



Upper Delaware Council

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UPPER DELAWARE COUNCIL MEETING MINUTES July 5, 2018

The Upper Delaware Council held its monthly meeting on Thursday, July 5, 2018 at the Council office in Narrowsburg, NY. Chairperson Aaron Robinson called the meeting to order at 7:00 p.m. The Pledge of Allegiance and roll call followed.

In attendance: Shohola Township-Aaron Robinson, Town of Hancock-Fred Peckham, Town of Fremont-Jim Greier, Town of Delaware-Harold G. Roeder, Jr., Town of Tusten- Susan Sullivan, Damascus Township-Jeffrey Dexter, Lackawaxen Township-Doug Case, Westfall Township-Michael Barth, State of New York-Bill Rudge; Commonwealth of Pennsylvania-Rhonda Manning, National Park Service-Carla Hahn. Staff in attendance: UDC Executive Director-Laurie Ramie, Resource Specialist- Pete Golod; Secretary-Linda Drollinger. Absent: Berlin Township, Town of Cochection, Town of Highland, Delaware River Basin Commission, Media: Dave Hulse, Peter Becker. Guests: Ginny Dudko-Town of Deerpark, Roger Saumure-Shohola Township, Jim Barth.

Approval of June 7 Meeting Minutes: A motion by Dexter, seconded by Sullivan, to approve the June 7 meeting minutes was carried.

Public Comment on the Agenda: None

Committee Reports: Committee reports were provided based on the meeting minutes. They were: June 19 WU/RM Committee by Peckham, June 26 Project Review by Dean, and June 26 Operations by Robinson.

Status Reports

Delaware River Basin Commission: DRBC representative was absent. A copy of the July 3, 2018 NYC Current Reservoir Levels was provided in members' packets. The NYC Delaware River Basin Storage was at a combined capacity of 94.0%, with Cannonsville at 90.0% capacity. Normal for the date is 93.8%.

NYS Dept. of Environmental Conservation: Two handouts were provided by Rudge: The first is a 6/28/18 DEC news release captioned, "Governor Cuomo Announces \$275 Million Available for Clean Water Infrastructure Projects." This grant funding is available to municipalities with infrastructure projects that protect or improve water quality and/or public health. The Water Infrastructure Improvement Act and the Intermunicipal Water Infrastructure Grants Program, both part of the \$2.5 billion Clean Water Infrastructure Act of 2017, provide the funding. Projects eligible for grant funding include water infrastructure projects that address toxins associated with harmful algal blooms, sewage overflows, flood plain contamination and rehabilitation of contaminated water supplies. Municipalities, county or town improvement districts, and certain other entities are eligible to apply for funding. Funding applications will be reviewed by The New York State Environment Facilities Corporation and Department of Health and evaluated based on benefits to public health, readiness to proceed expeditiously and protection of water quality. Grant applications and additional information are now available at <https://www.efc.ny.gov/> and must be submitted along with supporting documentation to: NYSWaterGrants@efc.ny.gov by September 7, 2018. The second handout is a 6/28/18 news release captioned, "DEC Adopts First Major Update to State's

Working together to conserve the Upper Delaware Scenic and Recreational River

*Town of Hancock - Town of Fremont - Town of Delaware - Town of Cochection - Town of Tusten - Town of Highland
Town of Lumberland - Town of Deerpark - Damascus Township - Berlin Township - Lackawaxen Township - Shohola Township - Westfall Township
State of New York - Commonwealth of Pennsylvania - Delaware River Basin Commission - In partnership with the National Park Service*

Environmental Quality Review Regulations in 20 Years.” It describes updates to SEQR regulations that will take effect on January 1, 2019 and will expand the number of actions classified as Type II actions to include: green infrastructure upgrades or retrofits; installation of solar arrays on closed landfills; cleaned-up brownfield sites; wastewater treatment facilities, sites zoned for industrial use or solar canopies on residential and commercial parking facilities; installation of solar arrays on an existing structure not listed on the National or State Register of Historic Places; reuse of a residential or commercial structure, or structure containing mixed residential and commercial uses; acquisition and dedication of parkland; land transfers in connection with one, two or three family housing; and construction and operation of certain anaerobic digesters at operating publicly owned landfills. The final rules will be available on DEC’s website and in the updated SEQR Handbook and SEQR workbooks set for release later this year. In addition, DEC will provide training for lead agencies to ensure they understand the changes to the SEQR process.

