

## UPPER DELAWARE COUNCIL MEETING MINUTES

January 5, 2012

(Annual Meeting)

The Upper Delaware Council held its monthly (annual) meeting on Thursday, January 5, 2012 at the Council office in Narrowsburg, NY. Chairperson Larry H. Richardson called the meeting to order at 7:32 p.m. The Pledge of Allegiance followed. At this time, Richardson asked those in attendance to state their name and who they represented as there were so many new faces at the table. The roll call followed.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder, Jr., Town of Cochection-Larry Richardson, Town of Tusten-Susan Sullivan, Town of Highland-Andrew Boyar, Town of Lumberland-Nadia Rajs, Town of Deerpark-David Dean, Damascus Township-Jeffrey Dexter, Berlin Township-Alan Henry, Lackawaxen Township-John McKay(7:36 p.m.), Shohola Township-Patricia Jeffer, Westfall Township-Alex Cena, State of New York-William Rudge, Delaware River Basin Commission-Carol Collier, National Park Service-Sean McGuinness. Staff in attendance: Acting Executive Director-Laurie Ramie, Senior Resource Specialist-David B. Soete, Secretary-Cindy Odell. Also in attendance: Debbie Conway-Town of Highland alternate, Jim Rodgers-Town of Fremont alternate, Tony Ritter-Town of Tusten alternate, Ginny Dudko-Town of Deerpark alternate, Paul Henry-Berlin Township alternate. Absent: Commonwealth of Pennsylvania.

**Election of 2012 UDC Officers:** Richardson asked the Nominating Committee to re-state the candidates' names as they were presented at the December meeting. He did mention that the committee, in addition to being charged with presenting a slate of officers for this meeting, is also charged with filling vacancies. Sullivan stated the names that were presented at last month's meeting were Nadia Rajs from the Town of Lumberland for Chairperson and Scott Rando as Vice-chairperson, who at the time represented Shohola Township. She added that since Rando no longer represents Shohola Township, they will have to find another Vice-chairperson. Sullivan said that since Rajs is from New York state, the person to fill the Vice-chair position should be from Pennsylvania and they have given themselves another month to find a candidate. Richardson wanted to confirm that John Niflot was the candidate for the secretary/treasurer position. Sullivan said that he was. Boyar made a motion to accept the recommendation of the Nominating Committee with the exception of Vice-chairperson, which will be vacant until such time that a recommendation is made at the February meeting. It was seconded by Niflot and carried unanimously. The gavel was passed from Richardson to Rajs. Rajs noted that Richardson is a "tough act to follow" and continued by saying that she hopes in 2012, the Council can act more as a cohesive body in protecting the river valley. Boyar told Richardson he did a terrific job carrying out the Chairperson duties for the remainder of 2011. Rajs thanked Richardson, wished everyone a Happy New Year and thanked the public for attending the meeting. She noted it is nice to have them there listening to what the Council has to do.

**Public Comment on the Agenda:** Bernie Handler of Damascus recommended that the UDC's letter in reference to SB 1100 and HB 1950 be sent to Michael Peifer as he is going to be the State Representative for Damascus Township after redistricting.

**Approval of December 1 Meeting Minutes:** A motion by Boyar seconded by Richardson to approve the December 1 meeting minutes was carried unanimously.

**Committee Reports:** Committee reports were provided based on the meeting minutes. They were: December 20 Water Use/Resource Management by Ritter; December 20 Operations by Roeder (as Richardson was not present for the meeting); and December 20 Project Review by Peckham.

Ritter noted that the total combined water in storage at the New York City Reservoirs is still 17% above normal for this date.

Roeder commented that Bill Douglass was with the Council for many, many years and feels that he should be remembered for all the years he served the Council well. Roeder questioned if the keys to the safe deposit box had been found. Ramie informed him that they have not. Roeder asked when the Council office computers were last updated. Soete told him it was back in 2004.

Peckham said that he and Soete were both in attendance at the Hancock town board meeting and that they passed the site plan review law. He noted that the Town of Hancock thanked Soete and the UDC for the Technical Assistance Grants they received to make the site plan review possible.

