

Upper Delaware Council  
PROJECT REVIEW COMMITTEE MEETING MINUTES  
June 28, 2011

Committee Members Present: Peckham, Rajsz, Roeder, Rando, Richardson, Conway  
Committee Members Absent: None  
NPS Partner: McGuinness  
Staff: Douglass, Soete, Ramie  
Guests: Dr. Larysa Dyrszka

The UDC's Project Review Committee held its monthly meeting on Tuesday, June 28, 2011 at the Council office in Narrowsburg, NY. Chairperson Fred Peckham called the meeting to order at 8:18 p.m. A motion by Rando seconded by Rajsz to approve the May 24 meeting minutes was carried unanimously. There was no public comment on the agenda.

**Discussion Items Report:** Soete reviewed the discussion items report handed out that contained information on project review/substantial conformance. Highlights as follows:

**Town of Cochection Zoning Law Amendments Update:** Soete apologized that he has not gotten to his review of the proposed Zoning Law, Subdivision Law, and Comprehensive Plan yet. Richardson said that he considers this committee's primary responsibility to be reviewing town zoning. He told Soete that he had missed the June 16 public hearing deadline but the town board has not yet taken action. Rajsz commented that at a recent New York State Association of Towns meeting she attended in Binghamton, they suggested a similarity between bans on mining for mineral extraction and natural gas drilling. Richardson said perhaps towns would have a defensible position if they banned heavy industry town-wide. That could be problematic for existing businesses that want to expand however. Peckham said that the Town of Afton passed a ban then rescinded it at the next meeting. Richardson noted that in the first draft of Cochection's Zoning Law, they did cite no drilling in areas of the town which were neighborhood dwellings. Some complained that would displace the use to other areas. The recommendation was then to take out all references to natural gas drilling. You can't do both. The problem here is that New York State has muddied the waters. If it was left to home rule, gas drilling could be banned in certain areas. Peckham asked whether towns are qualified to ban gas drilling or heavy industry. Roeder said that sets a precedent for legal action. He cited the example of the Katz discrimination lawsuit in Westfall Township which has raised their taxes significantly. Richardson said that was a different situation if the township changed the zoning after Katz bought his property. Conway said that the Town of Highland must go through numerous public hearings to change their comprehensive plan. Richardson said that Cochection's zoning is a living document. Down the line, it can be amended anytime the board wills it. However, it needs to get finalized to meet the town's UDC Technical Assistance Grant deadline. Roeder said we also don't know where New York State stands. They'll control what happens where relative to gas and oil. Towns can make laws about that but they can't enforce them. People are protesting over their rights begin taken away. Richardson cited the example of the sand and gravel mine on NYS Rt. 97 in Cochection. The town felt it wasn't appropriate in that location but unless they banned mining in the whole town, the state had control. The Department of Environmental Conservation (DEC) did impose conditions on the use that the town and UDC suggested. Raising those issues forced the DEC to take a hard look at the permit application. Soete said that he still hopes to find the time to review Cochection's amendments and bring comments back to this committee. Richardson replied that the town is complying with the SEQR process for 30 days and then intends to move on it. On the issue of the sand and gravel pit in Cochection, Soete said that he had received an inquiry about its size. Peckham suggested forwarding that concern to the DEC to have them check. They inspect these operations every two years normally. Richardson agreed that a note should be sent to DEC if there is a concern that the operator is exceeding his limits. In truth, he said, that site has not turned out to be the horror that some people envisioned. The truck traffic hasn't been as bad as expected. Soete said that he will send a letter to the DEC asking for a copy of the last inspection report for the Cochection sand and gravel mine.

**Tennessee Gas Pipeline:** Soete reported that there is a lot of activity going on in Pike and Wayne Counties with this pipeline expansion project. He sees 15-20 trucks every morning related to it. Richardson asked whether workers are living in the trailers set up at the Beach Lake pipe yard. Soete believes they are.

**Proposed Sullivan County Casinos Update:** The U.S. Department of the Interior has lifted its blanket ban on all off-reservation gaming which had prohibited the development of Native American casinos on property deemed to be too far away from their reservations. That action could pave the way for casinos in the Catskills.

**Natural Gas Leasing/Drilling in the Region Update:** The governor of New York is expected to release the draft Supplemental Generic Environmental Impact Statement (dSGEIS) for natural gas regulations on July 1, followed by at least a 30-day public comment period. Peckham said that comments will have to be specific to the changes made by the DEC in the regulations only. Secondly, the Matamoras Borough Council and Matamoras Municipal Authority are co-sponsoring an evening to examine the potential impacts of gas drilling on the water supply and community of Matamoras on June 30 from 7-9 p.m. at the Borough Hall Annex. Soete also referenced a June 23 press release from the U.S. Environmental Protection Agency (EPA) which states that the "EPA has identified seven case studies to help inform the assessment of potential impacts of hydraulic fracturing on drinking water resources. Three of the case studies will take place in Pennsylvania in the Marcellus Shale." The areas include Dimock in north-central PA and Washington County in southwest PA.

