

UPPER DELAWARE COUNCIL MEETING MINUTES

July 2, 2015

The Upper Delaware Council held its monthly meeting on Thursday, July 2, 2015 at the Council office in Narrowsburg, NY. Chairperson Alan Henry called the meeting to order at 7:00 p.m. The Pledge of Allegiance and roll call followed.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jim Greier, Town of Delaware-Harold Roeder, Town of Cochecton-Larry Richardson, Town of Tusten-Susan Sullivan, Town of Highland-Debra Conway, Town of Deerpark-David Dean, Damascus Township-Jeff Dexter, Berlin Township-Alan Henry, Lackawaxen Township-John McKay, Shohola Township-Patricia Jeffer, Westfall Township-Michael Barth, National Park Service-Kris Heister. Staff in attendance: Executive Director-Laurie Ramie, Resource Specialist-Travis O'Dell, Secretary-Cindy Odell. Also in attendance: Ginny Dudko, Deerpark Alternate, Tony Ritter, Tusten Alternate, Larry Neal, NPS. Absent: Town of Lumberland, State of New York, the Commonwealth of Pennsylvania, Delaware River Basin Commission. Media: Dave Hulse, Peter Becker. Guests: Lt. David M. Clayton, NYS DEC, Waterways Conservation Officer David Kaneski, PA Fish & Boat Commission, Northeast Assistant Supervisor Bryan Bendock, PA Fish & Boat Commission.

Presentation by Pennsylvania Fish and Boat Commission and New York State Department of Environmental Conservation of policies and regulations at their Delaware River accesses: Henry introduced Lt. David Clayton from NYS DEC, Larry Neal, Acting Chief Ranger of the Upper Delaware unit of the NPS, and Northeast Assistant Supervisor Bryan Bendock and Waterways Conservation Officer (WCO) David Kaneski of the Pennsylvania Fish & Boat Commission and thanked them all for attending the meeting. Kaneski noted he is the WCO assigned to Northern Wayne County which encompasses Narrowsburg north on the river. The access areas include Narrowsburg, Damascus, Callicoon, Equinunk, Buckingham, Shehawken, and Balls Eddy. He said the rules he will explain apply to all of their accesses and he intends to explain how they are enforced. He noted that "In a nutshell, if you're not fishing, boating, hunting, or trapping on one of those access areas, you are technically breaking the law." He stated the Commission is an independently funded agency and boat registrations and fishing licenses are the primary sources of revenue. The accesses are paid for by fishermen and boaters. Other activities are not an issue, Kaneski explained, as long as access to the river by boaters is not impeded. He shared a variety of signs that are posted at the accesses. He stated that swimming, as well as alcohol, are prohibited from PA river access areas. He added that the Delaware River does have its set of special regulations in Pennsylvania and they are working to try and align them all up with New York. River accesses are closed from 10 p.m. to 5 a.m., Kaneski added. Ramie asked Kaneski to clarify Pennsylvania's requirement for launch permits for vessels leaving their accesses. Kaneski said that at every access in Pennsylvania, non-powered boats either need to be registered or have a launch permit with one exception; that exception being those access areas that lay between New York and Pennsylvania on the Upper Delaware River. On the other hand, if it is a commercial venture such as a fishing guide or a boat rental, they must have at minimum, a launch permit from PA Fish & Boat Commission. Any boat with a motor must have a registration. Kaneski noted it doesn't matter in what state the boat is registered, it would still be considered valid. McKay questioned if a whistle is still a requirement. Kaneski said a sound producing device is a requirement but the lack of one is generally not something they give citations for, though they are highly recommended. Life jackets are required in all boats and mandatory wear is in effect from November 1st through April 30th. Roeder asked

for clarification regarding firearms. Kaneski told him it is lawful to have a licensed firearm carried openly, at an access, as long as you are not a convicted felon. O'Dell asked about fishing licenses. Fishing licenses from PA or NY are reciprocal from either shore. Pennsylvania law requires that the license be displayed. Kaneski noted that New York has accesses that mirror Pennsylvania's at six out of seven areas. Swimming from New York accesses is allowed unless there is a sign stating otherwise. Henry questioned what requirements there are for starting a business venture on an access. Kaneski noted that special activity permits and commercial use permits are available. An example would be if a person wanted to get married at an access, a permit most likely would be granted, but the access would not be shut down. Commercial is different and requires approval through Harrisburg. He noted this is not an easy process and will be tough to get a commercial permit to run a business at an access area.

