

UPPER DELAWARE COUNCIL MEETING MINUTES

July 5, 2012

The Upper Delaware Council held its monthly meeting on Thursday, July 5, 2012 at the Council office in Narrowsburg, NY. Chairperson Nadia Rajszy called the meeting to order at 7:03 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 Tusten-Susan Sullivan, Town of Highland-Andy Boyar, Town of Lumberland-Nadia Rajszy, Town of Deerpark-David Dean, Damascus Township-Jeff Dexter, Berlin Township-Alan Henry, Lackawaxen Township-John McKay (7:16 p.m.), Shohola Township-Patricia Jeffer, State of New York-Bill Rudge, National Park Service-Carla Hahn. Also in attendance: Ginny Dudko-Town of Deerpark alternate, Debra Conway-Town of Highland alternate. Staff in attendance: Executive Director-Laurie Ramie, Secretary-Cindy Odell. Absent: Town of Cochection, Westfall Township, Commonwealth of Pennsylvania, Delaware River Basin Commission.

Approval of June 7 Meeting Minutes: A motion by Boyar seconded by Niflot to approve the June 7 meeting minutes was carried unanimously.

Public Comment on the Agenda: None

Committee Reports: Committee reports were provided based on the meeting minutes. They were June 19 Water Use/Resource Management by Boyar, June 26 Operations by Rajszy, and June 26 Project Review by Conway.

Boyar noted the WU/RM Committee is still looking for anyone who may have any technical knowledge that might help them with any issues relating to habitat, river/stream improvement, and other subjects to serve as advisory members. Boyar said there has been a tug-of-war going on since 1954 with New York City as to how to get additional water released into the Delaware from the reservoirs when we feel we need it such as during the recent thermal events when the water temperatures have risen, posing a threat to the cold-water fisheries. One initiative that has been discussed is rather than spilling additional water that is not needed for drinking purposes in February when it does no good, mete it out during thermal events. He hopes to get a better understanding of how to trigger someone to release water when necessary.

Peckham noted that he believes it was Rajszy at the Operations Committee meeting who said she was going to bring the Coalition for the Delaware River Watershed Steering Committee invitation to the full Council and that after the vote was taken, Roeder said to go ahead. Roeder said he did not recall it happening the way the minutes reflected, but it is not a big deal; it was voted down at committee and is coming up tonight.

Dean wanted clarification why the Upper Delaware Scenic Byway would need to find another place to meet. Rajszy said it was something that came up during discussion about what the future holds for the organization. Dean asked if someone at the Byway meetings could record the meeting, and Odell could prepare the minutes. Odell said she would have to think about it. Rajszy said one of the suggestions was to ask Debra Conway, who is the director of Fort Delaware where the UDSB hopes to locate its visitor center to take them. Rajszy said the Byway issues are currently just in the discussion phase, but they do need to be addressed eventually due to Ramie's increased responsibilities to the UDC.

Dean asked Ramie, in regards to the June 23rd Five-Year Plan workshop voting results, how she could question the relevance of the number one issue of protecting private property rights to do with trespass. He said the results were overwhelming. Ramie noted that sometimes it depends on which individuals are doing the voting as to what issue rises to that level. Rajs said it was discussed at the Operations Committee meeting as to whether it was the trespassing issue or land use restriction issue, and that is why it was decided to cover both issues by saying "Protect and respect private property rights". Dean said that he does not disagree with that, but suggested adding "and land use" to that statement. Sullivan said that not everyone could be present at the June 23rd workshop to place their votes, and she personally thought of other issues after the meeting she felt should have been addressed, and wondered what the process is now. Could it be revisited? Can issues be added? She noted Dean is suggesting a change. Rajs said that Ramie is compiling a report and will be sending it out to the municipalities for review and comment. Sullivan wondered what will happen with the feedback. It was discussed that it may need to be "plugged in" if it is constructive. Peckham said what would be the point of doing it if it were just an exercise.

Rajs noted that the June 27th meeting with the NYS DOT Commissioner concerning the Pond Eddy Bridge was a good one. She believes the Commissioner was very receptive, she heard us and will try to meet with the concerned parties again in six months. Boyar said there were a lot of people at the table and he got the feeling that the Commissioner took the issue seriously and is going to try and see what some possible solutions are.