Richardson said that while he was not in attendance at the meeting where sending the letter to PA DEP concerning Holbert Brothers' application to mine 40 acres was addressed, he wanted to bring it up again at this time for further discussion. He could not believe that the UDC was not sending a letter requesting to be part of the hearing. He noted that any project this size, the UDC would typically want to comment on it. He said the UDC would simply be there to state their case. There has never been any action by the committee or the Council to shut the Holbert Brothers down or not allow them to operate. He feels the hearing could be an opportunity for discussion between the parties and that it could possibly be an opportunity for compromise to see if maybe there is a way for everyone to win in this situation. Richardson made a motion to send the letter to the PA DEP to request being part of the hearing. Boyar seconded the motion as he was going to bring this matter up under new business later on in the meeting. Rajsz questioned McKay if his township had the opportunity to review the letter. McKay did not know. Boyar reiterated that all we are asking for is to have a "seat at the table" and perhaps have the opportunity to open a discussion and he does not feel there is any harm in doing this. He also suggested in order to have consistency, since we wanted to be heard on the township level, we should ask to be heard on the state level. Peckham questioned if anyone had talked to Holbert specifically about his intentions and if there was any chance of compromise. Roeder noted that he and Niflot had visited Holbert Quarry. McGuinness said that he had recently spoken with Holbert. Henry asked if the letter in question was on the agenda. Ramie said that it was not since the item had been tabled at the committee level. A brief discussion of the contents of the letter took place. McGuinness said the hearing is specifically looking at the conditions of the permit for Holbert. A discussion of McGuinness' conversation with Holbert took place. It is McGuinness' hope that a solution to this issue can be reached through compromise. Roeder explained the Holbert issue to the new members in attendance and stated that he would like to see this issue worked out by compromise. Roeder wanted to know if the DEP hearing would involve lawyers. He was told that it would not. Henry questioned if any of the proposed 40 acre Holbert Quarry expansion would be visible from the river. He was told that the quarry would not be visible, but that the results of quarry activity may impact river views. Members read copies of the letter that were distributed and discussed it among themselves. The motion to send the letter to the PA DEP was carried with two abstentions (Lackawaxen and Hancock).

### **Status Reports**

**Delaware River Basin Commission:** Collier wished all a Happy New Year and noted that Ritter did a good job explaining that the water supply is in good shape. She stated that even down in the lower basin the salt line is 20 miles below where it normally is this time of year. Collier mentioned there were two retirements at the River Master's office. Both Gary Paulachok and his assistant, Bruce Krejmas, retired each with over 30 years of service to the USGS. She noted that Steve Blanchard, the official River Master, is reviewing applications to replace them and will soon make a decision.

Collier explained that the Thursday before the special meeting of the DRBC on gas drilling regulations scheduled for November 21, the Commissioners talked among themselves and didn't feel comfortable at that time to vote on the matter so they postponed the meeting. Collier said that she did not have much information beyond that, but it is her hope that there will be more information on a path forward by the end of the month. She said staff is continuing to prepare information and tools so if the

Commissioners decide to move it to a vote, they will be prepared. Some of the products being worked on are the comment response document, a tool that would support the natural gas development plan (NGDP) where well pads would be sited and the sensitivity of those lands to water resources, water monitoring plans, and guidance documents. A lot is also being done to improve the IT system and data management system so that DRBC will be able to take electronic applications. Henry questioned what the time frame is for the review process when a person applies for a well. Collier told him there are currently two paths. One path is for review and a vote by the Commissioners at one of their five regularly scheduled public meetings each year. The other is an Approval by Delegated Authority (ADA), which would allow staff to approve applications if everything is in line. This would not include applications in the river corridor or the New York City Reservoir watershed. They would require a docket approval by the Commissioners. Allowing some applications to go forward on a staff basis would help to speed up the process, but they still have the same review. When looking at the well pad, based on the proposed rules, the DRBC would be looking at set backs from streams and wetlands, looking at the requirements of natural gas development plan, surface and ground water monitoring reports that would have to be submitted and waste water aspects. The driller would have to say where the water is coming from and where it will be treated and disposed. Henry questioned if PA DEP already monitored these procedures. Collier told him they did not cover all aspects addressed in DRBC proposed regulations. Collier continued that where there is equal or higher protection in the states, the DRBC defers to the state. The DRBC sets a baseline level, but if the state has a more stringent requirement, then that applies. She added the DRBC is very cognizant of the concern of duplication, but what they want to do is have regulations in place to protect the resources of the Delaware.