**Power Lines:** PPL Electric Utilities will hold open houses to seek public comment on possible routes for a new power line as part of a six-year project to improve electrical service for homes and businesses in northeast Pennsylvania. The company has selected alternative routes for two new 230 and 69 kilovolt power lines. The closest of the six open houses will be on July 21 from 5-8 p.m. at Western Wayne Middle School in Lake Ariel (South Canaan Township). Peckham added that New York State is trying to get Title X reinstated. It has passed in the Assembly but he doesn't believe the Senate has taken action yet. This act pertains to siting power plants in areas closer to where the power is used. Richardson said that all of the alternative energy sources still require lines to transmit power.

**Pond Eddy Bridge Update:** Soete noted that the agreement between New York State and Pennsylvania to replace the Pond Eddy Bridge has been well-publicized at this point. McGuinness said that the next step will be to establish a Design Advisory Committee.

**AT&T Mobility, LLC Proposed Telecommunications Facility (off Henderson Road in Mileses, Town of Fremont):** The UDC sent a comment letter on April 7 about this proposed cell tower near Long Eddy. The National Park Service felt that the Council should have required the consultants to conduct a balloon test. Soete reported that it turns out they had already done so. On June 10, Tectonic Engineering & Surveying Consultants sent a copy of the Visual Impact Assessment Report dated October 22, 2010 to the UDC. The cover letter was included in the meeting handouts. Soete displayed a colorized map reportedly showing that the cell tower would not be visible from the river without vegetation present. He has forwarded this information to NPS. They intend to have their GIS person look into it and do a simulation to assess the tower's visual impact. Peckham said that having cell towers along the river is important for the public's safety. Richardson agreed but said that knocking 20-25 feet off the tower may be all the difference that would be needed to reduce its visibility. Soete observed that this proposed cell tower is 198 feet tall.

**Wild & Scenic Rivers Act Training, June 23-24:** Soete said that he will prepare a brief written report from the National Park Service's Wild & Scenic Rivers Act training workshop that he attended on June 23-24 at the PPL Environmental Learning Center.

**Sullivan County Emergency Communications System Upgrade:** The County of Sullivan has filed to request lead agency status under the SEQR process for a proposed Sullivan County Emergency Communications System Upgrade by the E911 Department. The request lists the UDC as an Interested Agency. If the UDC takes no action within 30 days, it indicates that the Council has no objection to the County of Sullivan's lead agency request. An excerpt from Sullivan County E911 Coordinator Alex Rau's letter and the Part I Environmental Assessment Form was included in the meeting packets. Rajs said she

feels that there are towns missing from the list of Interested Agencies that should be there. It currently has the Towns of Bethel, Delaware, Fremont, Neversink, Tusten, Liberty, Lumberland, Mamakating, and Thompson listed. Soete said that the letter indicates that exact locations for new cell towers have not been decided. Negotiations with property owners will have to occur first.

**Holbert Bros. Bluestone Update:** Soete said that he included entries on his Discussion Items Report of actions taken by the UDC in 2008 when the Holbert Brothers originally filed an application with Lackawaxen Township to expand their bluestone quarry from five to 40 acres. The proposal was withdrawn then, but a new Application for Conditional Use was filed with the Lackawaxen Township Planning Board on May 4. The matter was referred to the Township Board of Supervisors, which held a hearing on June 8. Peckham said that the UDC should use the same comment letter it prepared in 2008. Soete agreed that he had based the new draft letter that will be presented under New Business on the UDC's original objections. McGuinness reported that he has contacted the National Park Service's solicitor's office about this. He is disappointed that the two supervisors in attendance at the June 8 hearing wouldn't let the NPS or UDC speak, or accept the Park Service's June 8 comment letter as part of the testimony. There are several problematic issues stemming from the hearing. The first is that Supervisors' Chairman Brian Stuart apparently won't be allowed to vote because he was absent from the June 8 hearing. The second is that the attorney for the township and its planning board represents Holbert as well. The third is that one of the supervisors is believed to be a Holbert company employee. Roeder asked why this applicant can't follow the rules of the River Management Plan. Peckham said that he can understand why this is being proposed for economic reasons. They likely have huge orders coming in that can't be filled. McGuinness objected that this use is prohibited in the river corridor. The quality of life could be ruined for the benefit of crushing stone. If the UDC and NPS can't prevent this from happening, we should pack up and leave. They need to stick to the five acres allowed in the Plan. Eventually 40 acres will be mined. Peckham added, just at a slower pace. McGuinness said his consistent message is that we are all for jobs and mining, but the plan must be followed. Peckham retorted that the company didn't pick that this bluestone would be located in the river corridor. Soete said that it would be a clear violation of Lackawaxen Township's own zoning ordinance if this conditional use was allowed as well as the River Management Plan. Holbert has two five-acre permits side-by-side now. This battle was already fought in 2008 and it's hard to believe that it is happening again.

