC has hired these attorneys to do. Ritter pointed out that the UDC was up against a 30-day clock to file this appeal and these attorneys were already well-versed in the River Management Plan for the Upper Delaware Scenic and Recreational River. Soete commented that the response from Lackawaxen's solicitor that the UDC received to its Aug. 4 letter to Lackawaxen Township requesting clarification on the conditions of their Holbert Quarry permit basically said that the UDC had the option of appealing the decision if they wanted to re-visit the issue. That's what the Council has now done.

Authorization to Sign Pond Eddy Bridge MOA as Concurring Party: A copy of a 10-page Memorandum of Agreement (MOA) for the Pond Eddy Bridge Replacement Project was provided on behalf of the Federal Highway Administration in conjunction with the Pennsylvania Department of Transportation (DOT) and the New York State DOT. Ramie explained that the UDC is included as a signatory under "Concurring Parties" given its stakeholder role in the river valley and its participation with the Pond Eddy Bridge Consultants' Project Team monthly teleconferences. The consultants have requested that each party return a scanned, signed copy via e-mail or mail by Sept. 6, 2011, a 15-day signing period from the Aug. 22 date of the draft's issuance. Rajsaz commented that while the Town of Lumberland is listed as a Concurring Party, it does not appear on the proposed membership of the Design Advisory Committee (DAC). The MOA states that there will be no more than 13 members of the DAC, drawn from the following groups: "NPS, NTHP, Pike County, Shohola Township, PASHPO, NYSHPO, Preservation Pennsylvania, the Preservation League of New York, Friends of Pond Eddy Bridge, the Historic Bridge Foundation, the Upper Delaware Preservation Coalition, Upper Delaware Scenic Byway, Inc., and the local public." McGuinness added that the UDC is not among those groups either, although both Lumberland and the Council had previously expressed a desire to serve on the DAC. McGuinness said that he is concerned about the language used in the DAC section of the document. Stipulations 2, 3, and 4 make it sound like PennDOT already has a design plan and this committee's role would only be to recommend the preferred structure configuration and aesthetic features. That's not necessarily the collaborative design process that he envisioned. McGuinness said he believes we should have more authority to say what kind of new bridge we should have there. Rajsaz agreed that in the last round of public meetings held in 2007, her understanding was that the DAC would have more input. Roeder commented about the plan to auction off the bridge to the highest bidder who commits to moving and preserving the historic structure. He doesn't foresee that happening. That could create a tremendous delay. Ramie pointed out that the MOA has a seven-year term for its validity before it would become null and void if not implemented. Richardson said that McGuinness's points are well-taken. He proposed sending a letter to DOT asking them to include the Town of Lumberland and the UDC on the Design Advisory Committee membership and to re-word the Stipulations 2, 3, and 4. Rando said he assumes that excluding Lumberland as the NYS host town for the bridge and the UDC from the DAC list were simply oversights.

Upper Delaware Scenic Byway Resolution: Rt. 97 Heavy Industrial Traffic: Rajsaz referenced a copy of the Upper Delaware Scenic Byway, Inc.'s Resolution 2011-03: Heavy Industrial Use Traffic on the New York State Route 97 Upper Delaware Scenic Byway. She said UDSB, Inc. would like support from the UDC to pass a similar resolution. Rando asked if there is a definition on what constitutes heavy industrial traffic. Niflot agreed that the resolution is pretty vague on that. Rando asked if excavators would be

included. Rajszyk replied that the resolution explicitly states that UDSB supports the continuation of traditional forms of truck traffic on Rt. 97, such as the use of vehicles for agriculture, lumbering, bluestone mining, and transport of canoes. She said that construction equipment also falls under the category of traditional uses. Peckham said the resolution would seem to pertain to quarrying and mining vehicles. Rajszyk said that this is aimed at addressing high-frequency traffic in short periods related to new forms of industry and mining involving heavy industrial equipment and materials. Construction wouldn't count.

