

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
March 27, 2012

Committee Members Present: Larry Richardson, Debra Conway, Nadia Rajsasz, Harold Roeder, Jr., Fred Peckham, George Fluhr
Committee Members Absent: None
NPS Partner: Sean McGuinness
Staff: Dave Soete, Laurie Ramie, Cindy Odell
Guests: Anne Willard

The UDC's Project Review Committee held its monthly meeting on Tuesday, March 27, 2012 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 8:20 p.m. A motion by Rajsasz seconded by Conway to approve the February 28 meeting minutes was carried. There was no public comment on the agenda.

Discussion Items Report: Soete reviewed his written discussion items report that contained information on project review/substantial conformance developments. Highlights were as follows:

Little Joseph Realty, Inc. Sand & Gravel Mine (Town of Cochection) Update: Soete said he received an e-mail update from Bill Rudge of the NYS DEC on March 22. The e-mail stated that "The former site operator failed to comply with the approved Stormwater Pollution Protection Plan (SWPPP) resulting in violations at the site. The Department (NYSDEC) issued notices of violation to the operator addressing the violations. DEC staff have been working with the permittee to upgrade and modify the SWPPP and bring it up to the standards of the SPDES Multi-Sector General Permit for Stormwater Discharges associated with Industrial Activities (SPDES MSGP). A recent inspection of the facility has indicated that the permittee has made significant progress in bringing the site into compliance. The site will continue to be monitored by the Department". Richardson said he was disappointed that the town was not advised of the current status. Ramie asked Soete if he would forward the e-mail to the town supervisor. Soete said the DEC will continue to monitor the site.

Pond Eddy Bridge Update: Soete reported that the next meeting of the Design Advisory Committee is scheduled for March 29th from 6 – 9 p.m.

Town of Highland: Soete said he had seen where the town has adopted their Comprehensive Plan and that they are now working on their zoning. Conway said the town is finalizing the zoning ordinance to include the banning of heavy industrial activity. She believes there will be a hearing at the beginning of April.

Natural Gas Leasing/Drilling in the Region update: Soete noted the Commonwealth of Pennsylvania adopted Act 13 which was previously House Bill 1950. Peckham said that supervisors in towns in Delaware County alerted the NYC DEP that if they are going to put restrictions in place (7 mile limits around the aqueducts), they are going to owe towns within the watershed \$86 billion for property rights. Soete noted that at the 3/20 WU/RM meeting, a map was passed out showing the proposed NYC DEP infrastructure buffers.

Eagle Creek Renewable Energy: Soete said this project is now at the application stage with the Federal Energy Regulatory Commission (FERC). He noted it was discussed at length at WU/RM. Rajsasz said she was reading Boyar's concerns in Soete's report and reported that she had talked to Eagle Creek and was told that they will be doing continuous monitoring of the oxygen level and temperature. Soete feels the Council has covered its concerns with the project sufficiently.

Johnston & Rhodes Bluestone Company Quarry Road update: Soete asked McGuinness if there was anything new with the road. McGuinness said there was nothing new, but they are continuing to monitor it. He added that the PA DEP is keeping the Park Service informed since they requested a public hearing. McGuinness said he has been hearing conflicting reports concerning the condition of the road.

Pennsylvania Senate Bill 1100 and House Bill 1950 (Act 13 of 2012): Soete reported that Governor Corbett signed Act 13 into effect on February 14, 2012. Municipalities and counties have until April 15th to determine if they are going to take the impact fees. He noted that Wayne County is meeting on April 5th to decide. Soete said that part of taking the fees is you have to defer everything to the state. Act 13 supersedes almost all local regulations and makes natural gas drilling operations principal permitted uses in all areas of the state. Local municipalities are required to comply with Act 13 by repealing their ordinances pertaining to gas drilling operations. PA DEP will be conducting a series of four webinars on the implementation of Act 13. Soete has signed up for the ones to be held on April 3rd and 10th. He noted they will be covering different information during each session. Soete said Penn State held a webinar last week and that it is available on-line. Soete said that anyone who tries to challenge the ordinance could potentially be responsible for paying all legal fees incurred. He noted staff received an e-mail from a Damascus Township Planning Board member expressing his concern that Damascus has prohibited surface activity in the river corridor, but now they can not do that under Act 13. This person is seeking advice on how the township can be compliant with both PA Act 13 and the Upper Delaware River Management Plan. Soete said it does present an interesting situation here in the river corridor. Discussion on whether federal regulations trump state regulations and the proposed DRBC regulations took place. Soete said Act 13 says that local municipalities can't regulate oil and gas operations and he read the list of what is included in the definition of oil and gas operations.

