

UPPER DELAWARE COUNCIL MEETING MINUTES

April 1, 2010

The Upper Delaware Council held its monthly meeting on Thursday, April 1, 2010 at the Council office on Bridge Street in Narrowsburg, NY. Council Chairperson Harold Roeder Jr. called the meeting to order at 7:38 p.m. A motion by Richardson seconded by Rajsz to approve the March 4 meeting minutes was carried. There was no public comment on the agenda.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder Jr., Damascus Township-Dolores Keesler, Town of Cochection-Larry Richardson, Town of Tusten-Sue Sullivan, Berlin Township-Lillian Russell, Town of Lumberland-Nadia Rajsz, Town of Deerpark-Phil Chase, Lackawaxen Township-John McKay, Shohola Township-Scott Rando, Westfall Township-Peter Kenny, and National Park Service-Sean McGuinness. Also in attendance: Town of Fremont Alternate-Jim Rodgers, Damascus Township First Alternate-Jeff Dexter, and Town of Hancock Alternate-Jim Serio. Members absent: Town of Highland; State of New York; Commonwealth of Pennsylvania; Delaware River Basin Commission.

Committee Reports: Douglass presented the March 16 Water Use/Resource Management Committee report for Serio. Roeder gave the March 23 Operations Committee report. Peckham presented the March 23 Project Review Committee report. The committee reports are a synopsis of the meeting minutes. The meeting minutes can be found on the UDC website, www.upperdelawarecouncil.org.

Status Reports

Delaware River Basin Commission: Handouts were provided relative to the DRBC since their Representative could not attend. Douglass noted that as represented on the Delaware River Flow and Storage Data charts, as of March 26, flows at Montague shot up due to the heavy precipitation the area received. The NYC Delaware River Basin reservoir storage on March 26 was Neversink 100.8%; Pepacton 101.7%, and Cannonsville 103.8%.

Also reported was that the DRBC has announced that the proposed Stone Energy Surface Water Withdrawal and Natural Gas Well Site dockets will not be on the agenda for consideration at the next DRBC business meeting on May 5. DRBC Executive Director Carol Collier has stated that “with the previously announced extension of the written comment period from March 12 to April 12, and given the large number of comments received to date, DRBC would not have sufficient time to review and consider all comments in time for a possible vote by the commissioners at their May 5 meeting”. DRBC has received over 1,300 comments on the dockets as of March 30. Additional information, including the draft dockets, can be found at www.drbc.net.

NYS Dept. of Environmental Conservation: Three DEC news releases were provided to the members since the DEC representative could not attend. Topics covered by the news releases were:

In an effort to help restore the American shad population in New York’s waters, the DEC announced new regulations that ban commercial and recreational fishing for the species in the Hudson River and the Marine and Coastal District of New York, effective March 17. The regulations also prohibit the sale or offering for sale of any American shad caught in New York. The regulations enacted also set new restrictions for American shad in the Delaware River by reducing the daily creel limit from six fish a day to three and prohibiting commercial shad fishing in the river.

Private landowners interested in enhancing and restoring critical bog turtle habitat could be eligible for a federally funded grant program totaling approximately \$150,000. With bog turtle populations declining in New York and throughout their range, DEC’s Landowner Incentive Program for Bog Turtle

Management and Protection directs funding to projects on private property that will help the survival of bog turtles and other at-risk species. Bog turtles are listed as “endangered” in New York and are federally listed as “threatened”. Grant recipients are eligible for awards ranging from \$5,000 to \$50,000, depending on the project. DEC is limiting eligibility to private landowners within the focus area, which includes portions of Columbia, Greene, Ulster, Dutchess, Putnam, Sullivan and Orange counties.

The NYS DEC is now accepting applications for federally-funded Volunteer Fire Assistance grants. Rural fire departments work with state Forest Rangers to fight wildfires that threaten our natural resources, and these grants will help them prepare for this challenge. The grant program is funded by the U.S. Forest Service and administered by DEC. Last year, the program allocated \$456,000, which provided \$1,000 grants to 456 fire departments. The deadline for applications is May 15.

Further information on the above three items can be obtained by visiting the NYS DEC website at www.dec.ny.gov.

PA Dept. of Conservation and Natural Resources: Dennis DeMara could not attend the UDC meeting and provided an email report: “Our grant deadline is April 21 and the demand for our grant program funds is quite heavy. I have been covering the 14-county Northeast PA region and meeting with potential applicants.” DeMara hoped to attend the May UDC meeting.