Lt. Clayton of the NYS DEC noted that his assigned area is Ulster and Dutchess counties. He reported that Lt. Martin Townley currently covers Sullivan, Orange and Rockland counties, but was unavailable to attend tonight. Clayton stated that Region 3, which encompasses the counties of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester, is currently shorthanded. He said there are three officers for Sullivan County and two officers for Orange County for 24/7 coverage. Clayton provided the number 1-877-457-5680 and told members that if they see something that may be an offense to call that number which is the 24-hour dispatch. He said that callers should provide as specific information as possible. Peckham questioned if licensed guides have to pay a fee to the state. Clayton said yes and explained. Fees are also required to be paid by guides to Pennsylvania and the National Park Service when working on the Delaware River. Ritter, a licensed guide, commented that the fee in Pennsylvania is quadruple for non-residents. Dean noted that it is unfortunate that the sports licensing fees are not used to have more officers to take care of situations where individuals don't do the right thing. It is his opinion that there are not enough DEC officers with "boots on the ground" to enforce the laws, but there are lots of administrative people to enforce private property issues such as property development. Clayton stated there is a staff of five or six in habitat protection covering seven counties. He said that statewide DEC's full strength is 320 and they are down by 70. Hulse noted that part of Sullivan County is in the Catskill State Park. He questioned if there is a separate Park Police agency in New York State and if they can offer mutual aid to the DEC. Clayton told him the Park Police have jurisdiction over state parks only. Clayton suggested members share their concerns regarding understaffing with their local politicians. Clayton provided a number of handouts which included a list of the accesses in Region 3, with seven on the Delaware River; lists of boat launch sites for Sullivan, Orange, and Delaware counties; a list of Region 3 Fishing Access sites; Part 59 regulations and additional information pertaining to State Boat-Launching Sites, Fishing-Access Sites and Fishing Rights Areas; and an informational handout on didymo. Clayton reviewed the regulations with members. Letter (c) of 59.1 Regulations reads "No person shall conduct any business, buy, sell, offer or expose for sale, hire, lease or vend any article or merchandise of any kind, unless a written permit is first obtained from the department." Regarding a vendor on a particular site in Barryville, NY, Clayton advised that property is owned by the New York State Department of Transportation (DOT), it is not DEC land. He suggested any issues with this site should be directed to the DOT as the DEC can not act as a complainant on their property. Henry questioned Clayton if he is 100% sure the Barryville property in question is not a DEC access. Clayton said he was told by Mike Flaherty and Bill Rudge that DEC does not own the land. Henry questioned who could enforce trespass and illegal commercial activity on state property. Clayton said the process would have to begin with the DOT to determine if permission has been granted or not. Any police officer could enforce a trespass violation should one be determined, he added. Forest Rangers are sworn Police Officers authorized to enforce all state laws, with special emphasis on Environmental Conservation Law and the protection of state lands and the public using state lands. The New York State Forest Ranger force is composed of over 100 forest rangers, lieutenants, captains and directors stationed at locations across the state. O'Dell asked about swimming at the accesses. Clayton said it is allowable unless there is a sign stating otherwise. He noted swimmers should not interfere with the launching of boats. Clayton explained that in order for a violation to be enforced, it must occur in the officer's presence or the officer must have reasonable cause to believe there has been a violation. A public complaint must be accompanied with good, usable evidence. Henry questioned if commercial activity is allowed on DEC accesses. Clayton said with a permit.