Holbert Bros. Bluestone (Lackawaxen Township) update: Soete reported that negotiations are continuing.

Upper Delaware River Roundtable update: Soete said Ramie attended the last Roundtable meeting and that she gave a brief report at the March 20th WURM Committee meeting. The meeting covered agricultural issues.

Town of Lumberland Zoning: Soete reported there will be another public hearing for the Draft Zoning Law on Monday, April 9th at 7:15 p.m. at the Lumberland Town Hall. Soete asked Rajsz if they will be adopting the zoning at the meeting. Rajsz does not think so.

Hancock Flood Prevention Plan: Peckham gave an update on the flood prevention plan that Hancock did. He said they integrated the existing flood prevention regulations into the new flood zone maps. Soete said he had read through that plan. Richardson said that if the municipality does not approve the flood maps, residents can not get flood insurance.

Delaware Highlands Conservancy: An article in the 3/22/2012 *News Eagle* states "Sue Currier, Executive Director of the Delaware Highlands Conservancy, will present the "The Financial Benefits of Land Conservation" on Thursday March 29th at the PPL Environmental Learning Center."

National Park Service: Soete said the National Park Service is sponsoring an Outstanding Remarkable Values Workshop as it pertains to the Wild and Scenic Rivers Act from April 17th through April 20th. Soete has been invited by the NPS to attend. McGuinness said at the end of the workshop, new values will be written up and he will bring them back to the Council for review before they are finalized. Rajsz asked who will be attending the workshop. McGuinness said the four units of the Delaware River sections of the Park Service and their partners.

Old Business

Use of the 1988 Project Review Workbook: Soete said the workbook takes the Land and Water Use Guidelines from the River Management Plan and presents them in a different way, including checklists for projects. McGuinness said part of the problem is that no one is following procedure. He feels also that decisions are being made without any documentation. He said we have minutes, but really no procedure is in place that is consistent. He feels it is important to have procedures and documentation in place showing how we reach our decisions. Richardson suggested starting on page three of the workbook and reviewing it collectively. Fluhr questioned if the committee was proposing that every project that is to be done within