Roeder said that UDSB, Inc. is opening itself up for a mess by promoting this. Route 97 is a New York State Scenic Byway. It's not owned by UDSB, Inc. The organization would be better served by investing its resources into clearing trees and brush to open up the scenic views along the highway. Rajszyk said that the road was designated by the state for its scenic qualities to be enjoyed by motorists, bicyclists, eagle watchers, etc. That's the point. There are alternatives to this type of traffic using this particular state-designated scenic road, namely county and town roads, or the railroad that is specifically cited in the fifth paragraph of the resolution. Roeder replied that UDSB, Inc. is going out on a limb. The Towns of Hancock and Fremont have opted against joining the byway organization. This may push other towns to back out over this. It's treading in deep water. Richardson said that if the Town of Delaware or any municipality chose to withdraw from the UDSB, Inc. organization, it would have no impact on the state's 2002 legislative designation of the road as a scenic byway. The byway group has to take a stand on this; it's why it was created, to enhance the highway and promote economic opportunities for its communities. UDSB, Inc. has provided a tremendous amount of funding to its communities for improvement projects. Rt. 97 has the potential to be overrun by heavy traffic. This type of action is not unprecedented. Some parkways ban commercial traffic. Rajszyk added that the National Park Service bans trucks on U.S. Route 209. Ritter asked whether there are any other scenic byways in New York that have these restrictions. Rajszyk said we'd have to look into that.

Peckham said a ban would have to be all or nothing. You can't pick and choose who is allowed. Niflot said that there will probably be all sorts of new truck restrictions placed on Route 17 when it transitions into Interstate 86. Where will those trucks go then? Richardson commented that his concern from a municipal point of view is that local towns are concerned about the use of their roads for this activity. Still, he believes UDSB, Inc. has no choice but to attempt to promote this ban. Rajszyk acknowledged that UDSB, Inc. has no authority to enforce a ban however. The group is advisory only. This resolution is designed to get those on the receiving end who do have authority over such regulations to think about this topic and consider the impact on tourism. Roeder said Rt. 97 already has a pretty heavy traffic use by cars and motorcycles. Richardson told Roeder, you want us to improve the views but heavy industrial traffic would be incompatible with people's ability to enjoy this scenic route. Peckham said he doubts there will be much gas drilling-related traffic past Hancock anyway based on truckers' likelihood to rely more on major highways like Rt. 17 and the question of whether there will be a natural gas yield in this area. McGuinness said our concern is to protect the scenic byway. We want to work with the State of New York on preserving those values. We need to sit down and figure out a way to make that happen. The UDC could draft a resolution to express its concern for the future of the UDSB, stating that heavy truck traffic is incompatible with tourism. Come up with a compromise, he suggested. Richardson noted that UDSB, Inc. is very sensitive to existing industry. This is not meant to be a threat to existing businesses out there. We're thinking about tourists, pedestrians, and joggers too. Rajszyk agreed that it's all about retaining the scenic qualities that warranted the state designation. Peckham commented that it's inviting trouble. Richardson agreed with the idea of drafting a UDC resolution incorporating McGuinness's ideas. A few large trucks can be dealt with but it's the high-frequency aspect that scares people. McGuinness said the idea is to consider how to manage it. Roeder replied, yes, manage it; don't ban it. Peckham said that is sometimes accomplished through weight limits on roads. Richardson requested that Ramie work with McGuinness on drafting a UDC resolution for presentation at next month's Project Review Committee meeting. That will give UDC representatives time to get a feel for where their towns stand on this.

Support Letter Request from Town of Lumberland: Mongaup Welcome Park: Rajszyk explained that the Town of Lumberland is interested in working with the owners of the old Tri-State Diesel site at the junction of Rt. 97 and County Rt. 31, Eagle Creek Renewable Energy, on a design to beautify that property. The land is currently vacant and carries deed restrictions due to being in the floodway of the reservoirs. The town submitted a grant application to the Federal Highway Administration's National Scenic Byways Grant

Program at the end of May for its Mongaup Welcome Park proposal. The general plan is to spruce up this gateway into Sullivan County by installing interpretive and educational kiosks, creating a walking path, provide additional parking for the NYS DEC Mongaup Access located across the road, and possibly having vendors there to sell their wares. This is the first Sullivan County stop along the scenic byway. Eagle Creek has been more open to the idea than past owners. Rajsz said seeing evidence of project support and collaboration from entities such as the UDC, Upper Delaware Scenic Byway, National Park Service, and others could encourage a lease arrangement. Richardson said that any improvement on that property would be a benefit. He'd like to see a formal request from Lumberland providing the contact information for the letter. A motion by Rando seconded by Rajsz to draft a UDC letter to Eagle Creek Renewable Energy supporting development of the Mongaup Welcome Park in the Town of Lumberland was carried unanimously. The letter will be presented for action at the Sept. 1 UDC meeting.