Rudge fielded questions about extensive spring storm damage to river tributaries from downed trees. Asked what the state could do to assist individual property owners attempting to remove trees and other storm-related debris from streams, he said that would probably be better handled by local resources but promised to research it further. On July 6, Rudge sent the following information to Ramie:

“With regards to the cleanup of storm damage on private lands that affect public waterbodies through impacts of downed trees, damming, channel diversions, culvert blockages or other obstructions, private landowners can send a request to our Department’s Regional Permit Administrator (John Petronella, Regional Permit Administrator, Division of Environmental Permits, 21 South Putt Corners Rd., New Paltz, NY 12561 or via e-mail at dep.R3@dec.state.ny.us) with a location map to screen the project to determine the Department’s jurisdiction and potential permit requirements. Most streams in the Upper Delaware Scenic and Recreational River corridor are protected, so any disturbance to the bed or banks of the stream would require an Environmental Conservation Law (ECL) Article 11 permit. However, as I mentioned in last night’s meeting, a stream disturbance permit is not required if removal can be accomplished with equipment staged beyond the bed and banks of the stream. Additionally, assuming it is safe, people can operate chain saws within the stream to cut up trees. While dumping bucked up trees into a stream or wetland is a violation, in situations where the tree cannot be removed because it is not accessible then it is acceptable to buck up the tree so that it will easily pass through downstream culverts and bridges. Attached is a brochure that provides additional information about debris removal. DEC does not have the resources to assist private landowners with storm debris removal.

Municipal highway departments may be able to utilize a General Permit for Steam Disturbance, Excavation and Fill, Freshwater Wetland Permits and associated Water Quality Certifications (attached). This General Permit authorizes Towns, Villages, Cities and Counties located with Region 3 of the NYSDEC (which includes Orange and Sullivan Counties) to conduct various activities within state regulated streams, wetlands and wetland adjacent areas including:

- Bank and channel stabilization for transportation related construction activities
- Culvert and Bridge replacement and rehabilitation
- Rehabilitation and repair of existing transportation facilities
- Survey and exploratory activities
- Debris and gravel removal

Prior to the use of this General Permit for a project, the Applicant must submit a Joint Application Form with the required attachments to the Regional Permit Administrator. Upon review of the project, NYSDEC will determine if the project can be authorized under this General Permit. No work is authorized until the Permittee receives the signed General Permit from NYSDEC. NYSDEC may add specific additional requirements or plan notes to the Project Authorization.

NYSDEC retains the right to exclude a proposed activity from authorization under this General Permit, and to require the Applicant to obtain an individual permit.

If you have any comments or questions regarding this General Permit, please contact John Petronella, Regional Permit Administrator, Division of Environmental Permits, 21 South Putt Corners Rd., New Paltz, NY 12561 or via e-mail at dep.R3@dec.state.ny.us. This permit covers debris removal for situations where a disturbance to a wetland or the bed and banks of the stream is necessary.” [Rudge attached two permit application forms which are available upon request.]

PA Dept. of Environmental Protection: Alternate Rhonda Manning attended and provided two handouts. The first was PA Senate Bill No. 1189 of Session 2018, introduced by Senator Lisa Baker et al, known as the Delaware River Basin Commission Eminent Domain Activity Act. The Act designates certain activity by the Delaware River Basin Commission as the exercise of the power of eminent domain that entitles the owners of the property in question to appropriate and just compensation. It applies specifically to the prohibition on high-volume hydraulic fracturing within the basin enacted and implemented pursuant to a resolution of the commission dated September 13, 2017 and includes any other resolution or action of the commission or executive director that has the same or similar effect, regardless of when adopted or taken, to prohibit or substantially limit high volume hydraulic fracturing within the basin. The five impacted counties are Carbon, Lackawanna, Luzerne, Monroe, Pike, and Wayne. The act asserts that the Marcellus and Utica shale gas formations in those counties are among the largest in North America, that property owner rights to mineral estates have significant value, and that the ban on high-volume hydraulic fracturing in the impacted counties effectively renders oil and gas estates worthless, and will deprive the owners of all economically viable use of those estates. The act states that the ban constitutes a taking by the commission of the property of the owners of the oil and gas estates in the impacted counties and the owners shall be entitled to be paid appropriate and just compensation by the commission, in accordance with law, as a remedy for the taking. The law would take effect immediately upon passage. The second handout was a fact sheet relating to The Conservation Reserve Enhancement Program (CREP). This is a part of the Conservation Reserve Program (CRP), the country’s largest private-land conservation program. Administered by the Farm Service Agency (FSA), CREP targets high-priority conservation concerns identified by a State, and federal funds are supplemented with non-federal funds to address those concerns. In exchange for removing environmentally-sensitive land from production and establishing permanent resource conserving plant species, farmers and ranchers are paid an annual rental rate along with other federal and state incentives as applicable per each CREP agreement. Participation is voluntary, and the contract period is typically 10–15 years. Manning characterized the program as a moneymaker for towns/townships. For more information, visit <https://www.fsa.usda.gov/programs-and-services/conservation-programs/conservation-reserve-enhancement/index>. Manning also fielded questions from the Council about Commonwealth help for property owners attempting to remove downed trees from Delaware River tributaries, following a rash of spring extreme weather events. She noted that state permits are generally required, but after hearing of the degree of damage to stream beds and free water flow, she said one property owner with a chain saw would not be considered a contractor. Robinson said one person with a chain saw would probably be inadequate to the task. Manning said use of heavy equipment like cranes, bulldozers and dredgers would require a state permit.