Roeder said the meeting with the Town of Delaware was a positive one. The town found out what the Park Service wanted to have done and the Park Service understood where the town was coming from. He said that once they have the drafts back from the changes that were requested, they will be resubmitted to McGuinness to be sure that the Park Service is on board with what the town is doing.

Hahn noted that something she has heard several times is that the Project Review keeps postponing the discussion of the Project Review workbook. She feels that should be a number one priority. The Project Review workbook establishes processes and procedures for reviewing ordinance revisions, for reviewing projects. She suggested it would be in the Council's best interest to review it before a new employee comes on board. Ramie said it will be a priority that the new Resource Specialist will start out using that workbook. Hahn noted that a lot of these issues that she and Soete spend a lot of time chasing down are supposed to be submitted to UDC by the member towns and townships. She added the Park Service's role is to work with the towns and townships to help them remain in substantial conformance. Hahn really urges the Council make time to review the handbook.

Dean questioned if it is legal to use motorized boats on the Delaware River. Rudge commented there are no regulations for use of motorized boats on the Delaware. Hahn added that jet skis are not permitted. Dean said he was confused why the issue was discussed at Project Review. Hahn said it was for a couple of reasons. One was that a rally was being advertised and those require a special use permit, and the other is that people are concerned with the increased use of these types of motorized vessels and their impact on the river. Boyar asked if there is a promotional video of these motorized kayaks from the cancelled rally available. Ramie said that Dave Soete found several on You Tube. The manufacturer is Mokai. Dean asked if the liveries are renting these to people. Ramie said no, it was the manufacturer trying to introduce the concept to the Delaware River. Boyar asked if we could get some feedback from the Park Service at the next meeting as to if there are any regulations on those boats in other National Parks like Yellowstone. Hahn asked if he meant at National Parks or on other Wild and Scenic Rivers as there is a difference. Boyar said both. Henry noted that personal watercraft are banned from the Upper Delaware. Hahn stated there is a difference between the personal watercrafts and the Mokais. Henry said the definition of a personal watercraft is something where you straddle the engine compartment although it does get a bit confusing. Niflot asked if it would be possible to get a handout from the Park Service at some future meeting explaining what you can and can't have on the river in terms of boats.

Status Reports

Delaware River Basin Commission: The DRBC was absent, however, the hydrologic report was provided. The NYC Delaware River Basin Storage as of July 3 was at a combined capacity of 91.6% with Cannonsville at 89.6%. Ramie noted the DRBC has a meeting coming up on Wednesday, July 11th at 1:30

at their West Trenton, N.J. office. It is a public hearing and one of the dockets that concerns our area is for the Tennessee Gas Pipeline. They have applied for a permit to supply a temporary withdrawal of up to 5.946 million gallons of water for the applicant's natural gas transmission pipeline upgrade project from two sources located on Lackawaxen and Delaware rivers. It says the allocation is requested to conduct horizontal, directional drilling and hydrostatic testing associated with the pipeline upgrades. The project also approves the discharge of hydrostatic testing water in three locations to the land surface after completion of hydrostatic testing. The project is located in Berlin, Texas, and Palmyra townships in Wayne County, Pennsylvania, Westfall and Milford townships in Pike County, Pennsylvania, and Montague township in Sussex County, New Jersey. Portions of the project are located within the drainage area of sections of the non-tidal Delaware River known as the Upper and Middle Delaware which are classified as Special Protection Waters. The draft docket is available in totality on the DRBC website if anyone is interested, Ramie added.

NYS Dept. of Environmental Conservation: Rudge noted that the DEC requires a minimum release in the Mongaup Hydroelectric System. Those releases in part are governed by inflow and when input drops below 100 cfs, the utility can decrease the minimum flow to 60 cfs. They are currently down to 60 cfs and the DEC has allowed them to drop below that. Boyar asked what the basis was for the decrease. Rudge explained that the 100 cfs minimum release assumes that their inflow is at 100 cfs or greater. When inflow drops below 100 cfs, and it is right in the license, they can reduce their minimum flow down to 60 cfs. Rudge said we have not been getting much rain and as a result their inflow is down. He said the last time the inflow was checked, last week, it was just below 60 cfs and the forecast is not good for rain, therefore the DEC allowed them to decrease outflow to the 60 cfs. Boyar thanked Rudge for clarifying that as he was under the impression that minimum outflow meant minimum outflow. Rudge said the DEC has been working to try and maintain a more equitable reservoir at Swinging Bridge to keep the homeowners and recreationists who use the reservoir happy also.

