

UPPER DELAWARE COUNCIL MEETING MINUTES

February 2, 2012

The Upper Delaware Council held its monthly meeting on Thursday, February 2, 2012 at the Council office in Narrowsburg, NY. Chairperson Nadia Rajszy called the meeting to order at 7:32 p.m. The Pledge of Allegiance and roll call followed.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder, Jr., Town of Cohecton-Larry Richardson, Town of Tusten-Tony Ritter/Susan Sullivan (8:00 p.m.), Town of Highland-Andrew Boyar, Town of Lumberland-Nadia Rajszy, Town of Deerpark-David Dean, Damascus Township-Jeffrey Dexter, Berlin Township-Alan Henry, Lackawaxen Township-John McKay (7:38 p.m.- 9:21 p.m.), Shohola Township-Patricia Jeffer, Westfall Township-Alex Cena (7:34 p.m.), State of New York-William Rudge, Delaware River Basin Commission-Richard Gore, 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: Debra Conway-Town of Highland alternate, Ginny Dudko-Town of Deerpark alternate, George Fluhr-Shohola Township alternate. Absent: Commonwealth of Pennsylvania.

Election of Vice Chairperson: As a member of the Nominating Committee, Roeder made a motion to nominate Jeffrey Dexter of Damascus Township as Vice-Chairperson. Peckham seconded the motion and it was carried unanimously.

The new officers, Chairperson Nadia Rajszy, Vice-Chairperson Jeffrey Dexter, and Secretary/Treasurer John Niflot took their oaths of office during a swearing-in ceremony officiated by 2011 UDC Chairperson Larry Richardson.

Approval of January 5 Meeting Minutes: A motion by Boyar seconded by Richardson to approve the January 5 meeting minutes was carried unanimously.

Public Comment on the Agenda: None

Committee Reports: Committee reports were provided based on the meeting minutes. They were: January 17 Water Use/Resource Management by Ritter; January 24 Operations by Rajszy, and January 24 Project Review by Richardson.

Status Reports

Delaware River Basin Commission: Richard Gore introduced himself as the Chief Administrative Officer at the DRBC and noted that he is involved with the agency on the financial end and not the technical end. Gore referenced the hydrologic reports provided in members' packets and reported that there is quite a bit of water in the reservoirs at this time. He said storage is 22.66 billion gallons above the level of one year ago and added that DRBC technical staff did caution him and said that there is little or no snow pack. Gore provided storage information as of January 27th for the reservoirs and said that if anyone had any questions regarding the hydrologic aspects, he would be happy to take those questions and make sure they got to the appropriate technical staff person and get a response back to them. Gore said that the DRBC Commissioners are still in discussion about their proposed gas drilling regulations and he had nothing new

that he could report on that subject. Gore noted that funding is an issue and continues to be an issue. He said he was pleased to report that the Governor of Delaware's proposed budget contained the full share due to the DRBC. He added that NYS Governor Cuomo's proposed budget was released and it contains a reduction over this year's appropriation for the DRBC of approximately \$109,000 which reflects 39% less than what had been requested of the state. Gore believes that Pennsylvania's proposed budget is to be advanced on February 7th so the Commission is waiting to see what that contains. They are also waiting to see what the state of New Jersey's budget contains. He added that the likelihood of an appropriation from the federal government seems exceptionally remote. Gore said he was disappointed with New York State's appropriation, but these are issues we all have to deal with.

NYS Dept. of Environmental Conservation: Rudge said he had reviewed last month's Project Review Committee meeting minutes and was prepared to make a report on the Little Joseph Realty, Inc. Sand & Gravel Mine storm water issues. Notices of violation were sent out to them as they were in violation of their permit and the DEC met with them and discussed several solutions to their storm water problems. They have completed several upgrades to their system that include stabilization of diversion drainage swales, stabilization of the sediment pond berms, increasing the size of the pond to provide additional holding capacity before water leaves the site, and raising the outlet to also provide additional capacity. As of February 1st, all of the work that Little Joseph had agreed to with the DEC had been completed with the exception of seeding the site which will be done in the spring. They have agreed to a schedule of weekly inspections and will report to the NYS DEC. An inspection of the site in mid-December found some turbidity leaving the site, much reduced from what was seen in the past, but they will be working with them to resolve the issue. Rajsz questioned if they are, for the most part, in compliance. Rudge says it is an issue they will continually monitor. He added they have made substantial improvements to the site and he hopes they will resolve this.

