

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES - CORRECTED
June 26, 2018

Committee Members Present:	David Dean, Al Henry, Jeff Dexter, Harold Roeder, Jr., Fred Peckham, Aaron Robinson, Jim Greier, Deb Conway
Committee Members Absent:	Larry Richardson, Susan Sullivan
NPS Partner:	Kris Heister, Jennifer Claster
Staff:	Laurie Ramie, Pete Golod, Linda Drollinger
Guests:	Roger Saumure

The UDC's Project Review Committee held its monthly meeting on Tuesday, June 26, 2018 at the Council office in Narrowsburg, NY. Vice-chairperson Dean called the meeting to order at 6:30 p.m.

A motion by Peckham, seconded by Greier, to approve the May 22 meeting minutes was carried.

There was no public comment on the agenda.

Discussion Items Report: Golod reviewed his written report, including as highlights:

Town of Fremont: NYS DOT reported a slope repair project on Route 97 north of the intersection with Basket Brook Road and south of the hamlet of Long Eddy. Two sections of roadway have collapsed and require the installation of steel sheeting for roadway stability. DOT plans to repair the sections this season and is currently awaiting contractor availability.

Town of Delaware: NYS DOT recently completed repairs on a small culvert south of the former Delaware Valley Central School, necessary because the deteriorating culvert had caused erosion to the southbound shoulder of Route 97. Golod attended a 6/13 Town Board meeting because a solar moratorium was expected to be on the agenda, but it was not. Instead, the board considered relocation of the Callicoon Waste Water Treatment Plant, made possible by an engineering grant from New York State Environmental Facilities Corporation (EFC). Town supervisor Ed Sykes was designated the town's liaison with EFC. Golod has arranged a June 27 visit of Delaware River Solar's Baer Road site for interested UDC members and staff as well as NPS staff.

Town of Highland: Golod provided an explanation of the New York State DEC response (included in members' packets) regarding the Barnes Landfill. He noted that the nine contaminants detected in water samples obtained from four onsite monitoring wells in December 2017 exceeded both US EPA and NYS DEC safe levels. He said constituents such as lead, benzene, chlorobenzene, and perfluorooctanoic acid are known to be toxic and carcinogenic and would cause harm if they entered the Delaware River. Heister asked if groundwater and nearby residence wells had also been tested. Saying that her main concern is to determine if leachate is entering the Delaware River, she said it would be essential to get water samples from Beaver Brook down closer to the river because "the solution to pollution is dilution". Members asked three questions: how big is the landfill site; how far is it from the Delaware; and what kind of materials were dumped there? Henry and Robinson, both familiar with the landfill, estimated it at about 50 acres in size situated approximately one mile from the river. Robinson said he knew the original landowner, Steve Barnes, well and that Barnes opened the landfill for the purpose of disposing of household trash accumulated from the running of his boardinghouse. But the subsequent operator, Robert Liguori, was a trash hauler from Long Island who allegedly dumped hazardous materials, including trashed cars, indiscriminately. Robinson noted that the landfill is visible from the river and that the leachate from the landfill flows into Beaver Brook which runs right through Kittatinny Campground; Saumure asked Heister if campground public water supply is subject to routine testing and was informed that it is. Dean said that NPS has the authority (that UDC lacks) to take enforcement action. Henry asserted that NPS has enforcement power under the Wild and Scenic Rivers Act, to which Heister responded that DEC is the enforcing agency, even when NPS takes the lead in

oversight activity. It was mentioned by council members that DEC is unlikely to press for enforcement action, as there is no longer a responsible party to prosecute. But it was suggested that DRBC, has the resources to pursue a cleanup. The council recalled Sullivan's question to Rudge at the June council meeting about the availability of Superfund money for this purpose and Rudge's reply that years ago DEC had offered Highland grants for that purpose, on the condition that the town assume ownership of the landfill site; Highland chose to reject the grant money rather than assume ownership of the landfill site. Heister said the next step should be to get the landfill's closure plan and noted that the NPS hydrologist comes on board in six weeks. The Committee agreed that Golod would confer with Heister to draft a follow-up letter and propose any other actions they recommend.