National Park Service-Upper Delaware: Sean McGuinness announced that the NPS would be holding an Open House May 22 at the opening of the new Zane Grey Museum exhibits. They’ll also celebrate the re-opening of the canal towpath trail at the Roebling Bridge that has been repaired after damages received by flood waters. The UDC members will receive invitations to this event.

McGuinness mentioned that there may be a reduction in funding for the local town governments under their contracts with NPS for trash removal and law enforcement services. The program is on hold so he can review the situation with the towns.

The Upper Delaware River Safety Committee annual meeting is April 30 at the NPS headquarters. The Canoe Safety Patrol will write a safety plan with the canoe liveries. A copy of the draft plan will be provided to the UDC. On April 7 and 8, NPS will provide training on the new OMB rules and regulations pertaining to cooperative agreements. NPS met with the PA Fish and Boat Commission regarding flexible flow recommendations. The NPS is working with the organizations and Town involved in the Barryville river access site and a farmers’ market re-location. NPS is working with DEC regarding the Callicoon river access and the diversion ditch and safety issues.

McGuinness said he’d be out of the area from April 12 – 16 to attend Wild and Scenic Rivers workshops.

McGuinness made a statement regarding the Upper Delaware Council’s issuance of comment letters regarding projects outside of the River corridor. He noted that the UDC does have the authority to verbally or in writing make comments on issues out of the corridor on anything that could affect anything in the corridor.

Roeder inquired if there was anything done on the issue of mandatory life jacket use under certain river conditions that was discussed with the Council by the previous Superintendent. McGuinness said he would look into that matter.

UDC Executive Director: No report at this time.

Old Business None

New Business

UDC draft comment letter - EBI Consulting Proposed Telecommunications Installation: The members had been provided with copy of a draft comment letter to EBI Consulting regarding a request for section 7 review on the proposed telecommunications installation at Masthope Mountain in Lackawaxen Township. The comment letter contained six comments. The subject property is technically located just outside the River corridor. The comments covered such items as the wintering bald eagles, a viewshed analysis or balloon test, possible consideration to make the monopole look like an eastern white pine tree to blend in with the surrounding mountain tops, and if the monopole is no longer necessary due to technology

advances there could be provisions for the removal of the tower. The members provided comments on the letter. A motion by Richardson seconded by Rando to approve the letter was carried, with one abstention.

UDC draft support letter – Sullivan County Div. of Planning application Main Streets Program: The members had been provided with copy of a draft support letter to the Sullivan County Division of Planning who was submitting an application to the New York Main Street Program seeking funding. The letter noted that UDC understood that Sullivan County Planning was submitting a \$500,000 state grant application to establish an Upper Delaware River Corridor Main Streets Revitalization Program. Eligible property owners could apply for grants of up to \$50,000 for commercial building renovations and \$25,000 per residential unit, capped at a maximum grant amount of \$150,000 and subject to a minimum local match of 25% of the total project cost. One of the River Management Plan's goals is to "maintain and enhance the corridor's social and economic vitality and its diversity, consistent with efforts to protect the recognized values of the river corridor". The project would spur economic development and beautification efforts by making public/private investment opportunities available in the mixed-use hamlet areas. A motion by McKay seconded by Sullivan to approve the support letter was carried, with one abstention.

UDC draft support letter – Sullivan County Div. of Planning Community Development Block Grant: The members had been provided with copy of a draft support letter to the Sullivan County Division of Planning supporting its grant application to the New York State Housing Trust Fund Corporation through the Office of Community Renewal and under the Community Development Block Grant Program to assist with public infrastructure improvements and economic revitalization within three hamlet locations in the Upper Delaware River Corridor (Callicoon, Narrowsburg, Barryville). Sullivan County Planning will be submitting a \$750,000 state grant request to benefit property owners of commercial, mixed use, and/or residential buildings located in the hamlets. One of the River Management Plan's goals coincides with this request. A motion by Russell seconded by Richardson to approve the support letter was carried.

UDC comment letter to DRBC on Stone Energy Dockets passed and sent: At the March 4 UDC meeting, the members reviewed and unanimously approved a comment letter to the Delaware River Basin Commission regarding two project dockets pertaining to gas drilling and water withdrawal projects by Stone Energy.