Collier reported that the USGS is doing a nationwide water census. They are looking at where we have problems with water supply across the nation, where there are ample supplies and other concerns. The USGS also has money to do three pilot studies to look more in depth at water supply issues. The Delaware River will be one of the three studies. It was picked because there is a good data base and they can really take it a step further. They are in the process of putting their work scope together. Richardson asked Collier if the project is to identify the quantity and quality of the water in the basin. Richardson continued that years ago, Cornell Cooperative Extension had someone on staff whose sole job was to look at water issues. The position did not last long. Richardson feels that an issue he sees is when and if gas drilling comes into a town, it is not known how large an aquifer is there. Collier told him that in the Pennsylvania Water Plan Act 220, they require reporting from individual wells. She added it is a reporting, not a regulation and she does not think New York has this. DRBC is looking into a larger water supply study to cover issues such as climate change, different demands such as energy production, changes in demand centers as people move, and ecological flows to determine what is needed in the river. She is hoping that the USGS work will help them get a handle on the bigger picture. She did agree with Richardson that it is critical to have this done at the town and county levels also.

DRBC is putting together a strategy for nutrients down in the estuary area and they have also been working for more than a year now with New Jersey IT to develop a new website. She is hopeful that by the end of the month people will be able to see a brand new DRBC website.

Collier stated that Karen Reavy, the DRBC GIS specialist, has been working with Ramie on the updating of some recreational maps for the area for the UDC map and guide and they are happy to do that.

Collier noted that as usual funding is a problem. The DRBC has only received one year of federal funding in the last 15 years. She said she was able to get a meeting back in December with Vice-President Biden's office. She was able to provide them with much information and is hopeful that the DRBC will be able to get into the President's budget.

Collier said she was surprised to have received an e-mail from a Pennsylvania Representative who had received a letter from the Delaware Riverkeeper supporting the DRBC because this Representative had heard the threat that Pennsylvania may be trying to cut or eliminate the DRBC's funding. She said she will give a copy to Ramie and hoped that members may have interest in reaching out to their Pennsylvania legislators.

Collier concluded by announcing two upcoming meetings. The RFAC (Regulated Flows Advisory Committee) meeting will be on February 16<sup>th</sup> and the next full Commission is scheduled for March 7<sup>th</sup>. She added she hopes that by the end of January she will be able to tell members what the next move is concerning natural gas.

**NYS Dept. of Environmental Conservation:** Rudge congratulated Rajs on her election as Chairperson and apologized for not being in attendance for several meetings. He explained that as a result of Hurricane Irene and Tropical Storm Lee, there was not a direct route from Council office to his home until just recently.

Rudge wanted to remind members that New York State rescinded the Marine Fishing license this year and instead, developed a no-fee recreational marine fishing registry. He noted that anyone fishing for migratory fish from the sea, such as striped bass and hickory shad to name a couple, is required to register under that marine fishing registry. He said it is fairly easy to do and that there is no cost involved. One can register on-line or anywhere that sells fishing licenses and there is also a toll free number. He said there was a handout in members' packets providing information on the registry. Henry asked Rudge who needs to register and how is it enforced. Rudge told him anyone fishing in waters in NYS pursuing fresh water fish needs to have a fishing license and anyone pursuing migratory fish needs to be register under the marine fishing registry. Henry asked if Pennsylvania has a registry. Rudge said he believes that they do. Rudge told members once a person registers, they do receive proof of registration in return. Rudge explained this registry stems from a federal requirement as they want to be able to quantify the fishing that takes place in the state. Rudge added that a NYS fishing license alone allows a person to fish in the State of New York for fresh water species, it does not allow a person to fish for migratory species. In order to pursue migratory fish from the sea, one must register under the marine fishing registry.