Rudge said the NYS DEC has been struggling to maintain their federal grants for fish and wildlife programs. He noted that anyone who is a sportsman is probably well aware that when you buy sporting goods equipment anywhere in the nation, you pay a tax. That tax goes into a big federal fund, the most notable one being the Pittman-Robertson Act that created a fund for that, and then that money goes back to the states. The deal that the federal government has with the states is that if the money they generate from the sales of hunting and fishing licenses is dedicated to fish and wildlife programs, then they are eligible for funding from the money generated by the sporting goods tax for those programs. In the most recent budget round, the Governor was trying to eliminate as many dedicated funding sources as he could to give him the greatest amount of flexibility in managing the state's fiscal resources. There was language in there that implied that he could sweep money out of the conservation funding for whatever purpose he needed it. That ran afoul with the federal government who said it could only be used for fish and wildlife programs. Rudge said it was thought that the language had been rectified in the budget bills that were passed in late March of this year, but apparently there were two conflicting budget bills that raised this issue again just recently. He said he had just received word on Monday of this week that the issue had been resolved between the Governor's office and the federal government, and as a result the state is now starting to receive the federal grant money for this fiscal year. Discussion of the tax paid on sporting goods took place. Roeder noted that the public should have knowledge about the tax and feels it is a shame they don't.

Rudge wanted to clarify that the proposed changes to the NYS River Herring regulations will apply to the Upper Delaware. He added the regulations will essentially end any commercial or recreational fishing for herring on the Delaware or its tributaries in New York. He said it is not clear we have any herring in New York State. The DEC is working in conjunction with the Atlantic State Marine Fisheries Commission (ASMFC), which they are a member of, and they govern these anadromous fish species which use both salt water as well as fresh water. There is a herring population in the Delaware River. It does not generally make its way to this part of the river currently. There is evidence they have, in the past years, been in this part of the river. He said that what the ASMFC has charged the states to do is to adopt measures that would reduce fishing mortality and allow the river herring stocks to rebuild. Henry asked Rudge if Pennsylvania has a comparable law. Rudge said yes, that is his understanding, and he added that Pennsylvania is part of the ASMFC. Rudge said there are regulations being developed to manage the shad population. They will continue to allow the harvest of shad in New York State on the Hudson and the

Delaware. He said they do not see any changes for the Delaware at all, but there will be some changes on the Hudson. He noted the shad population is declining on the Hudson right now. Dean asked Rudge if there is a viable striped bass run on the Delaware. Rudge said he does not think so, although occasionally they do come up here. Peckham said they have been caught up in Hancock before. Rudge said that is a very positive story in the Hudson, the bass have come back well, so we could potentially see them expanding into the Delaware. Boyar asked how it is monitored. Rudge said they do tag some fish, but more likely, they do gill net surveys where they go out into the water and establish the gill nets and let them sit there for a while and then haul them back in and see what they get.

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

National Park Service-Upper Delaware: Hahn said that about 3:15 today, the Park Service received a call about a potential drowning near Eddy Farm. The most recent information she had concerning the incident was that the individual had been revived, but she did not know her current condition. Hahn reported that Bob Hare, one of the Park Service's volunteers, was involved in the rescue. Ramie noted he received the UDC Robin Daniels Lifesaving Award two years ago. Hahn continued they also thought today they had a lost boy on Cherry Island who ultimately turned up with his group, and there was a boy stuck on a rock at Skinner's Falls, but they were able to get him off no problem.

Hahn reported that work on Skinner's Falls Bridge was to have begun on Tuesday. The work is expected to take about a week, but they have until July 31st to complete it. Hahn said she was reminded in a recent conversation that Skinner's Falls Bridge is up for rehabilitation and restoration again in 2014.

Hahn referred to the Delaware River Basin Wild & Scenic River Values Workshop Report that Ramie sent out via e-mail to all members for their review. The document covers the Upper Delaware Scenic and Recreational River's Outstandingly Remarkable Values (ORVs). She said that the meeting that was held in April was attended by the representatives from the four separate wild and scenic designations on the Delaware River to talk about the ORVs for which Congress designated these different units as part of the Wild and Scenic Rivers System. The draft report contains information on the Upper Delaware, the Middle Delaware, the Lower Delaware, and the Musconetcong River. She told members they could just review the Upper Delaware section of the draft report, which is not that long, and provide any substantive comments by July 11th. A lot of technical specialist research goes into these reports, Hahn added. McKay questioned if any new values had been identified. Hahn said no new ones, but that this report states what they are and what they mean.