Town of Lumberland: Golod documented the history of Camp Simcha's use of Sonar SRP, an herbicide used to control water lily, spatterdock, and water shield, in Lake Diana, which borders the camp and neighboring properties. Golod asserted that those plants all thrive in nutrient-rich water resulting from livestock waste runoff and/or inefficient septic systems. Sonar PR has been shown to cause liver and kidney issues and repeated exposure to crystalline silica, the primary component of Sonar PR, may cause silicosis, a progressive disabling lung disorder. Simcha's first documented use of Sonar PR was in 2015. At that time, Simcha sent a letter to owners of neighboring properties informing them of the application and advising them that swimming and fishing in the lake was prohibited for 24 hours and irrigation from the lake was barred for 7 days. In August of 2016, Simcha's management company, Solitude Lake Management, again dumped Sonar SRP into Lake Diana, this time approximately 75 feet from a local resident's well. In November 2016, the NYS DEC responded to Golod's query about Simcha's Sonar SRP applications stating that Simcha applied for and was issued aquatic pesticide permits for the use of Sonar SRP in 2015 and 2016, and that it is an aquatic pesticide approved for use in ponds and lakes by both the EPA and NYS DEC. In January 2017, Golod replied to DEC saying that the repeated need for Sonar SRP application could indicate an inefficient septic system. Simcha has recently applied for an Article 15 Title 5 Excavation & Fill in Navigable Waters permit. The applicant proposes hydro-raking two acres on Lake Diana to remove nuisance aquatic vegetation, which would then be placed on shore behind silt curtains to dry before removal from the site. Because only one committee member responded with a suggestion for public comment on this project, which expired on June 14, no letter was submitted by the UDC.

Berlin Township: PPL intends to remove and replace 18 Verizon telephone poles with taller poles for electricity distribution lines along Cortese Road, which is within the river corridor. Golod reached out to PPL's Right of Way agent requesting the submission of documentation for this project and was informed that these poles are for distribution only, not transmission.

Resource Specialist's Update:

- Golod, Hahn and Claster continue work on the Project Review Guide.
- Golod attended a 5/23 Upper Delaware River Tailwater's Coalition Project Advisory Committee meeting for review of the Stream Corridor Management Plan. A summary of that meeting was presented at the 6/19 WU/RM Committee meeting.
- Golod and Ramie attended a 6/20 Green Infrastructure workshop and will provide a report at the July WU/RM Committee meeting.
- Golod participated in the 6/21 DRBC Water Management Advisory Committee quarterly meeting.
- On 6/30, Golod and Drollinger will staff a UDC information booth at the 2018 Upper Delaware BioBlitz at the Gales property in Starlight, PA.

Old Business:

Town of Highland River Corridor Project Update: A June 14 letter from Richardson to Jeff Haas, Town of Highland supervisor (included in the meeting packet), outlined a construction project within the river corridor reported to the UDC and later observed by Golod at a site visit. In the letter, Richardson noted that no site plan, building permits, GML 239, or other supporting documentation for this project had been received by the UDC or posted on the site as required by Highland ordinance. Located in the Hamlet Commercial Zoning District, adjoining the Eagle Observation Access Area, the lot on which this parcel is located is identified on the tax map as Parcel