Rudge noted that NYS just came out with new regulations for ice fishing. It is a minor change, he noted, but thought members would be interested. He stated in waters where ice fishing is permitted, anglers will be allowed to use up to three lines and five tip-ups except as noted in special regulations for specific waters. Previously, ice anglers could only use two lines with five tip-ups. He took the opportunity to remind people to take precautions in terms of making sure there is sufficient ice thickness before venturing out on the ice. Rudge would recommend bringing a personal flotation device with them onto the ice.

Rudge reported that New York State is one several states that has contributed to a Delaware River sustainable fishing plan for American shad. The report has just been presented to Atlantic States Marine Fishing Commission. The report shows that the shad in the Delaware River are relatively stable, but at low levels. He feels the management is focused on the lower Delaware. The recreational fishery that exists in the non-tidal portions of the Delaware is largely unknown, but considered low levels. It is his understanding that most anglers practice catch and release for shad so he does not foresee any changes from their standpoint for this portion of the Delaware for shad.

Rudge stated that the issues on Big Island are pretty much wrapped up. The individual operating the tilapia fish hatchery has completely pulled out all the equipment related to it and has filled in the ponds. The last step he needs to take is in the spring, he will need to re-seed and re-vegetate the area. NYS DEC will ensure that he does this. Boyar questioned if there is a penalty for introducing exotic species into the river. Rudge said there is not a penalty, although it is an issue and they would not have allowed this operation if he had come to them and asked for permission.

Boyar directed a question to Collier. He asked what the plan is to get on track to obtain the voids in the reservoirs that were called for in the flow program developed last year. He feels a weather event in the springtime, without these voids, will be an issue. Collier noted that there had been some voids in the reservoirs during the storms in the summer and that did help. Collier explained that one of the problems is how much they can release from the reservoirs. She said they are at the highest level of releases right now that they can make. It is her hope that by the RFAC meeting in February the framework will be in place for the next generation of FFMP which it is hoped will be based on New York City's OST (Operation Support Tool). The OST couples existing computer models of reservoir operations and water quality, ingests real-time data on streamflow, water quality, reservoir levels, diversions and releases, and incorporates specialized streamflow forecasts. OST then applies all the operating rules and laws governing reservoir operations, and predicts future reservoir levels and water quality. These predictions allow water supply managers to make operating decisions based on the most current data and forecasts. Collier said she has been at this job for 13 years and there is such a huge difference in how people today are working together and trying to do this ensemble forecasting.

**PA Dept. of Conservation & Natural Resources:** No report in the absence of Representative Dennis DeMara.

**National Park Service-Upper Delaware:** McGuinness wished all a Happy New Year, welcomed the new members and pointed out that the new Berlin Representative Al Henry was NPS Chief Ranger. He also told members about the Park Service's new boat and said if anyone wanted to go out in it on the river, to call headquarters to make arrangements.

McGuinness reported that he met with the Wayne County Commissioners in Tyler Hill. They discussed relationships, working with the Pennsylvania townships, the Park Service's role, their role, the Delaware River, the economy and a number of other topics.

The NPS has kicked off their water safety campaign. They committed \$10,000 locally. He is going to work on getting the Delaware Water Gap Superintendent John Donahue to match those funds and acquire funds from the regional office. Ranger Kevin Reish is taking the lead on this campaign. The Park Service is hoping to work together to make this a community effort and to reach out to diverse audiences.

Carla Hahn had been working with Soete the past couple of months to comment on Tusten and Lumberland zoning revisions and review the draft Highland Comprehensive Plan. The Park Service has also provided digital maps of the Upper Delaware corridor to the County of Sullivan and the towns of Tusten and Highland for use in zoning and land-use planning. These maps are available to all the towns and townships, McGuinness said. The Park Service is working now on finishing their 2011 annual report and McGuinness said he will have a copy of that available at the next meeting at which time he would like to receive input and give members an idea of what the Park Service is planning for the summer.

McGuinness proposed that there be a workshop on the River Management Plan to familiarize new and veteran members alike on it. Many topics would be discussed and it could be an opportunity to vent any disagreements, work towards being a partnership, and look at ways to work together to ensure that the corridor and the river are protected.