Hahn said that she, on behalf of the Park Service, will be placing calls to the appropriate people concerning the current height and temperature of the river. Ramie asked if she would be requesting a thermal release. Hahn said she would be and encouraged Ramie to make a request on behalf of the UDC.

Hahn noted there has been a big push to educate people about being safe on the river and commented that she was quite proud to see the message on the Narrowsburg Fire Department's sign encouraging people to wear their life jackets. Hahn said the program is about educating people to wear life jackets. Peckham asked if they educate the local kids. Hahn confirmed they target local kids and visitors. Peckham feels the money would be better spent on regional education as he believes local kids learn what to do and not to do on the river just by living here.

Hahn said the topic of Upper DeLAWARE Roundtable meeting in August will be the River Management Plan. The discussion will cover what the plan is, what the programs are in the plan, how the plan works and how we are all working together. Rajs asked Hahn if she is planning on taking the Powerpoint presentation "on the road". Hahn said that would be a great idea and asked who she would like to see it presented to. Rajs said planning board members, zoning board members, and town board members. Hahn said that is something that could be done with the Upper Delaware Council. Ramie said that has been discussed to present that to the people who were not able to attend the River Management Plan Workshop back in March. Ramie said that could be an opportunity to remind the towns and townships that they are supposed to let the UDC know of their projects. Boyar said he would like to nail down who the person or agency that does thermal and other emergency releases is. He spoke about the economical consequences of people having a bad experience on the river because it was too low or too warm. Hahn noted that the Delaware River Basin Commission (DRBC) is the agency with whom we all have to work.

She suggested people contact the DRBC and their representative to the DRBC and let them know that there is a problem. She added the DRBC Regulated Flow Advisory Committee should be contacted as well as the NYS DEC. Dean asked if it would be more effective if the UDC as a board contacted these people. Ramie noted that back on June 20th when we experienced the first thermal event, the UDC did send out an emergency e-mail directed to the River Master, New York City, and the state agencies as well. She said we can do that again if it is the Council's wish. Ramie said that it was stated in the letter that after this emergency, the UDC would like to know what the procedure is for making such decisions. We have not heard back from anyone at this point, she added. Boyar said this is the 4th of July weekend and there will be a lot of visitors to the area and a lot of money is tied to recreation on the river. Peckham recalled when he was a kid, you could always count on water being released on the weekends.

Henry asked if it would be possible to get a copy of the Fish and Wildlife Service report from the special agent concerning the eagles and cancelled fireworks issue in Narrowsburg. He would like to know who filed the complaint, who investigated it, and what was the final resolution. He wonders if the eaglets were still in the nest or if they had fledged and if it was a concern. He noted the 1986 River Management Plan states that at that time there were no bald eagle nests in the river corridor and that the Narrowsburg fireworks have been going on for 80 to 100 years. Henry would like the Council to find out what happened so things like this don't happen again. Rudge said his perspective is that there is no report, that there was no action taken. It is his understanding that the Fish and Wildlife Service called the Lava Fire Department and let them know the concerns that they had with fireworks going off that close to an eagle's nest, and the fire department elected to cancel the show. Rudge said the Fish and Wildlife Service let the fire department know that if there was an impact on the eagles, in violation of their guidelines then they would have to do an investigation and the fire department could risk having to pay a penalty. He added that options were discussed to allow the fireworks to continue including finding a launch location further away from the nest. McKay asked how much further away. Rudge said the guidelines call for one mile away. Rudge said it is almost proof that the guidelines were working since in the past the fireworks were launched from a different site on the campground and since they moved them to the new location, now there is a history of impact to the eagles. Rajs asked Rudge if this was a verbal communication between the Fish and Wildlife Service and the fire department and there is no record or documentation. Rudge said he believes that based on that communication, the fire department decided it was in their best interest not to conflict with the guidelines and they didn't feel like they could find an alternative site so they cancelled. Rudge said they are continuing to try and work with the fire department and explained that another way to address this conflict is time. In another month, the eagles will be out of the nest and the agencies can be more flexible. Ramie noted that according to *The River Reporter*, the fireworks have been rescheduled for Labor Day weekend and that the fire department will be able to carry over its deposit until that time. Henry asked Rudge if he knows that there is no report from the Fish and Wildlife Service. Rudge said he can not speak for them. After more discussion, Henry reiterated that he would like to find out who created this problem and why, were the birds in the nest, and what will happen next year. He noted the fireworks have been going on for 100 years and no one has had a problem before. Ramie commented that it is conceivable that someone could make an anonymous complaint.

