

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
May 26, 2015

Committee Members Present: Larry Richardson, Nadia Rajsz, David Dean, Debra Conway, Aaron Robinson, Alan Henry
Committee Members Absent: Fred Peckham, Jeff Dexter, Harold Roeder, Jr. Susan Sullivan
NPS Partner: None
Staff: Laurie Ramie, Cindy Odell, Travis O'Dell
Guests: Bonnie Sheard, Larry Neal

The UDC's Project Review Committee held its monthly meeting on Tuesday, May 26, 2015 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 6:34 p.m.

A motion to approve the April 28 meeting minutes was made by Conway, seconded by Henry and carried. There was no public comment on the agenda.

Presentation on NPS Commercial Use Authorization Program by Bonnie Sheard & Larry Neal:

Bonnie Sheard, Commercial Use Authorization (CUA) & Special Use Permit (SUP) Coordinator, showed a Power Point presentation regarding Upper Delaware CUAs. Sheard referred to a "Commercial Use Authorization Frequently Asked Questions" handout in members' packets. She said a CUA is a permit issued that authorizes suitable commercial services to park area visitors in limited circumstances. A commercial service to the visitor is when someone is providing a service and receiving income for that service. Currently permitted in the Upper Delaware are liveries, fishing guides, a dive school, camps, and river guides. Issuing CUAs ensures protection of the visitor, the resource and the values of the park area, Sheard noted. Rajsz said she read in the FAQs that organized children's camps that own their own canoes and make trips down the river are required to have a CUA. She questioned if the camps in the area are aware of this. Sheard said they are, noting that the majority of the camps use local liveries. Rajsz asked if a letter is sent to all the camps advising them of this requirement. Sheard said she has not done this since taking over the administrative tasks of this program. Rajsz said she could provide this information in the letter she sends on behalf of the Town of Lumberland to the camps in her town. Larry Neal, Acting Chief Ranger for the Upper Delaware Scenic & Recreational River, spoke of the annual visits law enforcement staff makes to the bigger camps in the area at the beginning of the season. Sheard spoke of the restrictions on what type of businesses can be issued CUAs, what the requirements are for obtaining a CUA, and National Environmental Policy Act (NEPA) compliance. Sheard stated the term of the permits is two years and there is no right of renewal. Proof of current insurance certificates is always a requirement. She said there are two types of permits: in-park and out-of-park. Because the Park Service does not own the land here, the permits issued are always out-of-park. She explained the differences between in-park and out-of-park permits including the limits of gross receipts annually. For out-of-park permits, there is no limit and for in-park, they are limited to \$25,000 gross receipts annually. Dean questioned how long the \$25,000 amount has been in effect and if it gets updated, although all CUAs in the Upper Delaware are classified as out-of-park. Neal said although it does not apply to us, he will find out and get back to him. Sheard provided additional information on permit requirements. She noted that in the 'permit conditions', all CUAs must obtain all permits or licenses of State or local governments, as applicable, necessary to conduct the business activity. There are different conditions for different permits, Sheard added. Richardson stated that the requirement that all CUAs must obtain all permits or licenses of State or local governments, as applicable, necessary to conduct the business activity is what prompted the UDC to request this presentation. He asked if a person does not have a permit from their local municipality to operate their business, can they still get a CUA. He noted the Superintendent said yes. Neal stated that is correct. He added the CUAs are obtained from the National Park Service to operate on the river itself and do not apply on land. Robinson stated he does not feel predicating a CUA on local zoning compliance is appropriate and explained his reasoning for that. Sheard provided copies of each of the applicable CUA conditions. Henry spoke of past revocations of CUAs and the reasons why. Henry referred to the #11 condition of the liveries CUA which states, "The permittee must acquire all permits or licenses of State or local governments, as applicable, necessary to provide the services described above and must operate in compliance with all pertinent Federal, State, and local laws and regulations, including, without limitation, all applicable park

area policies, procedures and regulations.” Neal said he will follow up on how condition #11 pertains to liveries operating without proper authorizations. A lengthy discussion regarding the NYS access under the Barryville-Shohola Bridge took place. Sheard continued her presentation. She noted the CUA fees include \$150 application fee; \$200 administration fee; and three levels of monitoring fees according to customer counts. The monitoring fees are Level 1, 0 - 500: \$100; Level 2, 501 – 12,000: \$300; and Level 3, 12,001 and up: \$900. Each CUA is required to provide an annual report with visitation figures, gross receipts and reportable injuries. Sheard reported the Upper Delaware issues more CUAs than any other park in the country. There are 74 CUAs permitted to date including 57 fishing guides, 14 liveries, and 3 children’s camps bringing 116,521 visitors/customers to the area and providing \$5,276,268 into the local economy. Henry said he understands Executive Order 13658 regarding the raise of the federal minimum wage applies to UPDE’s Commercial Use Authorization (CUA) permit holders. Sheard said the NPS does not enforce this Order; it is handled by the Department of Labor. Robinson commented that Executive Orders change all the time and suggested the verbiage in the CUA conditions be amended to reflect that possibility by adding the wording, “or that which supersedes.” Neal noted that suggestion. Richardson thanked Sheard and Neal for their time.