Henry thanked them for their attendance. Clayton provided members with his desk phone number and noted he is available every Monday from 9 a.m. until 4:30 p.m. Callers can leave a message if necessary.

Approval of June 4 Meeting Minutes: A motion by Roeder seconded by Greier to approve the June 4 meeting minutes was carried.

Public Comment on the Agenda: None

Committee Reports: Committee reports were provided based on the meeting minutes. They were: June 16 Water Use/Resource Management by Ritter, June 23 Project Review by Richardson and June 23 Operations by Henry.

Ritter reported that rain for the month of June totaled close to 8 inches. He noted that every reservoir is spilling. Total storage as of July 1 was at 100% with normal being 94%.

Status Reports

Delaware River Basin Commission: Ramie noted we await Tom Fikslin's response in regards to the inquiry regarding the cfs discrepancy reports provided in June. The DRBC was absent, however, the hydrologic report was provided. The NYC Delaware River Basin Storage as of June 29, 2015 was at a combined capacity of 99.2% with Cannonsville at 98.1%. Also provided was a DRBC press release dated June 29, 2015 titled, "DRBC Reminds Us to Use Water Wisely".

NYS Dept. of Environmental Conservation: No report in the absence of Representative Bill Rudge. Ramie noted there are two press releases included in members' packets titled, "DEC Announces Falconry, Wildlife Rehabilitator and Leashed Tracking Dog Examinations", June 24, 2015, and "New York State Officially Prohibits High-Volume Hydraulic Fracturing", June 29, 2015.

PA Dept. of Conservation & Natural Resources: No report in the absence of Representative Tim Dugan.

National Park Service-Upper Delaware: Heister reported that Frank Hayes, Associate Regional Director of Resource Preservation at the regional level, recently visited the Upper Delaware. He is in charge of natural and cultural resources, she added. Hayes spent a couple of hours on the river, visited the Lackawaxen Inn, and attended the bat program on June 13th at the Roebing Bridge.

Heister said she met with Lackawaxen Township. She noted that one of her goals has been to attend all participating municipality meetings before she's been here a year. She recently attended a Town of Tusten meeting, Berlin Township meeting, Damascus Township meeting, and met with the Town of Deerpark Supervisor Gary Spears. Heister said she also met with Buckingham and Manchester townships jointly. She said the purpose of the meeting was to introduce herself and give the townships a "heads up" that the Park Service will be bringing on a park planner and when they do, they will be picking up their responsibilities of project review in their townships. She provided details of the meeting, noting she felt it went well and said she will be following up with them.

Heister referred to the meeting with Westfall Township on June 24 about the Hawks Nest noise issue as a brainstorming session. She said she learned the complaints are not necessarily a traffic problem. She left understanding that there are a small number of individuals on motorcycles that go back and forth through the Hawks Nest up to 18 times in a row. Law enforcement is aware of the issue and is trying to address it, Heister stated. Many ideas were shared by those in attendance. It was decided that data would be collected in order to initiate targeted law enforcement options. Heister said she spoke with Supervisor Spears about the potential to restore some of the Park Service funds to Deerpark for law enforcement. She also said that use of the Park Service decibel meter was offered. She shared copies of New York Noise Regulations and excerpts from New York Vehicle Code. Barth shared some of the laws pertaining to motorcycles. A brief discussion about baffles took place.

Heister said she met with John and Debra Conway to discuss some opportunities with The Delaware Company. A shared event in September at the Corwin Farm is under discussion.

Heister reported the Delaware River Sojourn was in the Upper Delaware from June 20-22. A variety of programs was offered. Carla Hahn was honored as Lady High Admiral during a presentation which took place on June 22nd.

Heister noted the Park Service will be hosting a river clean-up from Ten Mile River access to Lackawaxen access on July 12 between 9 a.m. and 3 p.m. A press release was included in members' packets.