Peckham made a motion to rescind the letter to DRBC. There was no immediate second to the motion, but McKay said he'd second the motion for the purpose of allowing discussion on the matter. Peckham said he felt the water withdrawals wouldn't affect the River that much. The letter was hastily written and we didn't get it vented enough. McKay said he hoped the DRBC would judge if the water withdrawals would be harmful to the River. We seemed to pre-judge it that it would be harmful. The DRBC probably won't be doing anything with applications on the New York side of the River until NYS DEC finalizes its SGEIS. However, it's not out of character for UDC to comment on this type of issue.

Peckham asked if NPS issued a comment letter as well on the Stone Energy dockets to DRBC. McGuinness said yes, and would supply a copy to the UDC. Roeder said our letter was looked on as obstructionist. No one, of course, would like water taken from a low stream, but he felt the amount of withdrawal would be a minor impact to the overall flow of the stream. He said that in some quarters the letter was interpreted that UDC was blocking gas drilling.

Richardson remarked that he accepts that DRBC will be looking at impacts, but he didn't feel bad that UDC in its letter brought some items to DRBC's attention. Sullivan referenced the River Management Plan and its protection of the Delaware River and the fact that it mentions the Council can comment to member agencies on projects. The UDC also commented on a project outside of the corridor on a water withdrawal on the West Branch Delaware.

Roeder continued that UDC tried to meet a comment deadline with its letter. The Project Review Committee was cancelled due to weather and that committee did not have a chance to discuss the issue. He felt that when the UDC was doing comment letters in the future there should be more time allowed for member review and comment. Peckham felt the UDC should narrow its comments to the River corridor only. We need to be more careful when we send something out and it should be vented more.

A vote was taken on the motion to rescind. The motion to rescind the comment letter to DRBC was not carried, with two abstentions and two nays.

McGuinness commented that the issue is not whether people are pro or con gas drilling, but will it affect the Upper Delaware Scenic and Recreational River. That's what you should ask your governing boards about.

River Reporter article - "Damascus zoning to help drilling?": There was mention of a *River Reporter* article of April 1 concerning Damascus Township considering adjusting its zoning regulations to accommodate anticipated gas drilling within its borders. Horizontal drilling with hydraulic fracturing is allowed in the entire rural residential district but not in the Delaware River District or the Township Neighborhood Development District. The township is adjusting its zoning so that it's consistent with other mineral extraction regulations. According to the plan, still in development, gas drilling within the township will be of two types—surface drilling and subsurface drilling. The planning commission is considering forbidding any surface drilling in the River district and the neighborhood district, however, subsurface drilling could be allowed. Before the planning commission makes any decisions, it will hold public hearings. Supervisor Dexter said the *River Reporter* never spoke to him about the article, and Sandy Long from the newspaper said they spoke to the township planning commission chair. Dexter noted that as of now, the township did not re-zone to allow drilling in the River corridor.

Other items of interest mentioned:

- The UDC has issued a news release announcing the honorees for its 22nd annual awards ceremony to be held April 25 at the Eldred Preserve in Eldred, NY. Reservations are due by April 15. NYS Assemblywoman Aileen Gunther (98th District) will deliver the keynote address. The honorees include Alan Bowers and Charles Wieland, Multi-Municipal Gas Drilling Task Force, Ed Jackson, Carla Hauser Hahn, Cliff Robinson Jr., Dorene Warner, Barb St. John White, Bob Hare, and George J. Fluhr.
- Press reports indicate that the NYC DEP has announced that five additional square miles of Cannonsville Reservoir will be open for recreational boating at the start of this year's boating season on May 28. The recreational space will expand westward from the Cannonsville Bridge to 500 feet from the Cannonsville Dam. Further information can be found at the DEP website at www.nyc.gov/dep.
- The members were provided with copy of the Whitewater Release Schedule 2010 for the Rio Whitewater Access Facility operated by Alliance Energy through its Mongaup system. The release schedule is subject to change due to local conditions. All persons interested in utilizing the whitewater access facility should verify the schedule by calling the Alliance's toll free hotline at (866) 624-9004 which is updated by the Wednesday before releases.
- The Upper Delaware Council's spring/summer 12-page newsletter, *The Upper Delaware*, has been distributed. It is accessible on the Upper Delaware Council's website, www.upperdelawarecouncil.org.
- The Upper Delaware Scenic & Recreational River "Local Officials 2010" directory has been produced and issued to local, state, and federal officials and the UDC members. This project is a collaborative effort between the NPS-Upper Delaware and the Upper Delaware Council.
- The National Park Service has issued a news release announcing that it has awarded an \$118,424 contract under the American Recovery and Reinvestment Act to Charles W. Grimm Construction, Waymart, PA. The company will replace deteriorated siding, add a vapor barrier and a layer of rigid insulation install energy efficient windows and doors, and install a new roof on three buildings at the NPS-Upper Delaware's headquarters complex on River Road, Beach Lake, PA. The Department of Interior's implementation of economic recovery projects can be tracked on www.interior.gov/recovery.