Discussion Items Report

Project Review Update

Town of Highland: O’Dell reported that on May 19th, the UDC received the Town of Highland planning board minutes from the April 3, 2013 meeting where an application by Reber’s River Trips was approved. Copies of the minutes, building permits, special use application, and preliminary site plans for this project are included in the members’ packets, he added. O’Dell referred to Section 190-30 “Special permitted uses and site plan approval” of the Town’s zoning. He noted that State Environmental Quality Review (SEQR) is a requirement and we have not received this. He added that the site plan is to be rendered by a professional architect, licensed engineer or licensed surveyor. The site plan submitted by the Town does not contain information suggesting it was drawn by a professional. Henry noted there is a co-management agreement between the National Park Service (NPS), New York State Department of Transportation (NYS DOT), and New York State Department of Environmental Conservation (NYS DEC) for the access where this business is operating. The history of the bridge project was discussed. Robinson said he does not feel it is the Council’s responsibility to enforce a state issue or a town issue. He said this project is a town issue as they issued a permit. Richardson stated we are not an enforcement agency; we are just questioning the project. Henry suggested awaiting NYS UDC Representative Bill Rudge’s letter to Reber’s River Trips regarding their potential encroachment of business operations on New York State land. Richardson feels the Council still needs to look at this project to determine if the Town has followed proper project review procedure. A brief discussion about the Council’s responsibility to conduct annual reviews of each town’s enforcement program took place. Richardson suggested the committee wait for the DEC letter to see what those comments regarding the Reber operation will be. Dean cautioned telling towns how to operate. Conway said we want to remind them of their commitment when they signed onto the River Management Plan.

Town of Tusten: O’Dell noted the Town of Tusten recently received two special use permit applications from Rock Meadow Partners LLC and NARO Building LLC (Brendan and Kathleen Weiden). One application is to utilize part of the existing Narrowsburg School building and build an addition onto the existing building to be used as a mixed-use building for light industry and warehouse/storage and the addition of driveway and parking areas. The light industry would be an ice-cream manufacturing plant. The second application is to maintain the adjacent two-family residence and utilize a ground lease to construct a driveway and parking on the property and to install a building back-up generator and buried mechanical, electrical, and plumbing lines. Considered a light industrial use, and located in the town’s Downtown Business zoning district, this project is an appropriate special use as per the Town of Tusten’s zoning and the Land and Water Use Guidelines. A draft comment letter is included under New Business, O’Dell stated.

Masthoke Sewage Discharge: O’Dell said the DRBC response letter clarifying the compliance review of Masthoke and Beach Lake Municipal Authority (Berlin Township) Wastewater Treatment Plants was included in members’ packets for their information. He noted that representatives from Aqua PA, the

operators of the Masthope Mountain Community wastewater treatment plant, will be at the June 4th full Council meeting to talk about the operation of that plant.

Enforcement Program: O'Dell stated that letters went out on April 7th to all UDC member code enforcement officers requesting copies of all building permits issued, variances granted and ordinance amendments approved. He noted it is the Council's responsibility to make an annual review of these documents issued within the river corridor to ensure substantial conformance. To date he has received packages from Damascus Township, the Town of Hancock, Town of Tusten, and Town of Delaware; there were no permits issued within the corridor in the Town of Fremont. He said that once these packages are received from all members, a complete report will be produced. O'Dell said this task has always been in the Cooperative Agreement, but it is just being initiated now. Dean asked O'Dell if he would want a letter stating there was no activity in the corridor in a town during that period if that is the case. O'Dell said yes.

Substantial Conformance Dates: O'Dell's written report contained a list of official dates of member substantial conformance as per the National Park Service. He stated that the Council makes the recommendation of substantial conformance and the National Park Service is to make the final determination. Over the course of the years, O'Dell does not feel that proper procedure has been followed and that some of the dates should actually be more current. Rajszyk stated that Lumberland updated their zoning recently and that was approved by the Council. She feels the conformance date of 1989 listed on O'Dell's written report is outdated and should contain the more recent date listed as an amended date. Members feel the list of dates should contain the original date of substantial conformance determination and any amendment dates. After a brief discussion, O'Dell was directed to send a letter to the Park Service asking what their substantial conformance procedure is once they receive the Council's recommendation. Dean asked for confirmation that only zoning in the corridor is subject to their review. Richardson told him that is correct.

FY 2015 TAG Program:

T. O'Dell said that Berlin Township has completed their project, but he has not received three copies of the completed product. This is a requirement of the contract. He has requested this, but has only received the project completion form and supporting documentation. Henry said he will follow up on this. Ramie told Henry if a digital version of the document is available, that is sufficient.

O'Dell reported that final TAG projects are due by August 21, 2015. FY 2016 TAG program memos and applications will be sent to member municipalities on June 1, 2015. FY 2016 applications will be due by August 28, 2015, he added. Ramie said that \$35,000 has been budgeted for the FY 2016 TAG program.

New Business:

Approval of Berlin Township TAG 2015-10: Publish Sanitary Sewer Manual and Print Sign & Subdivision Ordinances: Ramie suggested approving the project conditionally upon receipt of the final project. A motion to approve TAG 2015-10 conditionally upon receipt of their final project was made by Rajszyk, seconded by Conway and carried.

Letter to Tusten Planning Board: Narrowsburg School Redevelopment Project: O'Dell apologized for not circulating the letter earlier. He referred to the copy provided in members' packets. The letter states, "After reviewing the site plans and applications it is our opinion that as proposed this project would be harmonious with the Principles and Objectives of the Land and Water Use Guidelines and would not pose a clear and direct threat of the values of the Upper Delaware Scenic and Recreational River." Also included in members' packets is documentation showing how the project was reviewed as a Class 2 project. A motion to approve the letter was made by Rajszyk, seconded by Conway and carried.

Old Business

Use of 1988 Project Review Workbook: Because of the time, members agreed to table review of the Workbook until next month. Henry suggested that there could be a Project Review meeting dedicated solely to the review of the Workbook.

Other: None

Public Comment: None

Adjournment: A motion by Rajs, seconded by Henry to adjourn the meeting at 8:10 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 5/29/15