

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
September 26, 2017

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Steve Adams, Alan Henry, David Dean, Aaron Robinson, Fred Peckham, Jim Greier, Susan Sullivan, Debra Conway

Committee Members Absent: None

NPS Partner: Kris Heister

Staff: Laurie Ramie, Cindy Odell, Pete Golod

Guests: None

The UDC's Project Review Committee held its monthly meeting on Tuesday, September 26, 2017 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 7:32 p.m.

A motion to approve the August 22 meeting minutes was made by Peckham, seconded by Greier and carried. There was no public comment on the agenda.

Discussion Items Report:

Project Review Update

New York

Town of Tusten: Golod reported that on August 23 he completed the Project Review Guide Substantial Conformance Review of the Town's Zoning Amendment for Solar Energy Systems and submitted the full review via email to the Project Review Committee for review and comment. After receiving members' comments, on August 29, he drafted a letter to the Town Supervisor regarding the Substantial Conformance review of the Town's Zoning Law along with the UDC's initial recommendation per the Project Review Committee's review. On September 1, he drafted a letter to the Town stating what the recommendation was and also drafted a letter to NPS Superintendent Heister regarding the Substantial Conformance review of the Town's Zoning Law along with the UDC's initial recommendation per the Project Review Committee's review. Copies of the Substantial Conformance Review report and the two September 1 letters were provided in members' packets. Golod recommended to the Committee that they move this review to the full Council for a final vote on October 5th. He noted that per the Project Review workbook, the final step is once the Project Review Committee makes their initial recommendation, it moves to full Council where they hold a final vote on whether it substantially conforms or not. He asked that the previously reviewed Substantial Conformance Reviews for the Town of Tusten that included the Tusten Camping Law, the Tusten Subdivision Law, and the Tusten Zoning Law also be moved to full Council for a final vote for initial recommendation of Substantial Conformance to the National Park Service. A motion to move the four Substantial Conformance review recommendations to the full Council for a final vote was made by Dean, seconded by Henry and carried.

Town of Highland: Golod said on August 24, he submitted a letter to NPS Superintendent Heister noting the UDC's initial recommendation regarding the Town's Substantial Conformance review of their draft Zoning Laws. A copy of that letter was included in members' packets. He reiterated that the Zoning Law is still in draft form. Golod said he talked with Highland Supervisor Haas who advised him that the draft awaits final approval. He added that once it is approved, if there are any changes made to the draft, it will come back to the UDC for review.

Pennsylvania: None

FY 2018 TAG Update: Golod noted that his written Discussion Items Report contains a brief overview of the FY 2018 TAGs that were reviewed earlier this evening.

Millennium Pipeline Project: Golod reported that on September 15, FERC decided that NYS DEC could not stop Millennium pipeline construction by issuing or denying a water quality certification. NYS DEC failed to act within the allotted one-year time frame required by the Clean Water Act. This decision will allow the pipeline project to continue to proceed with operation targeted for in early 2018.

Resource Specialist's Report:

- On August 31 Golod completed and submitted the 2016 Enforcement Program to the NPS. He provided a brief summary of that report. The Town of Fremont issued 2 building permits within the river corridor and made 1 Zoning Ordinance Amendment change in 2016; the Town of Delaware made 2 Zoning Ordinance Amendment changes; Town of Cochection made 1 Zoning Ordinance Amendment change; Town of Tusten issued 1 building permit and 2 Special Use permits; the Town of Highland issued 7 building permits; Town of Lumberland issued 8 building permits; there were no permits for the Towns of Hancock and Deerpark; Damascus Township issued 4 Building Permits, 1 Special Use Permit, and 1 Variance in the river corridor; Lackawaxen Township issued 10 building permits within the river corridor; and no permits were issued in the corridor for Berlin, Shohola, and Westfall Townships. Golod stated there were no permits issued that would challenge the intent of the Land and Water Use Guidelines. He added that during the 2016 season all of the permitted projects within the river corridor that were submitted to the UDC for review were in conformance with the Land and Water Use Guidelines.
- On August 23, September 7 and 14, Golod and NPS Management Assistant Carla Hahn continued work on revising the draft for the proposed updated Project Review Guide. He hopes that the Guide will be completed at the end of October. He spoke of the initial review of the Highland Access that he and Hahn conducted. The Project Review Committee will review this project once the project application and site plans have been finalized, Golod added.
- Golod noted that he wrote and submitted on September 8 an article for the UDC's Fall/Winter edition of *The Upper Delaware* newsletter.
- On September 14 Golod said he participated in a USDA hosted webinar titled, "Drought and Invasive Species." A formal report was given to the WU/RM Committee on September 19th.
- On September 19 Golod stated that he attended the third stakeholders meeting presented by Haas Landscape Architects regarding the proposed project for the Highland River Access. A verbal report was given at the September 19 WU/RM Committee meeting.
- Golod reported that he has completed Week 5 of his GIS course and is maintaining an 88.9% total grade average. Richardson stated that he would like to know more about the course that Golod is taking and how it will be a benefit for the Council going forward. He suggested that Golod could offer this information at a future Project Review Committee meeting.