Status of Employment Agreement with UDC Secretary Cindy A. Odell: Richardson announced that Cindy Odell has accepted the position of full-time secretary for the UDC and will start work on Monday, Aug. 29. Ramie added that her hours will be 8 a.m. to 4:30 p.m. Odell is a Narrowsburg native who currently resides in Honesdale, PA. Richardson said that the Personnel Subcommittee considered her to be very qualified and the Council looks forward to welcoming her onboard.

Change in "The Upper Delaware" Fall/Winter 2011 Newsletter Schedule: Ramie said that, due to filling in on secretarial duties and her other responsibilities, it was not feasible to devote the time necessary to have the Fall/Winter issue of "The Upper Delaware" ready for the printer by the original Aug. 12 deadline for delivery on Sept. 1. She proposed adjusting the schedule to a new UDC deadline of Sept. 12 and publication release date of Oct. 3. Ramie said that this offers a few advantages by dividing the calendar evenly into six months between the two issues of the newsletter, pushing payment for printing and postage into the next fiscal year that begins Oct. 1, and allowing her to include more timely information such as Odell's hiring. Ramie provided a copy of her proposed contents for the Fall/Winter 2011 newsletter along with a letter to Courier Printing Corp. of Deposit establishing the new dates for turning over the newsletter file, updating the mail program database, and expecting delivery. A motion by Rajsz seconded by Rando to formally approve the change in schedule was carried unanimously.

Discuss Seeking Proposals for UDC Legal Services in PA and NY: With the recent discovery that UDC attorney John Keating of Cochection has retired from practicing law in Pennsylvania, Richardson said that the Council should seek proposals for attorneys to avoid being caught in a bind if additional legal matters arise involving PA. The matter was tabled to next month's meeting for further discussion.

Summary of Pending Bills / Financial Statements: The committee was provided with an abstract of bills dated August 23 to review. Richardson said he remains interested in what kind of savings may have resulted from use of the UDC's new boiler that was installed on Nov. 25, 2008. Ramie said that Soete had asked the bookkeeper to look back at the records and she produced his chart showing that the UDC purchased approximately 300 gallons less of fuel oil in 2011 compared to 2008. A motion by Roeder seconded by Rajsz to pay the bills listed on the abstract was carried unanimously. Financial Statements as of July 31, 2011 were provided for individual review.

External Meetings and/or Travel Requests: Ramie said that she would need to travel to the Sullivan County DPW Garage in Barryville to inventory the contents of the Upper Delaware Scenic Byway Community Signs order when the signs and pedestals are delivered later this week as the grants coordinator for that project. She will also have some travel related to newsletter interviews or photos for the upcoming issue.

Other: 1) Rajsz mentioned that the Town of Lumberland has a Technical Assistance Grant due by Sept. 30 for its zoning re-write. She had hoped to schedule a public hearing before that deadline but the county requires 30 days for its review. The draft is posted online and the Zoning Re-Write Committee will hold an informational meeting on it on Sept. 1. The town doesn't want to rush the public review process. Rajsz said she understands that the UDC can accept it for payment if the town presents three copies of the draft document by Sept. 30. Soete agreed that the re-write ordinance does not have to be adopted by that date as

long as the work on it is essentially completed. 2) Roeder asked if the UDC is covered by insurance for its raft trips. Ramie confirmed that it is through an umbrella liability policy.

Old Business

“UDC Raft Trip Attracts 77” News Release: Ramie discussed the outcome of the UDC’s 23rd Annual Family Raft Trip which took place on Aug. 7. As noted in the news release, a total of 70 adults and teens, and seven children ages 11 and under, participated in the seven-mile raft trip from Kittatinny Canoes’ Barryville Base to Pond Eddy, NY. Ramie said it was frustrating that an uncertain weather forecast resulted in more than 20 cancellations because the majority of those people simply didn’t show up without any warning, leaving her to wonder if they were coming and for the rest of the group to have to wait, including the early arrivals. She noted that cell service was not available for her to receive calls that Sunday morning as another complication. Once the UDC’s guests are checked in, Ramie said that she turns over authority for management of the trip to the host livery. It was their policy to require that everyone wait to launch until a reasonable time had passed to expect the entire group. She heard complaints about that however. The livery also mandated that everyone keep their life jackets on due to the 4.91-foot height of the river from the previous day’s persistent rain, which is a policy that Ramie heartily endorsed for safety.

Other: None

Public Comment: None

Adjournment: A motion by Rajsz seconded by Rando to adjourn the meeting at 7:40 p.m. was carried unanimously.

Minutes prepared by Laurie Ramie, 8/30/11