

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
March 26, 2013

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Debra Conway, Jeffrey Dexter, George Fluhr, Fred Peckham, Nadia Rajsz
Committee Members Absent: None
NPS Partner: Sean McGuinness
Staff: Laurie Ramie, Cindy Odell, Travis O'Dell
Guests: Jack Niflot, Fritz Mayer, Victoria Lesser, Carolyn Duke

The UDC's Project Review Committee held its monthly meeting on Tuesday, March 26, 2013 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 7:30 p.m

No February 26 Minutes due to Meeting Cancellation. There was no public comment on the agenda.

Discussion Items Report

Substantial Conformance Update: T. O'Dell reported that he has been reviewing the Town of Hancock's relevant land use Local Laws and Ordinances for Substantial Conformance in accordance with the principles and objectives of the Land and Water Use Guidelines as outlined in the Project Review Workbook.

Project Review Update

Natural Gas News: O'Dell said that the New York State Assembly has voted to extend the moratorium until at least May 2015 to allow for the completion of independent health studies. The bill would require Senate and the Governor's approval to take effect.

O'Dell stated that on March 25, 2013 the Environmental Protection Agency's (EPA) Science Advisory Board (SAB) announced the formation of its Hydraulic Fracturing Research Advisory Panel. This panel of independent experts will peer review EPA's 2014 draft report of results for its national study on the potential health and environmental impacts of hydraulic fracturing on drinking water resources. On May 7 and 8, 2013, the SAB Panel will convene a meeting to provide individual feedback from panel members regarding EPA's 2012 progress report on the study. The public will also have the opportunity to provide comments for the Panel's consideration.

Peckham noted that the movie *FrackNation* will be shown for free at Cinema 6 in Honesdale, PA on April 6th at 11:30 a.m. He said that filmmaker and investigative journalist Phelim McAleer will be there after the showing. The movie will also be shown on Sunday April 7th at 11:30 a.m. and 7:30 p.m. McAleer will be present for those showings as well, Peckham added. He said there are a lot of Sullivan County, NY and Wayne County, PA residents in the movie. Peckham also reported that the Joint Landowners Coalition of New York is bringing a lawsuit against the State of New York for delays on the moratorium.

McGuinness asked O'Dell how Hancock's Substantial Conformance review is going. O'Dell said he is currently comparing the principles and objectives with the ordinances. Peckham reminded O'Dell that there was no Project Review Committee meeting in February and members may not know the outcome of the February 25th meeting with Hancock Supervisor Sam Rowe. O'Dell said that he, Ramie, Peckham, and Carla Hahn of the Park Service met with Sam Rowe to advise him of the process. Ramie said he was open to the procedure; he understands what the Council is doing and offered to facilitate what he could with the town's building inspector and code enforcement officer.

Hancock Compressor Station: O'Dell noted that the Federal Energy Regulatory Commission (FERC) completed their Environmental Assessment of the proposed site; the public comment period deadline is April 1.

Town of Lumberland: O'Dell reported that on March 13th, the town board held a public hearing to discuss a sub-division application. The application for the proposed sub-division was presented to the town prior to

May of 2012; during that month the town amended their zoning and now requires a 5-acre minimum lot size in that particular zone. The proposed sub-division includes six lots on 24 acres with lot size ranging from two to six acres. Because the sub-division was applied for before the passing of recent zoning amendments the Town Board voted to allow the sub-division to proceed. Rajsz said the applicant was before the planning board before the new zoning went into place in May of 2012. A public hearing took place and a decision was made to “grandfather” this applicant so that he was required to meet the 1998 requirements. This decision was made to include any applicants that were before the board on May 1, 2012, Rajsz added. Richardson asked if there was more than one applicant before the board. Rajsz said no. She added there is a sunset clause in place and the applicant needs to complete the subdivision by September 2013. McGuinness asked if the subdivision is in the corridor. Rajsz said that it is. O’Dell stated that because the Town of Lumberland is in substantial conformance, the project is not considered a class II project because of its size and does not constitute a review. The smallest lot size in the subdivision falls within the guidelines. Richardson asked if O’Dell will be drafting a letter to that effect. O’Dell said that he could. McGuinness said it is necessary to develop administrative records and Richardson feels we should respond to the project in some manner. Richardson commented that this is a perfect example of why the Council needs the available technology to be able to present these projects in a way that everyone can see them. Ramie said that we should hear about the Norcross grant decision in late May. We have applied to Norcross for a grant to purchase a laptop, projector, and screen.