Ramie stated that we do need to take the final step of having any Substantial Conformance reviews go to the full Council. She questioned if Resolutions will be required for each review. Richardson said he believes so. Ramie said we will draft some model language to be used for each one.

Conway questioned if Golod had received a timeframe from the Town of Highland regarding progress on their zoning re-write. Golod said he last talked with Supervisor Haas in mid-August. Golod said he understood that they were going to continue the re-write procedure in September, but does not know if it has moved forward or not. Conway said she has not seen anything publicized regarding the re-write. Golod said he will follow up with Supervisor Haas for an estimated timetable for local action on its Draft Zoning Law Update.

Old Business

Draft Resolution 2017-08: Guiding Substantial Conformance Reviews of Renewable Energy Projects in the River Corridor: Ramie noted that this issue was kicked back to the Committee at the September 7 full Council meeting for further discussion. She stated we need to come up with some decision on how to proceed with this. She further stated that the Council has accepted the Position Paper and the conclusions of it, but the next step seems to be the obstacle. Robinson said that he read over the Letter of Interpretation method and feels that there would be little downside in using this method in dealing with these new uses.

He does not feel amending the River Management Plan for each new use is practical as it involves an overwhelming amount of work. Peckham expressed his opinion regarding the vagueness of the Resolution. Ramie told him that the details are in the Position Paper. Adams questioned if the UDC can amend the River Management Plan (RMP). He was told yes. Peckham added an amendment would need to be approved by the National Park Service. Henry noted that a minor amendment to the RMP requires a unanimous vote by voting Council members. He said the likelihood of that happening is slim. Referring to page 28 of the RMP, Henry read under Notifications and Reports, "The Council shall report annually to the Secretary of the Interior, the membership, and the Citizens Advisory Council regarding the effectiveness of the management plan." He continued and read number 4 which stated, "Letters of interpretation issued by the Council to clarify any provisions of the Management Plan." He suggested pursuing this process. Ramie said the distinction with Letters of Interpretation was that they are for existing issues in the River Management Plan as opposed to something brand new. Henry said that some of the definitions in the Plan were used in the Position Paper; he suggested that constitutes an interpretation. Ramie feels the description in the Plan for how to do a Letter of Interpretation is lacking. A brief discussion about including public notification in the process took place. Ramie feels people would be interested. Henry recommends going through the Letter of Interpretation process; he feels it would resolve a lot of the angst and concern among representatives and town and township members. A motion to address the Resolutions Guiding Substantial Conformance Reviews and Position Papers through a Letter of Interpretation which would include public notice was made by Henry and seconded by Conway. A brief discussion about the Errata in the front of the RMP took place. Ramie commented that the Errata is not good documentation. Peckham stated that the RMP was not meant to be changed easily. He spoke about the history of the drafting of the RMP and some of the tension that was in the river valley, noting that some of the tension still exists today. He said that if you write a Letter of Interpretation, you are taking the power away from the towns and townships, which is the whole purpose of the Upper Delaware Council. He added that if you don't get a unanimous vote, you go back to the towns and townships for discussion. Richardson said that he likes the idea of a Letter of Interpretation, because he sees that as exactly what was done during the process of looking at renewable energies. He said they looked at similar activities in the River Management Plan to see where the new uses might fit. He sees that as interpreting the Plan. He would like to see the staff put the procedure together on how to accomplish a Letter of Interpretation. Henry reiterated his desire to keep this process as simple as possible to avoid any issues. Heister feels there are several ways to incorporate these new uses into the definitions of the Plan. Henry asked Heister if she was opposed to trying a Letter of Interpretation. Heister said she has given the Council all the information she can and that the Council has to "take it from here." She said she agrees with Peckham that there was a reason the people that wrote this Plan were seeking some type of unanimous agreement even though it is a very hard standard to meet. She feels the process that was put together on this issue allowed for the unanimity on the Position and making the change would simply be a resolution. She added that from her perspective, what still needs to be done to incorporate the new uses does not require a lot of work; she said the majority of the work has already been done. Greier feels a Letter of Interpretation would be a good start. Robinson said the process to take something out of the RMP is as difficult as it is to add something and that is where his town's reservation comes from. He feels that a Letter of Interpretation is "much closer to the township's control". Richardson sees the Letter of Interpretation as a way to move these projects forward. Heister asked how we include new definitions. She said there are some new definitions that are included in the Position Papers. Sullivan said she sees the Letter of Interpretation as simply a cover letter to the Position Paper. She sees the Position Paper as the interpretation, noting that a lot of work went into the paper and we should be able to use it. Heister asked members if they would be okay with the NPS doing some editorial changes to the Land and Water Use Guidelines. She asked if it is the intention to attach each Letter of Interpretation to the Guidelines. Heister said she would want to run this Letter of Interpretation process through the Department of the Interior Solicitor to find out whether what is being proposed has the same standing as doing a minor amendment to the Plan. Richardson stated that by Heister checking we will determine if the Park Service is comfortable with the procedure of using Letters of Interpretation for projects that are not specifically listed in the River Management Plan. Henry asked that Heister wait for a letter to be drafted before sending the idea to the solicitor. Henry asked if the solicitor's response can be provided in writing before anything is finalized. After more discussion the motion by Henry to address the Resolutions Guiding Substantial Conformance Reviews and Position Papers through a Letter of Interpretation which would include public notice that was seconded by Conway was voted on. The motion carried with Peckham voting no.