National Park Service-Upper Delaware: Hahn said the June 30 Upper Delaware BioBlitz was a big success. Forty scientists gathered in Starlight, PA to inventory and study plants, animals and insects in and along the river. She announced that new hydrologist Andrew Weber is scheduled to start in late August and will be responsible for water quality monitoring. Referencing several law enforcement actions in June, Hahn said one involved methamphetamines and marijuana seized from a group on the river, another a near collision with a NPS driver near one of the access sites, and a third involved a driver who fell asleep at the wheel. One month after the May 15 storm, repairs to the headquarters building and grounds made it possible for staff to return. In addition to damage sustained by the building (roof, siding and wiring), there was parking lot damage that also required repair.

UDC Executive Director’s Report:

Funding: A handout was provided in the meeting packet with a July 3 letter from Ramie to Heister as cover page. This is a portion of the documentation required to release UDC federal funds through

September 30. To finalize this paperwork, Ramie had to know the cost of replacing the unsafe attic steps, and because that project would exceed the UDC procurement threshold, competitive bids were sought from contractors. The Tusten Code Enforcement Officer determined that an engineer must be consulted because the ceiling structure would be altered. Engineering firm JHA Companies of Honesdale was recommended by Henry and, for a retainer of \$500, performed a site inspection and produced renderings of the new staircase. Two contracting firms submitted sealed bids based on the JHA plans: Leavenworth Construction of Eldred, NY and Suburban Restoration Co., Inc. of Hawthorne, NJ. Their bids were opened by Ramie on July 2. Ramie then allocated the remainder of the \$36,000 surplus between two other new expenditures approved at the June 26 Operations Committee meeting: one additional issue of The Upper Delaware newsletter and staff incentive awards. Earlier today, Ramie received notice from the UDC's Upper Delaware Agreements Representative that Modification #9 to the NPS/UDC Cooperative Agreement was in process which would release \$148,429 when it is executed. Ramie noted that the submission deadline did not permit time for presentation of her final expenditure plan to the Council in advance, so she asked that the Council approve the modified \$307,829 FY 2018 budget by formal vote. (A copy of the modified budget was included in the packet with a narrative outlining the changes along with modifications to the Work Plan). A motion by Roeder, seconded by Dexter, to approve the FY 2018 budget submitted by Ramie was carried unanimously.

Anniversary Newsletter: This year's additional issue of the Upper Delaware will have as its theme the 30th anniversary of the UDC, 40th anniversary of the Upper Delaware designation, and 50th anniversary of the Wild and Scenic Rivers Act. Publication was contingent on the ability of the UDC's newsletter printer, Courier Printing of Deposit, NY, to handle the extra workload on short notice. Courier confirmed its ability to print the special edition, which will be submitted on July 18 for August 6 mailing.

Temporary Help: Advertisements placed in local newspapers mid-June netted three responses. Ramie was authorized by the Operations Committee to interview and hire an individual to organize and digitize UDC archival records. She has informed the preferred candidate that the job will start after July 18, when the newsletter issue has been submitted, and would last for up to 160 hours at \$12/hour. Cost of labor combined with cost of purchase and setup of software for a wireless scanner totals \$2,460, allocated to an Outside Consulting line in the budget.

Legislation: Congressman Faso's office informed Ramie the Senate passed legislation that Representative Faso had introduced in the House that will allow the Federal Energy Regulatory Commission to extend the construction license for the Cannonsville Hydroelectric Project. It now goes to the President for signature.

Calendar: A July monthly calendar handout with UDC meetings, deadlines and activities was provided. Special events happening in July include the following: PennDOT Construction update media day at the Pond Eddy Bridge on July 9; NPS Long-Range Interpretive Plan Workshop at the UDC Office on July 10-11; Kittatinny Canoes (On & Under the River) Cleanup at Kittatinny Campground starting July 16; NPS Zane Grey Festival at the Zane Grey House on July 14; "The Dollars and Sense of Preserving Community Character" sponsored by the Upper Delaware Scenic Byway at the Narrowsburg Union on July 21; Delaware Company Battle of Minisink Commemoration at Minisink Battleground Park on July 21; and Narrowsburg Riverfest on July 22. She added that there will be a presentation on the Upper Delaware BioBlitz at the UDC meeting on August 2. Reservations are due by July 27 for the UDC's 30th Annual Family Raft Trip to be held on August 5.