Rudge referenced the news release in members' packets titled "DEC Releases Draft Bobcat Management Plan". The plan is intended to guide bobcat management for the next five years. He said the handout is fairly self explanatory and they welcome comments from anyone who wishes to provide them. The comment period is open through February 16th. He added comments should be directed to the NYSDEC Bureau of Wildlife in Albany, NY. Peckham said that he has pictures of bobcats captured on his trail camera that he would e-mail to Rudge. Rudge said he would love to see them.

The second press release Rudge felt UDC members would be interested in was one stating the NYS DEC is taking enforcement action against a company in Pennsylvania for water quality violations that impacted New York State. They are seeking fines of \$187,000 from U.S. Energy Development Corporation. He hopes this is an indication that New York State takes our water quality issues seriously. If an issue occurs and it affects New York State water, we are going to take action. Boyar asked Rudge to elaborate on this a little more. Rudge said that NYS requires storm water controls on any disturbance greater than one acre and has strict Clean Water Act laws in place to protect the water quality in New York. Even though the actual stormwater practices that failed were in Pennsylvania, because they impacted New York waters, the DEC took action.

Niflot told Rudge that he has lived in this area all his life and has never seen a bobcat in the wild and he can not understand why there is a hunting or trapping season for an animal that he has never seen. Rudge told Niflot that they do assess the population through a variety of means and their biologists have concluded that the population is high enough to allow for a hunting season. He told Niflot that not all species are easily seen in the wild. He noted that bobcats are a much more elusive species. He added that as tempting as it is to draw conclusions based on our own experiences, he feels that we need to look to the scientists who have ways of assessing the population and who understand their habits. Rudge told Niflot he gets his point and suggested that if he feels a higher population of bobcats should be maintained, that is a comment the DEC would accept. Peckham noted the regulations for taking a bobcat are significant. Dean asked Rudge if he had the number of bobcats taken last year. Rudge said that he could get that number. Dean added that he has seen two recently and considers it a treat to be able to see them. A brief discussion of wildlife sightings and management took place.

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

National Park Service-Upper Delaware: McGuinness said that in response to the Council's request for assistance with legal fees expenses, he was able to secure \$20,000.

McGuinness noted NPS had completed their 2011 State of the Park Report and it was provided in members' packets. He told members they are welcome to take it home and read it. He said it describes all the activities that the Park Service was involved in during 2011. Peckham questioned what the point "Implemented a Special Use Permit policy to assure safety during construction projects that will affect river users" was about. McGuinness told him that was for bridge projects to ensure river safety and to make sure that nothing goes into the river. McGuinness said he himself was impressed after reading all that the Park Service has accomplished now that it is compiled into one document and he recognized that he has a great staff. He is proud of what the staff has done, he said. McGuinness told members after they read the report, if they have any questions, to give him a phone call. He said he also welcomes any ideas. Peckham questioned which incident it was for which the Park Service was not the primary investigator. McGuinness told him it was the fisherman who drowned up north. He said they did conduct a follow-up investigation of the incident. A discussion of the incident took place.

McGuinness referenced the handout, "A Call to Action". It is a National Park Service plan to engage parks into the communities and with the American public. The Plan spells out 36 actions and McGuinness said he got together with staff and they collectively chose five actions they are going to commit to. His reason for bringing this with him to the members is they are asked to work with their communities and partners to achieve these goals. He named numbers 7, 12, 14, 15, and 16 as the ones that have been chosen, noting that three of them are education-based. He stated he would like to challenge the Upper Delaware Council and some of their other partners in the valley to join them in engaging in these action items and helping them complete them. He said this will be going on for the next four years through 2016, which is the agency's 100th birthday. He elaborated on some of the action items, again presented the challenge of working with the Park Service to achieve these goals, and asked members to review the handout and said we will talk about it again in the future.