Heister passed around the UDSRR Event Schedule Summer 2015 brochures to members.

Heister stated that July 18th is the Zane Grey Festival from 10 a.m. – 4 p.m. and the Commemoration of the Battle of Minisink at 4 PM at the Battleground Park. Conway commented that Heister will be the keynote speaker at that commemoration.

Ramie noted that the National Park Service 2014 Statistical Abstract was provided in members' packets. Heister said that can be discussed at a later date after she has an opportunity to analyze it further. Peckham questioned the 13% projected decrease in visitation at the Upper Delaware and Hulse asked who makes the projection. Henry reiterated this will be discussed at the next meeting.

UDC Executive Director's Report: Ramie said she hoped members had the opportunity to notice the beautiful flowers outside the office. She noted the UDC had given a donation to the Narrowsburg Beautification Group to help offset the purchase of plants and material and she believes the project has far exceeded that donation. A thank you card to Star Hesse was passed around for all to sign to express appreciation for her time and effort on the project.

Ramie noted the UDC received a letter from PA Governor Tom Wolf. The letter read, "Dear Laurie, Thank you for your recent correspondence. I always appreciate the opportunity to help address issues of concern to citizens. I appreciate the information provided in your letter and value your expertise on the issue. Thank you for your time and dedication to these matters and I look forward to working with you in the future. Sincerely, Tom Wolf, Governor." Ramie believes this letter is a reply to the UDC's correspondence sent to Governor Wolf in January welcoming him to office and explaining the Commonwealth's role in the Council.

Ramie shared a copy of the June 26 edition of *New York Outdoor News*, provided by Greier, which contained the UDC's Letter to the Editor she had been directed to write at the last meeting.

Ramie expressed appreciation to the Park Service for meeting with Buckingham and Manchester Townships. She believes that it is a misperception sometimes that if a township does not participate on the Council they are somehow exempt from the guidelines that pertain to being in this geography of the Upper Delaware. She hopes these informational meetings may be a persuasive factor to consider membership. Peckham said it was good that Heister initiated the meeting with the supervisors.

Ramie said approximately 79 participants of the 2015 Delaware River Sojourn paddled from Balls Eddy to Buckingham on June 20th and honored Dan Corrigan from Northeast Wilderness Experience (NEWE) as Lord High Admiral; on June 21, 82 people paddled from Buckingham to NEWE Campground and Clem Fullerton from Trout Unlimited Upper Delaware Chapter was honored as Lord High Admiral; and on June 22, 86 participants paddled from Narrowsburg to Lackawaxen and Carla Hahn from NPS was honored as Lady High Admiral, as Heister previously noted. An article about the event will appear in the Fall edition of the Upper Delaware newsletter.

Ramie referenced the copy of the letter from Penn DOT confirming a public meeting on Wednesday, July 29, at the Tusten Town Hall at 6 p.m. The purpose of the meeting is to provide Penn DOT staff and their Design consultants an opportunity to update the public on the status of the Narrowsburg Bridge project, current rehabilitation plans, and the ongoing coordination with emergency service providers. Ramie is appreciative to Penn DOT's responsiveness to the format and location we suggested.

Regarding the Outside Consulting Services 2015 projects, Ramie reminded members that the Board prioritized two projects; those being website upgrade and records management project. The UDC's 2008 website will be upgraded with new features including a customized responsive design for accessibility on mobile devices, a photo gallery for public submissions, a more engaging presentation of our news releases and archived materials, and better readability overall. A contract with W Design of Barryville has been approved and staff will be meeting with Dorene Warner to get started. O'Dell inquired about visits to the website. He learned that from June 1 through July 1, there were 320 sessions by 248 users. It is hoped that the website upgrade will increase the number of visits. The other project to be pursued this fiscal year