**Tammany Flats (Damascus Township) Water Obstruction and Encroachment Permit:** A notice appeared in the Pennsylvania Bulletin on June 11 for a single-family home that is proposed for replacement in the Tammany Flats section of Damascus Township, south of Callicoon on the PA side. Soete said that the water obstruction and encroachment permit is necessary because the house is located in the Delaware River floodway. The property had been subdivided years ago. The proposal is to elevate the 32 x 40-foot house on concrete piers above the 100-year water surface elevation. Soete said that if this was a new house, the UDC might come out against it but this house replacement could require a legal interpretation. Roeder said it may be grandfathered in. McGuinness commented that at least they took flooding into consideration by building on piers. Soete said this would be a good case study for application of the Wild & Scenic Rivers Act. McGuinness agreed. Soete said that the UDC could send a letter simply advising that this proposal is located within the river corridor. Peckham said he doesn't think that a letter is needed at this time. It's an existing house and the property owner is apparently willing to pay the flood insurance. It seems foolish to build in the floodway, but as long as it meets the minimum two-acre parcel size and height restrictions, it's the property owner's business. Soete commented that it could put other lives at stake if the occupants ever require flood-related rescues.

### New Business

**FY 2012 Project Review Committee Work Plan:** Soete said that this work plan changes the least because most of the activities are ongoing in nature. It was sent to the committee for advance review on June 16. A motion by Rando seconded by Rajsz seconded to recommend approval by the full Council at its July 7 meeting of the FY 2012 Project Review Committee Work Plan was carried unanimously.

**UDC Comment Letter to Lackawaxen Township, Holbert Quarry:** Soete reiterated that the draft letter is very similar to one that the UDC issued in 2008. The Lackawaxen Township Board of Supervisors meets

next on July 20 and we would like to get a letter approved at the July 7 UDC meeting for presentation. A copy of the National Park Service's June 8 comment letter on this application was also handed out for information. Soete said that the main thrust of the UDC letter is that the application goes against the township's zoning and the River Management Plan. Peckham said that's kind of a no-brainer. A motion by Richardson seconded by Rajsz to recommend approval by the full Council at its July 7 meeting of the letter to the Lackawaxen Township Supervisors on the Holbert Brothers Bluestone Conditional Use Permit Application for a 40-Acre, Large Non-Coal Quarry was carried unanimously. McGuinness said that the quarry expansion could be done in a compliant way so that everybody wins. Soete said that property neighbors are very concerned about the application's call for 375 truck trips per day.

**Proposed Health Impact Assessment of Natural Gas Drilling in the Delaware River Basin:** Dr. Larysa Dyrszka addressed the committee after the full Council on June 2 had referred this matter for further discussion. Dyrszka referenced the Brief Proposal for a Health Impact Assessment (HIA) of Natural Gas Drilling in the Delaware River Basin that she had provided for advance review. HIAs are a procedure that can be used to inform and advise land use decisions with a goal of maximizing the positive and minimizing the negative impacts of various proposals to human health. It's a tool to help determine whether a proposal is worth the risk or not. The process has only been used twice to date for natural gas exploration. This particular project arose from discussions at the Upper DeLAWARE River Roundtable and is favored because it's a scientific, objective study. The HIA would be helpful to inform the regulations being prepared by the Delaware River Basin Commission, New York State, and New York City. The brief proposal was submitted on June 1 by a researcher for the John Hopkins University Bloomberg School of Public Health as the lead agency. A decision will be made by the grantors at the Pew Charitable Trust and Robert Johnson Foundation on or about July 1. If the brief is accepted, a full study proposal will follow. Dyrszka said her question is whether the UDC would be interested in participating as a stakeholder if the HIA goes forward. Peckham asked, wouldn't it be more advantageous to go to the individual towns for support? Rajsz said that she feels the UDC representatives should bring it back to their towns. Dyrszka said all levels of governments and agencies are welcome to participate. She anticipates that the process would rely mostly on conference calls following a general meeting in August, if the proposal is accepted. Peckham asked what kind of input they'd be seeking. Dyrszka replied that stakeholders will help to define what specifically to study to build on the foundation of the brief proposal. Rajsz said she feels this is a good project since there obviously will be overall health impacts from gas drilling. Peckham said he had done some research on Dyrszka after the June 2 meeting. Conway objected to Peckham reciting various organizations to which Dyrszka belongs. Dyrszka said this is not about her. She's a local resident and a retired pediatrician who is assisting the Roundtable with this project and representing only herself. Therefore, her memberships are not relevant. Peckham said he would need to know how this study would be conducted. Rajsz asked what he is afraid of. This study will be done by an independent organization. Dyrszka said it will use health statistics for this area. Conway said it appears that they are determining a baseline for health impacts. If there is a difference after gas drilling, we have a measurement in place. Dyrszka said she thought it would be helpful and informative for the UDC to be involved in this study, but if the members choose not to, it will go forward anyway. Rajsz asked if Dyrszka had sent this request out to town supervisors. Dyrszka replied that she plans to present it to the Sullivan County Legislature. She reiterated that no decision is required now, pending approval of the brief proposal. Peckham said this study would be fine if it was peer-reviewed. Conway asked what that means when it's already being conducted by an objective third party. She said the question before the UDC is whether we are interested enough in this study to sign on. Dyrszka challenged Peckham to join the committee that will oversee the study. Conway made a motion for the UDC to participate in the HIA of Natural Gas Drilling in the Delaware River Basin as an interested party. Roeder interjected that he would want to take this to his town board to discuss first. Rajsz suggested that when the brief gets approved, Dyrszka should send it to the town supervisors, but she feels it's a good idea for the UDC to support in the meantime. Richardson agreed. He noted that this study will be done anyway, so wouldn't we rather be part of it? Rando said that if this study is specifically targeted at drilling, it's early because there is no actual work. If it is to get a baseline measurement though, that's different. Dyrszka replied that the baseline will be based on the current population and impacts of where drilling has occurred elsewhere to extrapolate into a risk assessment. Down the road, the results of this HIA will offer decision-making bodies mitigation steps or recommendations. Nobody will be forced to follow any of it however. Peckham said that gas industry technology is moving so fast, this information could be irrelevant. Rajsz suggested waiting to see if the