Town of Delaware: O’Dell noted that Sullivan County Soil and Water Conservation District in collaboration with Gorr Trucking will be removing 1,400 yards of gravel from a secondary channel at the confluence of North Branch and Callicoon Creek in Hortonville, NY. The work is not expected to have any significant environmental impacts. The NYS DEC issued the natural resource permit from 3/15 through 9/30/13. One Stipulation of the permit is that downstream water quality must be maintained. McGuinness questioned how far upstream from the Delaware River the work is taking place. Roeder stated it is outside of the corridor. McGuinness stated according to the Wild and Scenic Rivers Act, upstream water and tributaries can fall under the Act depending on what impacts they have. He said the Park Service will take a look at it. Roeder said that if it is necessary for them to do, he would suggest they talk with the NYS DEC as it is their project. McGuinness said the DEC should be advising the Park Service of such projects.

Town of Delaware Zoning Amendments: The March 7th letter to the Town of Delaware with comments and recommendations in regards to their proposed 2013 zoning amendments and 2012 map changes was reviewed at the town’s March Planning Board meeting. Most of our recommendations were incorporated. The amendments are now moving to the Town Board for a public hearing.

PA DEP: O’Dell said the PA DEP has proposed new regulations for developments adjacent to “Special Protection Waters” as designated by the DEP. Because virtually all of Wayne and Pike counties are comprised of “High Quality” or “Exceptional Value” streams, the regulations would apply. Critics believe that the regulations, which seek to reduce nitrate levels in waterways, would inhibit development through increased cost and large lot and buffer requirements. The regulations are facing strong opposition from some elected officials including PA Senator Lisa Baker, Representative Mike Peifer, and Wayne County Commissioner Brian Smith. Peckham stated that this is an issue the UDC may want to comment on. Dexter noted that current nitrate levels are below the state’s requirement guideline. Ramie asked Dexter if his township has commented on the issue yet. Dexter said they are getting ready to. Ramie said the UDC could support the participating townships’ position if that is desired. Peckham asked if there is a deadline to comment. Dexter said yes, it had just been extended, but is unsure of the exact date. Richardson said we need to proceed with caution how we approach this issue. Dexter said that reports show that Wayne and Pike County’s water has been improving for the last 20 years. Discussion took place about how restrictive some of the new proposed regulations are. Ramie said staff will contact the PA DEP to find out the comment deadline and then the member townships to ask for their positions. Fluhr said the townships should be requesting the UDC to support their positions, once their positions are taken. After a brief discussion of a septic system policy, Fluhr questioned why the legislature gives agencies the power to make regulations such as these. This new policy would be a terrible hardship on anybody who owns property in the counties that would be affected. Peckham commented, “That’s exactly what down basin wants.”

Berlin Township: O'Dell reported the township has developed a "Berlin Township Flood Plain Ordinance". The Board of Supervisors will act on the ordinance at their regular meeting on April 16th. O'Dell said he does plan on reviewing the ordinance.

Project Review Workbook: O'Dell said that under New Business, members will review a draft revised report form for municipal officials.

TAG Update: O'Dell reported that midterm progress reports were received from all recipients except for Damascus Township. The report deadline is past. O'Dell said he spoke with Ernie Matern of the Damascus Township Planning Commission and was advised that he is waiting for a project update from the planner. The Town of Delaware has completed phase 1 of their project and upon completion of phase 2, the paperwork can be submitted for payment. Pike County has completed the re-printing of their brochures and the approval to forward this application to the Operations Committee for payment will be addressed under New Business. O'Dell noted that the deadline for completion of projects is July 26th, 2013.

Training Update: O'Dell reported that he has been participating in a Climate Solutions University Model Forest Policy Program as part of a team from the Common Waters Partnership. The program functions as a support group that helps a watershed reach identified goals that would help plan for a community that is more climate change resilient. Basically the goal is to foster better communications in dealing with the whole topic of climate change.