is records management. As a result of conversations about how to proceed, it has been decided to break the project down into three phases of work. The first phase would be attic preparation, the second is attic organization, and the third is records management. A bid to accomplish the first phase was provided in members' packets. The tasks include secure the flooring, vacuum the entire space, repair a broken window, assemble the steel wire shelving units, install blinds over the front window, purge papers and remove and dispose of various other items. To get this project moving forward, Ramie recommended approving the bid tonight in order to have the work completed by August 14th to allow for the second phase. It is hoped that phase two which includes identifying attic materials, grouping like subjects together, organizing and labeling materials by subject, year and category, creating a list of contents, and storing boxes on the shelving units can start by August 17 and be completed by September 18. We will seek competitive bids for the third phase which will require specialized, professional services such as a librarian or an archivist. The UDC will need to adopt a Records Disposition and Retention Schedule before phase 3 begins. A motion to approve the bid to accomplish Phase 1 of the Records Management project was made by Richardson, seconded by Sullivan and carried. McKay commented that the end date was not included in the contractor's bid. Ramie said that information was provided to him, but we will stress that date again in our acceptance letter.

Ramie noted a meeting took place with a financial planner prior to the full Council meeting. It was attended by Aaron Robinson, Al Henry, herself and the planner. A report of that meeting will be given at the July 28th Operations Committee meeting and the planner will attend to present committee members with various investment options for its unrestricted funds. Ramie suggested the order of the meetings be switched that night to accommodate him. Members agreed. Henry shared details of the planner referred to the Council by Damascus alternate Steve Adams. Henry said that no decisions were made at the meeting held earlier in the day. He characterized it as a "fact-finding mission." He added that if anyone else has suggestions for a financial planner, please feel free to share that information.

Ramie referred to the July calendar of UDC Meetings, Activities, and Deadlines. She noted the office will be closed on Friday, July 3, in observation of the July 4th holiday and shared staff vacation days. UDC booths will be staffed at the July 18th Zane Grey Festival and the July 26 Narrowsburg Riverfest. Reservations for the UDC Raft Trip are due by July 24th. A copy of the registration flyer was provided in each member's packet. Ramie noted there is no presentation currently planned for the August full Council meeting. She encouraged members to share any ideas for one they may have.

Hulse suggested that the UDC may try and reach out to Pennsylvania Governor Wolf via phone. A motion to extend an invitation to Commonwealth of Pennsylvania Governor Tom Wolf to the UDC's 27th Annual Family Raft Trip on August 2 was made by Henry, seconded by Richardson and carried.

Old Business:

Henry noted that he would like to come up with a strategy for addressing the issue with the potential DEC access in Barryville, NY. He asked Heister if she had a copy of the agreement for that access signed by former Superintendent Vidal. Heister said she had a copy of an agreement between the Park Service, NYS DEC, and NYS DOT. Henry noted that during his tenure with the Park Service, he worked on this issue. He said the Barryville Bridge was built with the intent to develop a public access on the New York side. Henry said he recently visited the site and found private infrastructure on the property. He added all the private infrastructure belongs to one business. Henry shared his personal knowledge of the access from his employment with the National Park Service. He noted the Barryville access was to be a public access, but is being used as a private access. Ritter questioned if the Town of Highland gave approval to the enterprise operating in the location being discussed. Conway said they did and did so without a public hearing. She shared details of a conversation she recently had with the town's Planning Board Chairman. Richardson suggested that the UDC set up a meeting with the Department of Transportation to discuss the use of this property. Heister spoke of an agreement between the DEC and the DOT which states that the DOT "shall retain title to and general jurisdiction of the fishing site." Henry noted that the NPS could enforce the laws at that access due to their co-occupancy agreement. He added that the Superintendent could revoke the business's Commercial Use Authorization as they are in violation of the state law. Heister said she could revoke the CUA based on the condition in there that says "at the discretion of the Superintendent". She added they are not violating a condition of the CUA per se. Heister said her position is that if the town has