Peckham noted that the Land and Water Use Guidelines can be amended, but that it is a major amendment and would require going all the way to the Secretary of the Interior. He feels that contradicts what McGuinness said last month. A brief discussion of amendments and changes to them took place.

Boyar commented that he likes the idea of going over the River Management Plan and said the Town of Highland would love to participate in a workshop if and when it is offered. He feels everyone could be "brushed up" on what the program is. Rajsz agreed it would be a valuable program. McGuinness added it has been discussed that UDC staff and Park Service possibly conduct mini-workshops with local government planning boards in order to help them understand the RMP better and in order to eliminate any misconceptions. Richardson noted that over the years, retreats had been offered from time to time to bring people in and discuss the mission of the Upper Delaware Council. He feels that maybe it should be considered again. Henry said that the RMP calls for a review every five years and he does not think that has been done. It is about time now. Ramie said that at the committee level the RMP has been reviewed chapter by chapter and a folder is being kept with comments in it.

**UDC Acting Executive Director's Report:** Ramie reported it had been decided to defer the swearing-in ceremony to February in order for the towns and townships to hold their reorganizational meetings and allow for any changes in appointments. The UDC Vice-chairperson election will be held and the group picture will be taken on Feb.2., followed by a reception. Ramie told new and returning members that if they have any interest in participating on any of the three standing committees, we strongly encourage it as members are needed. She added the meetings are all held on a monthly basis. Water Use/Resource Management meets on the third Tuesday of the month at 7:00 p.m. and the Operations and Project Review committees meet on the fourth Tuesday of the month at 6:30 and 7:00 p.m. respectively. All a member needs to do to become a voting member is to let staff know and they will be added to the roster and count towards the quorum. She noted that the WU/RM committee will meet next on January 17<sup>th</sup> and the Operations and Project Review committees will meet on January 24 and suggested that members could attend to see if they might be interested. The election of chairpersons for the committees will be held at the January meetings.

Ramie reported she is in the process of distributing orientation packets to new members. As soon as staff is advised of an appointment, the packets are sent out. She is also sending letters of appreciation to any outgoing representatives and alternates.

Ramie noted that the election has brought about some changes at the Supervisor level for some river valley towns and she proposed that she, McGuinness and Rajs go and meet with these new officials to give them an orientation about the UDC and the Park Service and what services are offered.

Ramie told members there were two emergency expenditures that she had to authorize. On Tuesday, January 3<sup>rd</sup> staff found the office at 45 degrees. Don Bellotti of Callicoon came to the office on Wednesday, January 4<sup>th</sup> to fix the immediate condensation problem and is scheduled to return next week to install heating tape and insulation around the pipe from the fuel tank into the building to remedy the problem. His estimate was \$150.00. Ramie continued that there was a big problem with the UDC website. If people Googled upperdelawarecouncil.org and clicked on the link, it would release a virus. The Council's webmaster, Dorene Warner of W Design in Barryville, looked into it and advised Ramie the website would need to be placed on a new host server. The new host server will cost \$238.98 for a 36-month term which includes one year for free, and Warner's fee for her service will be \$250.00. Warner is planning on making the switch over the weekend in order to minimize any disruption to the service.

The switchover from cable to DSL Internet service has been completed in the office. This happened gradually over the past two weeks. As a result, staff does have new e-mail addresses that end in the frontier.com extension. The press release about this change is included in members' packets. Ramie noted that since we have switched to the DSL service, we have not experienced any of the frequent internet outages that we had been having. She added that bundling the Internet with the phone service through Frontier will lead to significant monthly savings for the Council.

**Old Business:** None

**New Business:**

**UDC Resolution 2012-01: Authorizing Signature of Corporate Resolution/Bank Cards:** A resolution to allow the UDC 2012 officers and Acting Executive Director to sign the corporate resolutions and signature cards for the accounts in various banking institutions was presented. A motion by McKay seconded by Niflot to approve the resolution was carried unanimously.