On March 1st, O'Dell said he attended a Municipal Planning Workshop in Delhi, NY. This course fulfills the 4-hour course requirement in New York State to serve on municipal planning boards and covered basics in adopting Local Laws, revising zoning, and inter-municipal planning.

O'Dell stated that he recently enrolled in a free iMap Invasives training session with the CRISP partners on Wednesday, April 3rd in Arkville, NY. The training provides a mapping tool for detailed information about infestations, surveys and treatment of invasive species.

New Business

Draft Updated Project Review Report Form: O'Dell noted that he condensed three forms from the Project Review Workbook into the one draft form that was provided in members' packets. The intention is to provide this form to code enforcement officers and planning boards to fill out in order to inform O'Dell about projects that are going on in their towns and townships in the river corridor. O'Dell reviewed some of the checklist. Peckham questioned if there is a provision for less than two-acre subdivisions in certain designated areas like hamlets. O'Dell said there is a section on the form where one would reference the river segment that the proposed project is in, such as scenic, recreational, or hamlet. There are different provisions for each section and O'Dell will determine if the project requires review and then go through the checklists himself and review it. This is how he would like the process to work as opposed to finding out about such projects when he reads about them in the newspaper or from other sources. Richardson said he does not feel the form is a burdensome document for planning boards to use on a daily basis. Ramie said it is good to have the form before them as a visual reminder of their responsibility to submit projects. O'Dell said he would like to get out and visit with all the participating towns and townships and it would be helpful to have this form with him to hand out. He said when he met with the Town of Hancock's code enforcement officer, he showed him the form and he seemed to be accepting of it. Fluhr recommended approving the concept of the form, but not the form itself as he feels changes may be made to it as O'Dell gets feedback from the participating towns and townships. Richardson said he likes the document and feels that if O'Dell needs authorization from this organization to move forward, we should move on it and if necessary, it can be amended. McGuinness said he feels the document should be identified better. He asked O'Dell if he had received any input on the form. Ramie said the form is just being presented to the committee for their input at this point. Rajs said the form should note that it is just for projects in the river corridor. O'Dell said that if he is to mail these forms out, a cover letter would accompany them explaining what it is, but ideally, he would like to be able to explain it face to face to code enforcement officers and planning boards. McGuinness recommended taking comments, bringing them back to committee, and revising the form if necessary. Rajs said she would like this form to be received by her planning board and code enforcement officer in the Town of Lumberland as soon as possible. Conway said a real basic introduction to the whole process and an explanation of where the UDC fits into town and township

projects is necessary. O'Dell said some of this can fall onto the committee members as representatives or alternates to the UDC for their town or township. Roeder said we have a responsibility as board members to start the action on this in our towns and townships. Members agreed the form is a great initiative. Richardson said he would like to clarify O'Dell's direction from the committee. He suggested sending the form out to member town and townships and follow up with a phone call to set up a meeting to discuss it. He said that as suggested, the form could be left as a draft to start and incorporate any feedback if necessary. All agreed. Richardson said he feels the form is a really good start.

Approval for Pike County's completed TAG 2013-06: O'Dell said Pike County has completed their project, the reprinting of "Greetings From Pike County" brochure. He said they request payment of the \$500 that was awarded. A motion to send the request for payment to the Operations Committee was made by Rajs, seconded by Conway and carried.

Draft comment letter to FERC: Hancock Compressor Station Environmental Assessment: Rajs asked for a definition of "carbon credits". T. O'Dell said they are somewhat controversial. Carbon credits are certificates that represent a reduction of greenhouse gases in the atmosphere. Projects that prevent the generation of greenhouse gases earn these credits, which can in turn then be sold to other businesses and individuals to offset the emissions they generate. One carbon credit is equivalent to a saving of one tonne of carbon dioxide (CO₂).