permitted it and the DEC is not going to take any action unless the DOT asks them to, she does not consider that a good exercise of her discretion. Greier commented that this issue is what the Town of Fremont does not want at the proposed Ferry Street access and he explained his reasoning. Ritter referenced the letter sent to the Town of Highland April 28, 2015 from the Project Review Committee with a copy sent to Director Jack Williams of NYS DOT Region 4. He noted the DOT should be aware that there is a problem. Ramie said this issue was also brought up at the NY/PA Joint Interstate Bridge Commission annual meeting on May 13th. Ritter questioned if the DOT ever responded to the letter. Ramie said they did not. A motion to compose a letter to NYS Department of Transportation Region 9 Director Jack Williams with copies to the NYS DEC, Town of Highland, Fred Reber, and NPS, inquiring whether any authority was given by DOT to operate a commercial livery business on the assumed state property located under the interstate bridge in Barryville was made by Ritter. The motion was seconded by Barth. Dean questioned the layout of the property. Henry explained it to him. Hulse stated there are "No Trespassing" signs posted underneath the bridge on the upstream side. Henry asked him to clarify if someone posted "No Trespassing" signs on state property. He was told that was correct. Henry reiterated that the livery's CUA could be revoked for violating any state, federal, or local law. Heister said that the NPS jurisdiction and the jurisdiction of the CUA is to the ordinary high water mark on each side of the river. The condition in the CUA that says they must adhere to state, federal, and local law, applies to the laws within the ordinary high water mark. Henry disagreed and provided his reasons. Heister reiterated that the NPS regulates activities only on the water. Henry said there is paperwork in place that allows the NPS to enforce Park Service and state law on the access in question. After brief discussion, a vote was taken on the motion to send the letter and passed.

Other: None

New Business:

Draft Resolution 2015-12: Adopting New York State Minority/Women-Owned Business Enterprise Procurement Policy: A motion to approve the resolution was made by Conway, seconded by Richardson. McKay questioned how the UDC was solicited to draft this resolution. Ramie explained the UDC belongs to the New York State Grants Gateway system and in order to be pre-qualified to administer any state funding, they need to see proof that this is on record. She said at Roeder's request, she sent an email to the State Comptroller asking "if proposals are solicited for a project that is state funded using good faith outreach efforts to comply with this procurement policy and the bids came in at an equal cost by an M/WBE and non-M/WBE firm, would our organization be required to accept the M/WBE bid?" She was told to forward her inquiry instead to the Empire State Development Division of Minority and Women-Owned Business Development through the NYS contract system. She did so on June 25 but has not received a response. She added this is a requirement for state-funded projects for which we have not had any since 2009, but in order to stay pre-qualified, this has to be a policy. A vote was taken and the motion carried with Roeder, Dean, Dexter and Peckham voting no.

Draft Resolution 2015-13: Clarifying Corridor Boundary in Lackawaxen Township: A motion to approve the resolution was made by Richardson and seconded by Roeder. It was noted that Lackawaxen Township adopted a resolution concurring with the clarification. A vote was taken and the motion carried with McKay opposed.

Draft Resolution 2015-14: Authorizing an Amendment of the UDC Medical Insurance Provision: A motion to approve the resolution was made by Richardson, seconded by Sullivan and carried.

Draft Letter: Support for Marketing the New York State Upper Delaware Scenic Byway: A motion to approve the letter was made by Conway, seconded by Dexter and carried with Peckham and Greier abstaining.

Draft Letter: Implementation of a Schematic Design for the Skinners Falls River Access: A motion to approve the letter was made by Dexter and seconded by Richardson. A brief discussion about the flooding

that happened between 2004 and 2006 took place. Roeder asked for clarification of the use of the word "landowners" in the third paragraph of the letter. Ramie told him that refers to New York State. A vote was taken and the letter carried with McKay abstaining.

Other: None

Public Comment

Adjournment: A motion by Roeder, seconded by Peckham, to adjourn the meeting at 9:40 p.m. was carried unanimously.

Minutes prepared by Cindy Odell 7/20/15