**UDC Resolution 2012-02: Authorizing Agreement with Eckersley & Ostrowski for Audit/Accounting Services FY 2012:** A resolution to contract with the firm of Eckersley and Ostrowski to provide auditing and accounting services for Fiscal Year 2012 was presented. A motion by Roeder seconded by Richardson to approve the resolution was carried unanimously.

Ramie noted that the completed FY2011 audit reports had been received on Tuesday.

**Draft letter to The Honorable Tom Corbett: Support Damascus and Shohola Townships' positions on SB 1100 and HB 1950:** Henry questioned Berlin Supervisor Paul Henry, who was in attendance at the meeting, if he was in favor of sending the letter.

A motion to send the letter to The Honorable Tom Corbett supporting Damascus and Shoholas Townships' positions on SB 1100 and HB 1950 was made by Richardson seconded by Henry and carried unanimously.

**Draft letter to NYS DEC: Comments on Draft Supplemental Generic Environmental Impact Statement(dSGEIS) on the Oil, Gas, & Solution Mining Regulatory Program:** Richardson said he appreciated all the work that has gone into the letter and made a motion to send the letter to the NYS DEC commenting on the Draft Supplemental Generic Environmental Impact Statement. It was seconded by Boyar and carried with one abstention (Rudge).

**Other:** Rajs took the opportunity to thank the representatives that are no longer on the Council for their time. She thanked Scott Rando who was in attendance at the meeting.

**Public Comment:** Bernie Handler of Damascus questioned Collier if the regulations on gas drilling will be available to the public for review in advance of the new public meeting like they were the last time. She answered that is something the commissioners are discussing right now.

Sandy Long of *The River Reporter* questioned Rudge if there were any fines levied in the tilapia farm situation. He told her no. She wondered if there is any prospect of that happening. Rudge told her the violations are not dramatic or clear in this situation. He explained to her that the law states you can not excavate more than 750 cubic yards or 1,000 tons in any one year without getting a mining permit. It is estimated that the tilapia ponds encumbered that amount of material, but it did not leave the site. Within the mining law there is an exception for agricultural or pond creation so the owner would have qualified for an exemption for that, but he had not asked. Rudge added the DEC's jurisdiction wasn't strong there and the owner was willing to cooperate with them when it became clear that he was undertaking activity that for good reason would not have been permitted there. The owner cooperated and rectified the situation. A brief discussion about excavating in flood plains took place. Long then asked if there was any sort of penalty for the wildlife that was killed. Rudge answered that was not something the DEC was pursuing. McGuinness stated that is something the Park Service is pursuing through the U.S. Fish and Wildlife Service as a violation. There is an investigator from the Fish and Wildlife Service looking into it.

Charles Petersheim, owner of Catskill Farms, announced that he was in attendance as a result of being at the Town of Lumberland's board meeting concerning public comment of the zoning re-write where many times the UDC was being referred to as to why things were being rejected and he wanted to come and see what the UDC was. He was fascinated to see the full representation of issues in one room which he feels is missing at some local levels. He commented that the almost full attendance is testament to the importance of what the UDC is doing. Petersheim told members about Riverfriends NY which is an "organization whose goal is to be the voice of the community that is being unheard. We care about jobs, we care about accurate journalism, we care about stopping local government overreach; overreach into our rights, overreach into our pockets. We are made up of local businesspeople, local families and local parents. If you'd like to stay in touch with other area residents who live here, work here, raise families here and have concerns that are not being voiced at the town level or are being ignored by the newspapers, sign up for our newsletter. The most important attribute of a community is diverse and respectful conversation. Join ours if you don't like what you are hearing." He added the e-mail address is [riverfriendsny@gmail.com](mailto:riverfriendsny@gmail.com). Dean questioned what Catskill Farms is. Petersheim told him they build homes in Sullivan County. A brief discussion about local zoning issues took place.

A motion to go into Executive Session to discuss litigation was made by Richardson and seconded by Roeder at 9:10 p.m.

A motion to come out of Executive Session 10:00 p.m. was made by Roeder and seconded by Henry. A motion authorizing McGuinness to negotiate with Holbert for a potential settlement was made by Roeder seconded by Henry and carried unanimously.

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

*Minutes prepared by Cindy Odell 1/20/12*