the river corridor be brought before the Project Review Committee and that it function as a zoning hearing board or a planning commission, looking at each project. He wonders what the committee is looking to accomplish by reviewing the handbook. McGuinness said we are trying to establish a more procedural method of reaching decisions on, for example, any of the issues addressed in Soete's Discussion Items Report. Richardson noted that the committee does count on Soete to give them the highlights of projects and recommendations, but feels it is important for the committee to know in their own minds some of the questions to ask Soete concerning the project so that we are all on the same page. Conway asked for clarification as to how projects come before the Project Review Committee. Richardson said that in the past it has usually been more specific projects such as a development or the siting of a cell tower. He noted there is a list of projects that the towns and townships should be sending to the Council for review. Rajsz stated that this was what Carla Hahn's segment at the RMP workshop addressed and she feels it is important for this part of the workshop to be taken "on the road" to be presented to the zoning and planning boards. Rajsz feels that if a town or township has a big project in the river corridor, it should be sent to the UDC as they are partners with the UDC. Richardson said the workbook forces you to cover certain issues based on the checklists provided. McGuinness read, "This review does not constitute any additional burden on the council or on the project being reviewed. It simply codifies a procedure for examining major projects in a way that identifies significant impacts and allows the Council to consider their consistency with the River Management Plan." This statement is under the title "Purpose" on page one of the Project Review Handbook. Richardson read the objectives and questions listed under the categories of Water Resources, Cultural Resources, Fish and Wildlife Resources, Threatened and Endangered Species, Unique Land Resources, and Recreation Resources. After Richardson finished reading through the objectives and questions listed under Fish and Wildlife Resources, Rajsz asked who prepared the document. McGuinness stated that it was contracted out in 1988 after the Council was started. She wanted clarification that it is the obligation of the Council to perform such reviews on any major project. After brief discussion, it was determined that these are guidelines the Council should take to review major projects within the corridor. She questioned if the Council reviewed the Pond Eddy Bridge project based on the Cultural Resources. She noted that many of the questions posed are very pertinent to the bridge. She assured Fluhr she does not want to deny people safe passage, but reiterated that the questions are very pertinent to the bridge project. She told members she did not want to belabor the conversation. Richardson continued. He feels these are all good points covered and he would like to see the towns and townships be very much aware of them as projects come before them. Rajsz wanted to point that it is her opinion that a letter should have been sent from the Council concerning the Pond Eddy Bridge based on the Cultural Resources section of the book. Further discussion took place about that. McGuinness referenced the flow chart laying out Project Review Procedures in the handbook. He said that once people are familiar with the handbook, they can go through it really quickly. Discussion took place about the handbook being for UDC use. Rajsz feels the towns and townships need to know the objectives so that when they are doing a project, they know what is going to be reviewed. McGuinness said the handbook is taking what is laid out in the RMP and condensing it and putting it into a guideline. Richardson recalls using this in the past for reviewing proposed zoning changes and the recommendations went back to the towns. He believes that most towns incorporated the concerns. McGuinness said planning boards need to realize that we are dealing with just the river corridor and not the entire town.

Fluhr said that since Rajsz brought up the Pond Eddy Bridge subject, he had a couple of documents he wanted to hand out. One is the history of the Pond Eddy Bridge and how Pennsylvania's Governor Pinchot saved the Town of Lumberland when they needed the bridge far more than Pennsylvania did and the other is a newspaper article talking about an engineer's report on the actual condition of the bridge.

Soete noted that the pages 1 – 8 that Richardson just read are based on information in the RMP, but these pages are not in his original copy of the Project Review Handbook so he is not sure where they came from. He added that to determine cumulative impact, as was referred to several times, you would need a study. Richardson said we may not have the money to look in the future, but we can certainly look historically. Soete feels it may be hard to implement some of the procedures. McGuinness said we need to focus on getting people to understand that the Council represents them and is not some entity that is out to get them. Richardson said he agrees with Rajsz that if we can educate people as to what we are looking at and establish some consistency, it will be easier to address the projects. McGuinness said Park Service has the Design Handbook available for people to use. Rajsz said communication between the towns and townships and the UDC is key. Ramie noted that the Park Service has established an Issues Team to promote

consistency and the UDC is meeting with them monthly to discuss projects. Jurisdiction, who has been consulted, and what actions have been taken are some of the topics discussed for each project.

New Business

Other: McGuinness said there has been discussion about what are other ways that we can preserve or protect values in the river corridor. One of the ideas being discussed with Sue Currier of the Delaware Highlands Conservancy is the possibility of promoting scenic easements in the river corridor. He wondered if the Council could support the Park Service looking into pursuing this program. He said it will not be easy as it will take a lot of money. Richardson asked McGuinness to get information on what the Council could do. Fluhr feels this is one tool that could save the basic concept of what was originally intended and that if the government is willing to pay people to not change the viewshed it could be successful. He said it is a good idea if the money could be available and the sooner the better for enacting the program.

Public Comment: None

Adjournment: A motion by Roeder seconded by Rajsz to adjourn the meeting at 9:24 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 4/4/12