McGuinness said the NPS will be conducting a Delaware River Outstanding Remarkable Values workshop. He noted a planning meeting took place with partners covering the other sections of the Wild and Scenic Sections of the Delaware River. It is scheduled for March 27th - 30th. The values that will be analyzed include scenic, recreation, ecological, geological, cultural, the free flowing condition, and water quality. They are currently involved in putting together technical reports of all the activities they are engaged in for each of these values. He asked if a couple of the Upper Delaware Council members would join them at the workshop. Some of the organizations being invited to participate include the Army Corps of Engineers, the DRBC, NYS DEC, NY Historic Preservation Office, PA DEP, PA DCNR, PA Fish and Boat Commission, and the Fish and Wildlife Service, to name a few. The values will be discussed and described. They will look for ways to use them to protect the river and the corridor in the future. Ramie asked if a location had been determined. McGuinness told her not yet. He is hoping it will be held in a central location on the river.

McGuinness said it has been a pleasure to work with Ramie. He said they have been working together on a number of issues and she has been great. He thanked her for her efforts.

Dean asked McGuinness, in light of him being short-staffed this coming season due to the budget, if a 2,400 square foot building for one million dollars for a visitor's center gives him pause. McGuinness had mixed feelings on this issue and a discussion took place about costs and requirements for similar structures. Dean said it gives him pause to think that over one million dollars is going to be spent on a 2,400 square foot building and he hoped he was not the only one outraged. Ramie said it is only a concept at this point and the possibility exists that it could be scaled back.

Rudge asked if the State of the Park report was available on-line. The report is available at www.nps.gov/upde/parkmgmt/planning.htm. McGuinness said the reports from 2006 to present are available at that site as well as the RMP and various other documents.

UDC Acting Executive Director's Report: Ramie reported that members were polled about switching the time of the UDC monthly meeting from 7:30 p.m. to 7:00 p.m. and that the overwhelming response was yes. A motion by Richardson to change the time of the monthly meeting to 7:00 was seconded by Boyar. McKay asked if committee reports could be limited to five minutes and suggested amending the motion to

state that. Richardson recommended separating the two issues. Rajsz said that there is a motion and a second on the time change. The motion was carried unanimously.

McKay made a motion for committee chairpersons to make their best effort to limit the committee reports to five minutes at the full Council meetings. The motion was seconded by Peckham. Much discussion on this subject took place. McKay asked that instead of reading the minutes, chairpersons give a synopsis. The motion was carried with one nay (Richardson).

Ramie told members she supplied the Bank of America with the minutes from the January 24 Operations meeting showing that it had been approved to have the safe deposit box drilled open due to loss of the keys. The next step is to make an appointment for the drilling with Ramie present. She noted the price to have this done is \$150.

Ramie said the 24th Annual Awards Banquet is scheduled for April 22nd at The Carriage House in Barryville. An invitation to a prospective keynote speaker was sent out with the request that they RSVP to us by February 10th. Solicitation of public nominations for award recipients will take place beginning the week of February 13th with a deadline of March 19th. An Awards Subcommittee which consists of the Chairs from the three standing committees will meet on March 27th at 6:00 in advance of the Operations Committee meeting. She said the nomination form and all information will be posted on our website and also publicized in all our usual outlets when it is time to open them up. McGuinness noted that April 22nd is Earth Day.

Ramie reported that she met with Carla Hahn of the Park Service to work on a draft outline for the River Management Plan workshop. She said the target date remains Saturday, March 24th, 10:00 a.m. until approximately 3:30 p.m. Ramie said she is waiting to hear back if the Tusten Town Hall is available for that date. Lunch will be provided and the workshop is going to be by invitation so that the audience can really be targeted. New and veteran UDC members will be invited as well as Park Service staff and members of the local town and township boards, planning boards, and zoning boards. Ramie listed an outline of tentative subjects to be reviewed at the workshop. Peckham asked who would be running the workshop. Ramie told him it is to be jointly sponsored by the Park Service and the Upper Delaware Council. He asked who the speakers would be. Ramie told him that is being discussed. Ramie added that they are looking into the criteria to provide continuing education credits as required for planning board members on the New York side. Ramie is hoping to have "Save the Date" flyers out by the week of Feb. 13 with formal invitations going out the week of March 2nd and a reservation deadline of March 16th. Ramie stated one of the speakers they would like to invite is George Fluhr to speak about the history of the RMP. McGuinness questioned if they were planning on bringing in people from New York State and Pennsylvania. Peckham said he feels that invitations should be sent out to Manchester Township and Buckingham Township.