UDC Executive Director's Report: Ramie reported that we have received a few more applications for the Resource Specialist position. The current deadline for submitting applications is July 13th and in addition to advertising ten times in the five local newspapers, we have also asked the five county Planning Commissioners in New York and Pennsylvania to help us spread the word. She feels the way to proceed is to see by July 13th if we have any viable candidates and the Personnel Subcommittee would be in charge of setting up interviews or we may opt to do another round of advertising and expand the search if necessary.

Ramie noted that on June 11th she sent a letter to Michael Bedrin, the northeast regional director for the PA DEP, requesting that agency to consider appointing a UDC alternate representative for the Commonwealth of Pennsylvania. The post has been vacant since the February 2005 retirement of Dave Lamereaux. Dennis DeMara from the DCNR was appointed the UDC representative in October 2004, but as his responsibilities have increased, he is finding it more difficult to make it to this meeting. Ramie is hoping that the DEP will see fit to appoint an alternate whose number one responsibility will be to attend meetings that DeMara is not able to attend. She feels it would be appropriate to have representation from

the regulatory side of Pennsylvania since a lot of what we do does involve environmental regulations, Ramie added.

Ramie reminded members that the 2012 Technical Assistance Grants (TAG) contracts expire on July 24th. Completed documentation has been received from one out of the seven projects to date. She noted there will be no extensions. Soete did e-mail a reminder to all the municipalities with outstanding projects on July 3rd. Ramie added we have officially opened our 24th annual TAG round by announcing on June 25 that applications for 2013 project will be accepted through August 31st. All the forms are available on the UDC website.

Ramie announced the UDC Raft Trip will be Sunday, August 5th. She said that the publicity and invitations will be going out on Monday, July 9th. The trip will cover the Callicoon to Skinner's Falls section of the river. The host livery this year is Lander's River Trips and the discounted cost is \$24 for adults and \$14 for kids age 5 – 12. Reservations are due by July 27th and a flyer was provided in members' packets.

Ramie said the Delaware River Sojourn just took place. There were two days on the Upper Delaware; June 24th they paddled from Callicoon, PA to Milanville with approximately 65 participants and on June 25 they paddled from Milanville to Ten Mile River with approximately 78 participants. On day 1, the Sojourn surprised Sean McGuinness and Don Hamilton by honoring them as Lord High Admirals. On the second day they decided to honor Floyd Campfield, who has been operating eel weirs on the Delaware for a long time. Ramie noted she attended shortly for both days to take photos for the next issue of the UDC newsletter.

Ramie said the Narrowsburg Beautification Group has asked the UDC to sponsor a flower barrel outside our office, which they will purchase, plant, and maintain as they do with the landscaping under the signage in front of the office. She noted there would be a cap of \$75 for the project. Ramie said she told Susan Klikus she would give her a decision tomorrow to comply with their Sullivan Renaissance project planning. Ramie personally feels it would be a good demonstration of community spirit and pride for the UDC to participate. She added this project is part of her recommendations for 2012 budget surplus expenditures. A motion to sponsor a flower barrel with the \$75 cap was made by Jeffer, seconded by Sullivan and carried unanimously.

Ramie thanked Hahn for the assistance that she has been providing us in organizing our records. Hahn has enlisted a volunteer, Dan Post, to fill gaps in the NPS substantial conformance files. We are benefiting from her training in records management in tackling the sorting, filing and storage of our paper documents. Work has been started in Soete's office.

Ramie highlighted some dates on the calendar provided in the packets. She did note that the date for the Upper Delaware River Charrette is different from the July 20th date originally reported as the consultants were not available. The new date is August 1st.

Ramie said that the NYS grants that she is administering on behalf of the UDC and the Scenic Byway all expire August 15th, so she has asked anyone involved to provide her the documentation by August 1st. She listed the outstanding projects and their requirements.

Old Business: None

New Business:

NYS River Herring Regulations: Comments due by July 16th: It was Boyar's suggestion not to comment as herring do not typically make it this far up the Delaware.