Public Comment

~ Bernie Handler asked the Damascus Township Supervisor if the earlier discussion meant no drill pads in the River corridor and the answer was affirmative. Handler asked if horizontal drilling in the corridor would happen; the response was you cannot stop that.

~ Marian Schweighofer showed the River Management Plan (RMP) and suggested it should be revisited especially with the new faces on the Council. She said the purpose of the Council board was to represent their town/township boards. She said she helped write the RMP and this corridor is not owned by

the National Park Service but private citizens. It's important there is a balance among the private property owners, their town/township, and the Upper Delaware Council. She felt the UDC Representatives speak on behalf of their towns/townships.

~ Sean McGuinness remarked of course NPS doesn't own the River and he said he took offense to Marian's remark. Congress has ordered the protection of the River. The River Management Plan is not the Public Law governing the River. The people of the United States own the Upper Delaware Scenic & Recreational River. I'm a trustee and work for you. The people own the River. The NPS is upholding the Law. Marian added that NPS owns the surface of the River and certain facility acres. Peckham mentioned that the RMP should reflect the Law. Marian added that if there's a threat to the River the NPS has the power of condemnation to use.

~ Pat Carullo commented that the UDC staff has been referred to as a paper tiger. Now you're saying UDC is obstructionist. I take to heart the reference to paper tiger. I'm observing the beginnings of an attack like the Damascus Citizens for Sustainability is seeing. Our website has been hacked; my personal email has been hacked and shut down. I see the UDC as a sleeping Samaritan. The Upper Delaware Preservation group got a generous grant from the UDC that assisted with the group's fight during the proposed power line in the River corridor situation. We have Special Protection Waters designation here. New York City and Philadelphia want a cumulative impact study done here because of that. UDC is a Good Samaritan that's being intimidated. The water in our reservoirs is drinking water for 20 million people and given the scale of this project (gas), it's becoming a battle.

~ Jim Rodgers suggested that if the UDC writes letters to the towns/townships on their stance with gas drilling/exploration, we should mention to them to revisit the RMP and possibly the Public Law so they've reviewed it before they give their UDC representatives direction on an issue. No one wants condemnation and saying that doesn't help. It's a contentious issue. The purpose of UDC is to protect the River, even if a project is 100 or 500 miles away that might impact the River. There is intent under the Wild and Scenic Rivers Act to do certain things and it has value to protect this Valley, and the Valley hasn't changed much since the designation because of it.

~ Jim Serio mentioned that the WU/RM Committee wanted information on the NYC DEP West of Hudson proposed hydroelectric project. He wondered if NYC DEP could send a representative to a meeting to explain the project should that be at the committee meeting or Council meeting. Roeder and Peckham felt it should be at the committee and the other Council members would be invited to attend.

~ Larry Richardson agreed a revisit of the RMP could be in order. There have been changes on town boards and maybe the new folks are not aware of the RMP and the Public Law. They should be made aware of these documents. Roeder indicated that there was a link from the UDC's website to the River Management Plan that is housed on the NPS website. A CD-ROM or paper copy could be provided as well through the Council.

~ Sandy Long reported that the Tennessee Gas Co. is seeking another 400 mg withdrawal from the West Branch Lackawaxen for a gas pipeline water test for the proposed pipeline loop. The public comment period is open now.

Executive Session A motion by Niflot seconded by Peckham to go into executive session at 9:23 p.m. to discuss a personnel issue was carried. A motion by Richardson seconded by Rajsz to come out of executive session at 9:50 p.m. was carried.

It was announced that the Personnel Subcommittee that only had one member remaining has been expanded to include the following: Niflot (Chairperson), Roeder, Peckham, Keesler, Rajsz. Roeder said he was on the subcommittee as UDC chairperson. The subcommittee would meet on April 27 at the Council office following the Project Review Committee meeting, whenever that meeting was adjourned.

Adjournment A motion by Peckham seconded by Kenney to adjourn the meeting at 9:53 p.m. was carried.