Fluhr asked O'Dell if he wrote the letter himself. O'Dell said he read the Environmental Assessment (EA), researched it, and wrote the letter himself from a blank document. Fluhr said it concerns him as it seems like an example of "extreme environmentalism". He added that at this point, the country needs jobs, energy, and money. He questioned if we had received a request from the Town of Hancock to take action on this. O'Dell said no. Fluhr asked if the Town of Hancock themselves has taken any action. Peckham said they sent a letter to FERC approving the project. O'Dell said the letter is not objecting to the project or objecting to the town's position of approving the project. Peckham said he and the Town of Hancock object to the UDC getting involved with projects outside of the corridor. Peckham said he advised his town that he would object to the letter as he feels it exceeds the UDC's authority of the corridor. Richardson asked that Fluhr be allowed to finish his comment. Fluhr suggested that the only result we could get from the letter is a delay. Fluhr highlighted many of the points in the letter and gave his interpretation. He asked if we have anything to gain by sending the letter or are we just going to cause some more delays. McGuinness said the project is not in the corridor and it is a needed plant for the pipeline, but stated it could have an impact on the corridor and the river. The EA addresses a lot of issues, McGuinness continued, but one issue it does not address is that the fact that the project is just under 5,000 feet from the boundary of the Upper Delaware corridor. He said that if the UDC does not take the opportunity to at least write a letter to FERC and say "We have this awesome river that is a designated wild and scenic, which isn't even mentioned in the EA and that we have some concerns about noise, about air pollution, about cumulative impacts" and if we don't at least say "Could you please look at this project in relation to the river and the corridor and the quality of life that we have in this corridor?", we would be remiss for not at least saying to them that "you didn't even address in the EA that you are within 4,000-some feet from the corridor." He feels that this is the position the Council needs to take. Let FERC know that we have some concerns, not big concerns, they are ones that probably could be addressed. The issues are air, noise, light, visual; the issues that could affect the outstandingly remarkable values for why this Council exists. McGuinness said that if the Council does not write a letter at least telling them that, he feels the Upper Delaware Council is remiss in protecting the river and the corridor. McGuinness suggested the letter could be written differently to address these concerns. Peckham stated that the closest direct line to the river is 8,000 feet. McGuinness stated that the River Management Plan (RMP) includes the 55,000 acres of land in the corridor, not just the river. Fluhr asked McGuinness if the Park Service is sending a letter to FERC addressing the EA. McGuinness said the letter is just about finished. A long letter has been written addressing noise, light, and potential cumulative impacts. NPS also addressed the fact that they did not even mention that there is a Wild and Scenic River and a corridor managed by the National Park Service. Conway asked what the response deadline is. She was told April 1st. Conway noted that the elements such as noise and lighting that McGuinness is talking about don't know where the boundary lines are; they can go over the line and can come into play in the corridor. Richardson agrees that the concerns that O'Dell puts forth in his letter are valid concerns, but he appreciates the way McGuinness summarized the main concerns and feels we can get the point across without getting into a lot of detail. Richardson commented

that he doesn't think that "FERC ever remembers there is a river here and a corridor here". Over the years, we have had similar conversations, he added. McGuinness noted that FERC did not write the EA, that a consultant did. McGuinness said he wants people to know that we are going to "err on the side of we're taking care of this place". Peckham noted that it sounds like someone wants to have it recognized there is a River Management Plan and a National Park here. Rajsz added, "and a river". Roeder believes our concerns can be simply stated. He said we can state that "this is a special place and we want to make sure it is protected. Anything that happens outside the corridor, we want to make sure that it does not adversely affect us and these may be some of the things we want you to look at, and leave it at that". Roeder said we want to work with the people, not against the people. Peckham said as individuals, people can address FERC themselves. Members expressed they would have liked more time to discuss the issue. McGuinness suggested the Council could write a letter stating the EA did not address the river or the corridor and provide them with a link to the River Management Plan and ask them to review it. McGuinness spoke of issues addressed in the Park Service letter to FERC and said input on the letter was received from experts within the Park Service. Richardson said he believes it is the consensus, or at least a majority, of the committee that we need to write a letter. He said it should be a generalized letter pointing out the fact that the EA did not mention that this is a federally designated area here. Peckham said it could be stated that "the compressor station is in close proximity, within 5,000 feet, of the federally designated Upper Delaware Scenic and Recreational River and there are some concerns that we would like you to address." Roeder said it would be better to have more time to be able to develop our thoughts on what we need to do instead of having to rush. O'Dell commented that the EA just came out on March 1st and was received at the UDC office after that date. Fluhr suggested that since we are writing a letter to FERC, to request that this information be sent out earlier. Richardson said we can always encourage a longer comment period. Richardson asked that staff come up with a revised letter and send it out to the committee for their approval and noted the letter will have to come from the committee since the deadline is before the full Council meeting. He asked members to review it upon receipt and respond back in a timely fashion. Members agreed that would be the plan.