Draft Resolution 2017-09: Guiding Substantial Conformance Reviews of On-Farm Cideries in the River Corridor: Ramie noted that the difference with the Cideries subject was that the Council never got to the point of having the Position Paper approved. She said as a committee, it was recommended to the full Council for approval, but was not acted upon at the full Council level. Henry stated that since it is an agricultural use, he would move that the paper not be addressed. Peckham seconded that motion. Heister stated that it is not a straight agricultural use. It is the major commercial operation that New York State allows under their law, that Pennsylvania doesn't. Because of the inconsistency, it should be addressed as a conditional/special use. Sullivan suggested moving forward with a Letter of Interpretation for this issue as well. Henry amended his motion to address the Resolutions Guiding Substantial Conformance Review of On-Farm Cideries and Position Papers through a Letter of Interpretation which would include public notice. Peckham withdrew his second and the amended motion was seconded by Conway. A vote was taken and the motion carried with Peckham voting no.

Frontier Communications Emergency Phones Update: Ramie reported that she brought this issue to the Upper Delaware Scenic Byway Committee in trying to work through the Town of Lumberland. She said according to the Town's Scenic Byway representative, the Town is interested in the idea. The town supervisor will bring the idea to the town board to see if they would like to explore it further. Ramie said she will get back to the committee with Lumberland's reaction. Robinson noted that the Pennsylvania Turnpike Commission announced that the agency has started removing the call boxes that are positioned along the entire system. He said the boxes are functional and suggested reaching out to the PA Turnpike Commission to see if we can obtain some of the units at no cost.

Project Review Guides Update: Golod said he had reported during his Discussion Items Report that he had met with Carla Hahn twice to work on streamlining these guides. He has projected a completion date at the end of October.

Other: Peckham asked if the National Park Service, Department of Interior's position on natural gas development has changed since the Army Corps of Engineers voted against the DRBC ban. Heister said the Army Corps did not make that decision alone. She said the Army Corps represents the federal family on the DRBC. He asked if the NPS position is the position of the Army Corps of Engineers. Heister said correct. She believes that the NPS position is the same as it's always been; they support the proper siting, operation, and maintenance of the full suite of clean energy alternatives, which includes oil and natural gas development. Ramie clarified that the DRBC vote was not for a ban, but to develop regulations for natural gas activities in the river basin.

New Business

PA Municipal Planning Education Institute: The Course in Subdivision & Land Development: Golod referred to the registration form for this course in members' packets. He requested approval of the Committee to attend the course and for the Council to cover the costs. The costs include a \$20 registration fee and mileage reimbursement for all three courses to be held on October 25, November 1, and November 9 in Jessup, PA. A motion approving Golod's attendance and costs involved was made by Henry, seconded by Roeder and carried.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Greier to adjourn the meeting at 8:33 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 10/5/17