Draft letter: Support for Narrowsburg Esplanade Revitalization Project Grant Application: Ramie reported that the WU/RM Committee approved a letter in time to comply with a priority projects deadline of June 29. It was decided that the full UDC may want to provide a letter as well. The draft letter was sent out in advance for member's review, she added. Ramie passed around a copy of an artist's rendering of the project. She noted the WU/RM Committee did have a presentation made to them about the project. Boyar said like any grant, there is competition and the idea is to beautify the riverfront. Ramie said it is being submitted under the New York State Consolidated Funding Program and it's one of four projects that Sullivan County and Orange County have collectively applied for as regional collaboration along the Upper

Delaware River. Roeder asked if the property the proposed project will be on is town property. He was told yes. Ramie noted the town is currently in the design phase and this grant being applied for would be for the construction phase. Boyar made a motion to send a letter similar to that developed by the WU/RM Committee from the UDC. The motion was seconded by Sullivan. Niflot asked if there is a price tag on this project. Ramie reported the amount of the grant application is \$140,000. Sullivan offered some background on the project and explained how it is to be developed in phases. Discussion about how much of the property is public property took place. Dean asked if anyone knew what the total construction costs would be. Ramie said that she did not know the ultimate construction price. The motion was carried with Dean, Niflot, and Peckham abstaining.

Draft letter: Support for Pond Eddy Access Parking Study: Ramie noted that this letter was also sent out in advance for members' review. This support letter was requested after all committees had met for the month so there was no opportunity to bring it through committee. The grant is for a project to help identify parking opportunities for a proposed new Upper Delaware River public access site on county-owned property in the Town of Lumberland hamlet of Pond Eddy, N.Y. Ramie said the Pond Eddy access was identified in the Local Waterfront Revitalization Plan by the community itself. The grant is being written by Orange County as it includes the Sparrowbush site as well, Rajs noted. Ramie said they submitted it to obtain more points for regional collaboration within the Mid-Hudson Region. After a brief discussion a motion to send the letter was made by Boyar, seconded by Henry and carried unanimously.

FY 2012 Budget Allocations Recommendations: Ramie referenced the handout which pertains to the status of the current budget we are operating under. She noted we are operating at a somewhat healthy surplus at the moment, and she is therefore providing a list of recommendations that includes some needed services and improvements to the office. Ramie explained all the items on the list. Boyar made a motion to authorize the purchases. The motion was seconded by Henry. Dean suggested considering a good professional shredder. Discussion of when the money needed to be obligated and spent by took place. Hahn suggested looking into Adobe Acrobat software. The motion was carried unanimously. Ramie asked if she could receive approval to pay a legal bill that was received today. Boyar suggested earmarking that money and tabling it for a month. A motion to table it was made by Dean, seconded by Niflot and carried.

Coalition for the Delaware River Watershed Steering Committee Invitation: Ramie said that concerning this topic, all should have received by e-mail the draft governance document and the information on the Delaware River Basin Conservation Act. She reiterated her recommendation that we participate on this steering committee. She said she equates it to the New York towns and Pennsylvania townships that belong to their state associations which are obviously larger than them and might be considered "mothers" too, but you only participate in that on a basis to share information, network, and get resources that may not be possible on your own. She does not see how the UDC joining this steering committee is any different since this is a partnership of non-governmental organizations operating in the river basin. Boyar asked if it would hurt to make a decision on joining in August as he had not had a chance to read the information pertaining to this issue. It was noted that it had been voted down in committee. A motion to table the Coalition issue and bring it back at the August full Council meeting was made by Boyar, seconded by Dexter and carried with Peckham objecting.

Boyar asked that the UDC send a letter of concern out about the spiking water temperatures and the water flows. He noted that a similar letter was sent out from the WU/RM Committee. He made a motion and Jeffer seconded the motion. Henry asked if it was known who to send the letter to. Ramie said she would propose to send it to Gary Paulachok, the Deputy Delaware River Master and Paul Rush, the Deputy Commission of Water Supply for NYC DEP. Boyar said we need to do some follow up to be sure that we are talking to the right people. Hahn suggested also sending the letter to the Delaware River Basin Commission and address it also to their Subcommittee for Ecological Flows. Discussion took place as to who is the decision-maker to release water during emergencies. Rudge believes there has to be consent from the five members of the Delaware River Basin Commission and said he will check on that. Rajs reiterated that there is a motion by Boyar, seconded by Jeffer to send a letter concerning thermal releases with a request for an explanation of the process from the UDC. The motion was carried.