Discuss potential application for Community Conservation Partnership Program grant to PA

DCNR: T. O'Dell told members he had the idea to subcontract substantial conformance reviews out for all participating Pennsylvania townships to obtain a "clean slate" and fund this project through this grant known also as C2P2. Dennis DeMara and Lorne Possinger of PA DCNR presented a small scale workshop at the March 19th WU/RM Committee meeting. The deadline for grant applications is April 10th, O'Dell noted. Ramie said we would be eligible to receive more funding if we were to go through a municipality than as a non-profit. You can apply as a non-profit, but it is a much more limited pool, she added. Ramie said that to go through a municipal sponsor, getting somebody on board by April 10th would require a resolution by that governing body and a Memorandum of Understanding between the UDC and that sponsor. Ramie said at this point, she does not think we could manage to get everything in place by the deadline. It is quite a complicated on-line grant process. Dexter said that if this is a grant we would like to pursue, we could start going through the process so that we could be ready to apply by the next round. Ramie agreed. She said that she does not feel that two and a half weeks is enough time to get the application ready in a responsible way.

Other: McGuinness said that at the last full Council meeting, discussion took place about the Open Space Plan. He said the Upper Delaware is a great place for some of these designations. He feels this is a great opportunity to tell New York State that the Upper Delaware should be considered for some of these access points for conservation. There are a multitude of projects they will fund to maintain open space. McGuinness said he has intentions of getting in touch with Sullivan County representative Jill Weyer, Assistant Planning Commissioner, to have some discussion with her about this. Richardson feels communication with the participating towns is key to identifying lands for inclusion in the Open Space Plan. He noted that lands needs to be accepted into the plan before they can receive funding. He said there is a need for additional accesses and rest stops up and down the corridor. The towns could be approached to see if there are some places in their towns that they would like to have listed in this program and the UDC could offer its support. Fluhr said there is a demand for rest room facilities on the river. Conway said that until this past week, there had been no Sullivan County lands listed in the Open Space Plan. They just added the Minisink Battleground lands and Fort Delaware. Rajsz asked if there is still time to add lands. McGuinness said he hopes so; that is why he is going to get in touch with Jill Weyer. Richardson said the

UDC should be identifying what sites we would like to see developed. This way if there is an opportunity for funding from any source, we have some places in mind. Peckham asked if a process like this has just recently taken place. Ramie said the Local Waterfront Revitalization Plan did this for the whole Upper Delaware valley. Richardson feels the first step that needs to take place is identifying and prioritizing sites. Ramie said the Delaware Highlands Conservancy had identified critical areas within the great river valley region. Richardson said he feels this discussion should be carried forward on the agenda.

Old Business

Use of the 1988 Project Review Workbook: The consensus of the committee was to table this review until next month due to the time.

Other: None

Public Comment: Victoria Lesser from North Branch, NY said she attended tonight's meeting as she had been alerted about the letter to FERC. She said a concern of hers is she has been not only to her own town board meetings, but other town board meetings, and in spite of public comments, town boards have moved ahead and put their agendas ahead of what the public has wanted. She said in regards to hydrofracking and the issues that go along with it, she questions the conflicts of interest as some people stand to make money and there are those who will lose. A challenge faced is if something goes wrong, the effects are irreversible. Lesser spoke of the philosophy of the Native American Indian where every decision is based on seven generations forward who will either suffer or benefit. She does not understand decisions being made where profit is put before people, land, and water. Lesser said her entire life has been linked to the Catskills. She told members she is grateful for committees like this and that she is sorry it is the first time she has sat with this group. She said her "heart is breaking for this earth" and encouraged the committee to make the letter to FERC strong.

Carolyn Duke of Roscoe, NY said her concern is the compressor station. She said we live in such a beautiful place and we only have one chance to do this right. She told members she hopes they take this very seriously and find some real information on the issue.

Fritz Mayer of *The River Reporter* said he thinks that May 15th is the date for the closing comments on the issue of septic systems in Pennsylvania.

Adjournment: A motion by Roeder, seconded by Peckham to adjourn the meeting at 9:05p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 4/3/13