Old Business:

Follow-up to Correspondence on Barnes Landfill: Robinson proposed that NPS send a letter to the DEC detailing the condition of the landfill and a game plan for addressing it. Golod said the New York State Attorney General had been investigating the Barnes Landfill, but because it could not find a responsible party, it closed the case. Hahn asked about the last owner of record. Golod said research indicates that the Barnes family is still owner of record, but with no successors it is, in effect, ownerless. Robinson said that in cases where property taxes are unpaid for decades, ownership usually reverts to the county. But in this

case the county did not want to assert ownership and is under no legal obligation to assume title. In response to Rajszy's questions of how much land is involved and how it is reflected on the county tax map, Robinson said it is about 50 acres reflected as three parcels in Steve Barnes' name. Golod suggested contacting the New York State Office of the Attorney General and the state's Department of Health, which has results of well testing, as follow-ups based on direction from the Project Review Committee. A motion by Rajszy, seconded by Dexter, to request that the National Park Service write a letter to the DEC utilizing its federal authority to obtain additional information about the status of the Barnes Landfill was carried unanimously.

Other: Robinson noted that the EPA has recognized bioenergy as a carbon neutral energy and that this will have tremendous implications for the heavily forested Upper Delaware and its forestry-related industries. The science behind bioenergy is explained on the EPA website [<https://www.epa.gov/air-and-radiation/epas-treatment-biogenic-carbon-dioxide-emissions-stationary-sources-use-forest>]. Robinson introduced his second topic, the UDC's purpose and role, telling the Council he's been studying the River Management Plan (RMP) and has come to the conclusion that it is a document designed to foster grassroots governance. Robinson recognizes the RMP's governing process as beginning with the municipalities, moving to the UDC, and concluding with the NPS. He said he's convinced the RMP can be used to tremendous advantage by the municipalities, if it is interpreted accurately and applied properly, and that those two functions should be assumed by the UDC as the municipalities' advocate. He noted that there is frustration among the municipalities, who feel that the NPS dictates use of their land and gives little in return. Robinson said the towns have made zoning concessions within the corridor for which they expect services and funding in exchange. Emergency communications is one issue with which the municipalities would like such assistance. Robinson noted the many cellular signal dead zones within the corridor and along Route 97, particularly in the heavily-traveled Hawks Nest area, which Robinson characterized as a gateway from the New York metro area. Citing instances of traffic accident fatalities in that area that might have been prevented had phone service been available, Robinson proposed the installation of call boxes along the road. Remarking that this is not a new issue and that previous efforts to remedy it have been unsuccessful. Robinson said it was brought to NPS attention two years ago, with no result. Robinson asked how the UDC can be of benefit to the municipalities if it doesn't ask the NPS to take action on issues they deem important. Sullivan raised the issues of law enforcement and trash removal, for which NPS funding was available in the past, as reflected in the report Heister provided to the UDC earlier this month. Robinson noted that it was a comprehensive and detailed report deserving of kudos. But Dudko faulted what she called the report's conclusion: that provision of those services in the early days boosted tourism to the point of self-sustenance. Sullivan said it's wrong of NPS to invite more visitors each year and place the ever increasing cost of trash removal once shared by NPS squarely on municipalities struggling to maintain that service for residents. The discussion concluded with two action items. Hahn was asked to convey to Heister the UDC's request that NPS prioritize funding to local municipalities for law enforcement and trash removal in FY 2019, or come up with creative alternative solutions to direct payments that will restore this valuable contribution to health, safety and welfare mandated in Upper Delaware enabling legislation P.L. 95-625. UDC Representatives were charged with obtaining from their towns and townships the cost of subsidizing Upper Delaware law enforcement and trash removal services to assist in this endeavor.

New Business:

Award Bid for Construction of Attic Staircase: A copy of UDC Draft Resolution 2018-03 was provided in the meeting packet. A motion by Greier, seconded by Sullivan, to award the bid to Leavenworth Construction of Eldred, NY for \$17,200.00 was carried unanimously.

DRAFT Letter: Town/Township River Corridor Projects Reporting Responsibility: A copy of the letter was provided in the meeting packet. It offers an update on the pending introduction of an updated Project Review Guide. A motion by Sullivan, seconded by Rajszy, to approve the letter was carried unanimously.

DRAFT Letter: Support for Sullivan County Application: Town of Delaware Project. A copy of the letter was provided in the meeting packet. It offers support for the county's CFA application to acquire property in the Town of Delaware to develop a county park, public boat launch, and new Wastewater Treatment Plant facility for the Hamlet of Callicoon. A motion by Roeder, seconded by Sullivan, to approve the letter was carried unanimously.

Other: None

Public Comment: None

Adjournment: A motion by Greier, seconded by Roeder, to adjourn the meeting at 9:32 p.m. was carried unanimously.

Minutes prepared by Linda Drollinger 07-09-18