Ramie said we received our federal funding allocations. We had not received any funding since November, and as a result it was necessary to use money from the savings account to pay the bills. In the last week we received the funding for the last half of November and for December. The Park Service Northeast Regional office apologized for the delay. Ramie thanked McGuinness for getting the legal fees reimbursement assistance through the process.

Ramie referenced the February calendar provided in members' packets which highlights various meetings and activities. She told members she could have this available each month. Members were receptive to that idea. Boyar asked if this calendar is updated on the Council website. Ramie told him it is not as it is an internal document of external meetings attended by staff.

Old Business: None

New Business:

Draft letter to NYS DOT: Pond Eddy Bridge Project: Rajsz stated the Pond Eddy Bridge project subject was discussed at the Upper Delaware Scenic Byway meeting and the Project Review Committee meeting. She said that on one wants to stop a bridge from being built, but after learning about the size of the proposed bridge and the cost to construct it, she feels it necessary to question it. She referred to the letter in members' packets and said she would entertain comments. Peckham said he would like to hear what Shohola has to say about the subject. Rajsz agreed. George Fluhr, Shohola Township UDC alternate,

addressed members. He said that after Shohola Township has had the support of the Council on this item for over 20 years, he and the Township Supervisors were surprised and shocked that the letter had been proposed. He noted that in paragraph six of the letter, it reads, "The UDC does not wish to cause any further delays or escalation of the costs associated with this project." Fluhr feels this letter would do exactly that. Fluhr fears for the safety and welfare of the persons living on the Pennsylvania side of the existing bridge. He said that over 20 years of effort at Pond Eddy must continue without a letter that will result in more delay and higher costs. Rajsz reiterated that she would like to know if there is a way to build a bridge that is more fitting to the character of the river valley. Fluhr told her there are state and federal requirements that need to be met. Rajsz questioned why were led to believe that they would have any sort of input as to the design of the bridge. Fluhr told her that the design is flexible but the dimensions are not. Fluhr asked for the letter not to go out and offered a challenge to members. He wants them to look at the future noting there are tremendous opportunities for today's unused game lands and forest lands in Pond Eddy, PA. He shared his vision of someday a train running from New York City, turning Lumberland, NY into a home for commuters. He compared it to the Long Island Railroad opening up Long Island. But, he added, the current concentration needs to be on the people living there right now. Ritter asked what was the cost of the Shohola-Barryville bridge when it was constructed. It was determined to have been around \$12 million. Fluhr commented that the price of the Pond Eddy Bridge has doubled since the year 2000 according to a news release he had with him. Rudge feels the Council's role is to comment on how the proposed structure is compatible or not with the Delaware River, not on how it impacts the pocketbook of the residents of the State of New York or Pennsylvania. The impact on the character of the river valley is a concern that we as a Council have the expertise to lend on this issue, he added. He does not feel we are in a position to judge whether the cost is a fair expense. He suggested re-writing the letter to express those concerns. Henry questioned if the proposed bridge is to be in the same location. Rajsz told him the plan is to move it about 20 feet upstream. Fluhr added the plan is to keep the current bridge open until the other is built. McGuinness said they plan to put a dike across the river so they are able to drive across to build the bridge. As a result, the river will be closed at that section for approximately two construction seasons. There will be a section left open for water to flow through, but the feeling is it would be unsafe for recreational users. Henry questioned what the proposed start date for the project is. Ramie said one reference was for contract bids to be let at the end of 2012. Boyar said that in the 30 years they have attempted to build this bridge, someone has lost sight of the common sense. He added that the Town of Highland is sending a letter to NYS DOT stating there is money being wasted here. He said it is too much money to spend impacting education, health, other important issues. He referred to the project as "New York's bridge to nowhere". He said sending a letter to have someone take a pause and think about this would not be the worst thing in the world and he thinks the letter should be sent.