Other: Roeder said he was unable to attend the UDC's Strategic Planning Workshop held June 23rd, but feels it was obvious where people's thoughts are as to what our direction should be. He feels we need to re-look and study more the River Management Plan. He read the following:

"This November, the River Management Plan will have been in force for 24 years. It was born out of a contentious 20 year battle between those who wished to protect the river and those who were not happy about giving up their property to do so. The memory of the Tocks Island debacle was fresh in the minds of those who lived in the Towns and Townships along the upper Delaware River and the fight was on.

Interestingly enough, both sides wanted to protect, but both feared that one would swallow up the other. Somewhere along the passage of time, a thought arose that it might be better to work with each other rather than fight each other. Could those who wanted only to protect the river work with those who only wanted to protect their property and vise-a-versa? I'm sure that such a thought didn't take root instantaneously. But that seed did fall on fertile ground and it did grow. Its fruit is the River Management Plan. Most of the people from the Towns and Townships along the upper Delaware River joined hands with the National Park Service to form the Upper Delaware River Scenic and Recreation Area. This partnership exists to protect the Upper Delaware River and to protect the Private Property Rights of those who own land within the river corridor.

The Upper Delaware Council, representing those Towns and Townships who chose to become members, was formed. Its purpose is to represent the Towns and Townships in the partnership and to help implement the River Management Plan.

We, the current UDC, are entrusted with carrying forth that mantle handed to us...namely, protect the river and protect private property rights. Anything less and we will have failed the partnership, those who came before us, the River Management Plan and ourselves as well.

Over the years, minor skirmishes occurred between protection of the river and of private property rights but when all was said and done, concerns were worked out and the UDC was a unifying force.

When natural gas drilling became an issue in the corridor, the UDC was able to come up with a position that stated there should be no high impact uses in the corridor per the River Management Plan. That settled the issue of drilling pads being set up in the corridor and it addressed those who had river protection concerns. Due to the technology available today, this position also left open underground access for private property owners from outside the corridor. All agreed, including the Park Service that this was a win, win, win situation.

Unfortunately, two UDC member towns, Tusten and Lumberland have instituted zoning which effectively cuts off underground access to their river corridor property owners. No consideration was given to the property rights of these owners nor was any consideration given to the River Management's Plan concern private property rights of those who are within the river corridor.

I personally do not want to see the UDC lessen its concern for the protection of this river, however I do believe we should be just as concerned when it comes to the protection of private property rights within the corridor.

What I am about to say gives me no great pleasure and it is with deep regret that I make a motion that the Towns of Tusten and Lumberland have exercised and positioned themselves to be in non-conformance with the River Management Plan."

The motion was seconded by Peckham. McKay noted that this is a pretty heavy issue. Rajs said she was offended by the accusation, especially as they don't have any residents who were vocal in wanting heavy industrial usage in the Town of Lumberland. She said it is the town's right. Roeder said the Towns of

Tusten and Lumberland have all the right they want to make zoning. Rajsz said the town has “home rule” and they are not out of compliance. Roeder said they are because they cut off the way any people in the town can access from underground. McKay said we do have a Project Review manual and we are not going to settle this issue right now. Peckham said there is an active motion and we just can’t walk away. Sullivan spoke about Tusten’s zoning and the process by which it was passed. Boyar asked Roeder if it is his position to drive Tusten and Lumberland and soon to be Highland out, why would they ever want to be part of the UDC? He added that he feels Roeder has this issue “so twisted around and insensible, that it is not even funny.” Roeder said he is not asking him to laugh about it, but to look at it very seriously. He said there are two reasons to be here: protect this river and protect private property rights. After more discussion, Rajsz reiterated there was a motion that the towns of Lumberland and Tusten are not in compliance with the River Management Plan. McKay asked if it was they are out of substantial conformance with the River Management Plan. Roeder said that was right. On a roll call vote, the motion failed with Roeder, Dean, Peckham and Henry voting yes; Sullivan, Boyar, Niflot, Dexter, Rudge and Rajsz voting no; and McKay and Jeffer abstaining. Roeder suggested that no matter what comes before this Council, it has to be looked at in two lights. It has to be looked at is there safety in this river and is it protecting private property rights.

Public Comment: None

Adjournment: A motion by Boyar, seconded by Jeffer, to adjourn the meeting at 9:52 p.m. was carried unanimously.

Minutes prepared by Cindy Odell 7/16/12