brief is accepted, which we should know by the next UDC meeting, and then taking it back to the towns to consider. Conway asked if every decision we make has to be taken back to the local governments. Aren't their UDC representatives empowered by those boards to make any decisions? This is a harmless study, she said. Rajsz added it's also one that we're not being asked to support financially in any way. Richardson asked how any board could responsibly say they're not interested in this? Roeder said that this Council should be objective. Everyone here who is promoting this is against drilling. We've got everybody involved in land use decisions now. Conway said nothing could be more objective than a scientific study. Dyrszka said that she could try to arrange for the researchers from John Hopkins to speak to this group and try to remove their skepticism. Rajsz said that a member of the public is here requesting support from the Council. Richardson said there is disagreement here and that's fine. Let's have the full Council decide by taking it to them on July 7. Peckham said he thinks we're putting the cart before the horse. Roeder said he still has to take this back to his town. Rajsz told Roeder he was free to abstain if he didn't have an answer in time. A motion by Richardson seconded by Rajsz to include the UDC participating in the Health Impact Assessment of Natural Gas Drilling in the Delaware River Basin as an agenda item on the July 7 Upper Delaware Council meeting agenda was carried on a vote of 4-2, with Peckham and Roeder opposed. Richardson and Rajsz then amended their motion to acknowledge that it will be a moot point if the brief proposal is not approved on or by July 1. [*Post-meeting note: The UDC received the following notification from Dyrszka dated July 4: "Regrettably, the HIA proposal for gas drilling in the Delaware River Basin was not given the go-ahead for the next step by the funders. Dr. Mary Fox notified me about this over the weekend. She put together an excellent proposal, and we are appreciative of her efforts. Thank you to the UDC for your interest and for the discussion on the subject. Perhaps an alternative source of funding will be identified as some point in the future. If so, I will let you know."*]

**Other:** None

#### **Old Business**

**5/19 NY-PA Joint Interstate Bridge Commission Annual Meeting Minutes:** Copies of the minutes for the May 19 annual meeting of the New York-Pennsylvania Joint Interstate Bridge Commission were handed out for informational purposes.

**TAG Reminders:** Soete provided reminders of the following deadlines for the UDC's Technical Assistance Grants (TAG) program and asked members to take this information back to their towns. FY Projects under the 2011 TAG program must be completed by July 25, 2011; applications for the new FY 2012 round of TAGs are due by Sept. 2, 2011; and projects under the 2009 TAG program which had allowed up to two, six-month extensions must be completed by Sept. 30, 2011.

**Other:** McGuinness said that Roeder brought up a good point about the UDC's objectivity. Training could be arranged on this topic. These are tough times and there are hard decisions to make. We're one family in this river valley and need to keep in mind our common vision.

**Public Comment** None

**Adjournment** A motion by Rajsz seconded by Roeder to adjourn the meeting at 10:01 p.m. was carried.

*Minutes prepared by Laurie Ramie, 7/5/11*