#27.-9-1. When this project was raised at the June 7 Council meeting, Highland Representative Kaitlin Haas said that all required documentation would be made available to the UDC. When informed by Henry that it is the obligation of the town to furnish the UDC with all required site plans and permits, Haas said there was confusion and misunderstanding created by a changing of the guard, that the current code enforcement officer was unaware that his predecessor had issued permits in December of 2017. However, a June 21 letter of reply from Highland Code Enforcement Officer David Preston (included in meeting packet) indicated that his letter and its enclosures (copies of completed permit applications) were supplied to the UDC as a courtesy only and that future UDC documentation demands would require filing of a FOIL request. Saumure asked if the RMP is a legally-binding document, adding that he sees many nonconforming features in river towns and townships deemed to be in substantial conformance. Highland Alternate Conway responded to committee questions about the Preston letter, saying Highland town officials are aware that the UDC is only a non-regulatory agency, with no authority or rules that are legally binding. She said that Preston's letter supplying permit materials "as a courtesy" and stipulating further requests be 'FOILED' is evidence of the town's position. She acknowledged that this is not a cooperative stance. Conway said she views UDC membership as a "gentlemen's agreement" to abide by 'the rules' and responsibilities of membership outlined in the River Management Plan and Cooperative Agreement in partnership with the NPS and other towns. Conway also charged that the person who had reported this project to the UDC was targeting the project property owner. But Golod denied that, saying this is about Highland's failure to acknowledge and observe UDC review process requirements. Golod said he had twice described the process to Preston. Conway said she had many times sent to town officials the parts of the Cooperative Agreement that she thought summarize the town's responsibilities and asked that they be circulated to all the town boards, code enforcement officer, town attorney, and others so that they would all be on the same page, but that never happened. Conway said Kaitlin Haas told her she had the permit, and that Haas thought the project did not rise to the level of a Class II project and therefore would not be subject to UDC review. Conway concurred. Claster pointed out that because the project was brought to UDC attention by a third party, the UDC would have no way of determining the project class until it receives the requisite documents and makes a site visit to see that the documents accurately reflect the work being done. She also noted that the permit applications enclosed with Preston's letter were insufficient to do that. Then she asked what would happen if Highland, or any other town, refuses to comply with UDC review process requirements. Henry told her the town would be found to be nonconforming and would then be subject to NPS/UDC review of all projects within the river corridor, not just Class II projects. A motion by Henry, seconded by Conway, to send a letter to all towns and townships describing in detail the process defined in the River Management Plan (RMP) and Land and Water Use Guidelines for all construction projects within the corridor, was carried, with Dexter opposed. Greier suggested that the letter be signed by both supervisors and CEOs, attesting that the process is understood by those town officials, and returned to the UDC as documented proof that town officials fully understand the land use review processes proscribed by the RMP. Roeder asked that the letter make clear to supervisors that all UDC member towns are receiving it, so that each town is aware that it is not being singled out by the UDC. Robinson added that Highland should follow Shohola's example: the UDC representative presents UDC meeting summaries at each township board meeting. Conway replied that there is a UDC report item on each Highland Town Bboard meeting agenda.

Damascus and Shohola Responses to RMP Review Request: This topic was tabled by Committee vote, with Dexter opposed. Asked why, Dexter said he thought it was urgent that the committee address cell phone technology as it relates to emergency notification systems. He cited advance warning alerts he received on his cell phone during the May 15 extreme weather emergency as being essential to his family's safety and of tremendous value to the community as a whole.

Minor Amendment for Renewable Energies: Roeder suggested discussion of this topic be postponed until after members had toured Delaware River Solar's Baer Road site on June 27 and learned more about solar plant operation. Golod noted that the Council has already picked up some useful information from the June 7 NYSERDA presentation.

Project Review Workbook Update: Golod reported that Claster's review of work done by Golod and Hahn has revealed some significant omissions and inconsistencies that all three think should be addressed before the revised guide is published, even though the online publication target date of May 31 has passed.

Other:

New Business:

Delaware River Solar: June 27 Tour of Baer Road Array, Callicoon, NY: Golod reported that most of the Committee and all of the UDC and NPS staff present would be taking part in a tour of Delaware River Solar's Baer Road Array, which has been in operation since January. He thought the visit would last 60-90 minutes and would be a walking tour of the site guided by Customer Relations Director Cindy Menges and Project Engineer Carlos Loayza.

Other: Greier observed that solar is not the only alternative energy that should be incorporated into a minor amendment. Robinson agreed, stating that bioconversion energy is now legal in PA and has moved from the experimental phase into active production.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Greier, to adjourn the meeting at 8:02 p.m. was carried.

*Minutes prepared by Linda Drollinger, 06/28/18
Revised by Project Review Committee approval on 7/24/18*