Rajsz said the next Pond Eddy Bridge Design Advisory Committee (DAC) meeting is scheduled for February 14th and is open to the public. Sullivan noted there is a seven-ton limit on the bridge currently and the idea of building one with a 40-ton limit seems extreme for the area it is serving. She said emergency vehicles should be considered and if a smaller bridge could accommodate those, she fails to understand the purpose of making it bigger. Rajsz said it was brought to her attention that because there is federal highway money is involved, the bridge has to be built to certain specifications. Boyar noted that the existing bridge was put on the Historic Register in 1988.

Fluhr said the opportunity to have the bridge exists now for the first time in years and years. He said the purpose of the DAC meeting on February 14th is to discuss the design of the bridge and how it can fit in with the area. McGuinness said he is on the DAC and that all sorts of options are being presented including a truss bridge that would look similar to the old one. Peckham asked if they have a design in mind that they are leaning towards. McGuinness said that is still under discussion, but Penn DOT is leaning towards the 30' wide bridge to that they will be able to do maintenance and always keep one lane open. McGuinness added that people want to try and convince Penn DOT to build a bridge that will fit in with the character of the area. He said that once a design is decided on, it has to go through Section 7 review by the National Park Service to see if it has any adverse affect on the river and if it does, then it doesn't get built.

Rajsz questioned if there was even an independent engineering study done on the existing bridge. Ramie said she actually had a report by an independent engineer, Michael Baker, Jr., who was hired by Penn DOT to conduct a study on the Pond Eddy bridge and the conclusion was that "the existing structure

could not be rehabilitated to meet legal load carrying capacity and design loads". A discussion on engineering studies took place.

Rudge said he feels strongly that the UDC should be commenting on the design and how it will affect the character of the area, and he did not get that from the letter. Discussion took place about re-wording the letter and the history of the existing bridge.

Henry recommended discussing the UDC's issues at the DAC meeting on the 14th. He did not feel there was adequate time to review the letter and that there are so many technical issues that, because we are not engineers, are confusing. He thinks expressing the Council's concerns about the bridge fitting the character of the area can be done verbally at the meeting. McGuinness suggested following up after the February 14th meeting. A motion to table the letter at this meeting and bring it back to committee for further work was made by Boyar, seconded by Henry and carried.

Richardson wanted to note that the proposed Visitor's Center that Dean spoke of earlier is not a National Park Service project. The proposed Visitor's Center was recognized many years ago as a need to go along with the designation of Route 97 as a Scenic Byway. The center is a UDSB initiative and a Byway and Sullivan County collaboration. Sullivan County suggested moving the center from Cochection to Fort Delaware for a variety of reasons.

Rajsz noted Boyar's letter referencing energy evaluation in members' packets. It was decided after a short discussion to take this matter up at the February 28th Operations Committee meeting.

Boyar reported that he had received a letter from NPS indicating that the trash removal program is done. He added that he had received a lot of positive feedback on the program indicating that the river was cleaner. He does not feel this initiative should be lost. McGuinness said it was hard to decide to cut that program. Discussion took place about alternate ways of keeping the river clean. Sullivan noted there is a model in Litterpluck. McGuinness suggested local communities contact the Park Service to try and work out individual programs.

Rajsz suggested recessing the meeting for the annual group photo and the reception before going into executive session. A motion to recess the meeting at 9:35 p.m. was made by Jeffer, seconded by Roeder and carried. Ramie distributed UDC lapel pins to all members who did not have one.

Public Comment: None

A motion to go into Executive Session to discuss litigation was made by Niflot and seconded by Peckham at 9:55 p.m.

A motion to come out of Executive Session at 10:34 p.m. was made by Dean and seconded by Roeder.

A motion to form a subcommittee consisting of Boyar, Richardson, and Henry to directly confer with the UDC's attorneys and be empowered to act on behalf of the full Council was made by Roeder, seconded by Dean and carried, with one opposed (Peckham).

Adjournment: A motion by Roeder, seconded by Sullivan, to adjourn the meeting at 10:35 p.m. was carried unanimously.

Minutes prepared by Cindy Odell 2/9/12