

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
November 27, 2018

Committee Members Present: Larry Richardson, Fred Peckham, Jim Greier, Harold Roeder, Jr.,
David Dean, Al Henry, Steve Adams, Aaron Robinson
Committee Members Absent: Susan Sullivan, Debra Conway
Staff : Laurie Ramie, Pete Golod, Ashley Hall-Bagdonas
NPS Partner: Carla Hahn, Jennifer Claster
Guests: Roger Saumure (Shohola alternate), Cheryl Korotky

The UDC's Project Review Committee held its monthly meeting on Tuesday, November 27, 2018 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:31 p.m. A motion by Dean, seconded by Robinson, to approve the Oct. 23 meeting minutes was carried. There was no public comment on the agenda.

Discussion Items Report:

Town of Delaware: On 11/21 Golod, Hahn and Claster met and discussed the Substantial Conformance review of Local Law §220-35 E (9): Zoning, of the Code of the Town of Delaware, which relates to solar energy system standards.

Town of Highland River Access: Located on St Rte. 97 in the Town of Highland, the County is finalizing Local Waterfront Revitalization Program grant work for final engineering, permitting, SEQR, and operation and management agreement stages to the access. The site is ready to bid for construction. The proposed improvements will increase visibility, attractiveness and usability. Improvements include handicapped accessibility, better traffic circulation and safety, interpretation of environment and archaeology, a riverside trail, stream bank stabilization, and green infrastructure design. The project is now in front of the Town Planning Board which is holding a public hearing on 12/5 regarding the proposed Highland River Access. Robinson mentioned the proposed drawings he reviewed at a previous meeting incorporating a floating dock or boat launch. Robinson asked Golod if that was eliminated. Golod has not received the official packet from the county. Hahn said they are not allowed to put a floating dock in the river and have been told that.

PA Spotted Lanternfly Update: On Nov. 26th the Department of Agriculture provided a year-end update on the status of the Spotted Lanternfly. Throughout the year the Department of Agriculture has managed treatment within quarantine areas where the population numbers are high and targeted high risk pathways that could enable the insect to move to other locations outside the quarantine area. Pesticide treatment is finished for the year but property assessments and tree marking will continue throughout the winter months. The Pennsylvania Department of Agriculture Statewide Survey Teams are also responding to possible spotting of Spotted Lanternfly outside of the quarantine areas. Spotted Lanternfly egg masses were laid roughly around September, and they will continue to lay eggs until a hard freeze hits, when the adults will die off. Adults will lay their eggs on host trees, any smooth surfaces like stone, outdoor furniture, vehicles, etc. This season 130 reports of Spotted Lanternfly were received by survey crew; 95 were negative, 30 were positive and 5 are still undergoing processing. In the past two weeks 291 egg masses, which equates to 10,185 Spotted Lanternfly, have been found and removed by the Pennsylvania Department of Agriculture staff. There is a new toll-free number provided by Penn State Extension called the Spotted Lanternfly Hotline. If you would like more information or spot one you can call: 1-888-4BAD FLY. Richardson asked what a Spotted Lanternfly egg mass looks like. Golod passed around photos and stated an egg mass is about four inches long, varies at an inch and a half in width. Egg masses are gray and splotchy and harden over time, almost mimicking bark. Golod also provided an update on the invasive Hemlock Woolly Adelgid from the Western Pennsylvania Conservancy. Currently there are no means to eliminate the Hemlock Woolly Adelgid but there are several options for treatment and control which include chemicals and insecticides or some biological methods; one which currently includes a non-native predatory insect that preys on the invasive adelgid. The species is a tooth-necked fungus beetle; which is an aggressive predator of the Hemlock Woolly Adelgid. It's a small beetle called *Laricobius nigrinus* and it's a native of the Rocky Mountains and the Pacific Northwest where it

does feed on insects identical to the invasive woolly adelgid. Western Pennsylvania Conservancy is working closely with Pennsylvania DCNR to help fight the spread of Hemlock Woolly Adelgid using the *Laricobius migrinus* beetle. Although the *Laricobius migrinus* beetle already lives on the eastern reaches of Pennsylvania and some states to the south, Western Pennsylvania Conservancy is concerned that the *Laricobius migrinus* beetle is not going to make its way out west in time to save the Hemlock trees.

Resource Specialist's Update: On 10/16 & 10/17 Golod, Ramie, Peckham & Saumure attended the Water, Water Everywhere conference in Hale Eddy, NY. Golod offered a report to the 11/20 WU/RM Committee.

On 10/24, 10/31, and 11/21, Golod, Hahn and Claster met to continue reviewing the comments and edits made to the Project Review Guide by Superintendent Heister and Executive Director Ramie.

On 10/5, 10/19, 11/2 and 11/9 Golod and Claster attended the LULA training on Sustainable Development and Land Use. A copy of Golod's report was provided to the committee. The Land Use Law Center of Pace University founded a training program in 1995 called the Land Use Leadership Academy (LULA) to address general land use matters in suburban and rural communities of New York State. It has since expanded to train leaders in New Jersey, Connecticut, Pennsylvania, Utah, and Colorado. Its curriculum now includes issues faced in urban communities, issues of resiliency and sea level rise, economic development, watershed management and fair & affordable housing. The LULA program was designed to help leaders create new networks of support, identify successful land use techniques, and develop implementable local strategies that will enable more sustainable development initiatives. The program introduced sustainable development techniques drawn from the Leadership in Energy and Environmental Design for Neighborhood Development (LEED ND) rating system, the Technical Guidance Manual for Sustainable Neighborhoods, the Mid-Hudson Regional Economic Strategy and Sustainability Plan, the New York State Department of Environmental Conservation's Land Use Tool Kit, the Climate Smart Communities Program certification standards, and the Mid-Hudson Sustainability and Smart Growth Toolkit. The program was based on a "train the trainer" model, in which participants share their municipal/government experience with others. This training style encourages the creation of leadership networks, initiates and supports grass roots regionalism, creates opportunities for civic engagement, and fosters sustainable communities. Presentations focused on how to develop sound and balanced strategies to accomplish policy objectives and to carry them out effectively.

On 11/1 Golod attended the Pocono Kittatinny Cluster Partners: Sharing Conservation Strategies meeting and offered a report to the 11/20 WU/RM Committee.

On 11/8 Golod attended the DRBC RFAC's Subcommittee on Ecological Flows (SEF) meeting, and offered a report to the 11/20 WU/RM Committee. SEF is comprised of the New Jersey Division of Fish and Wildlife Bureau of Freshwater Fisheries, Pennsylvania Fish and Boat Commission Division of Fisheries Management Area Five, NYSDEC, Delaware Department of Natural Resources and Environmental Control Division of Fish and Wildlife, NPS Natural Resources Stewardship and Science, U.S. Fish & Wildlife Service (Mid-Atlantic Fish and Wildlife Conservation office), Philadelphia Water Department, NYCDEP, Delaware Riverkeeper, FUDR, Columbia University and Trout Unlimited. SEF was charged by the Regulated Flow Advisory Committee (RFAC) to review and provide recommendations to the guidelines for use of the thermal mitigation bank and the rapid flow change mitigation bank specified in the Flexible Flow Management Program (FFMP) of 2017. SEF's target goal for completing the review is May 2019. The review will consist of a collection and synthesis of information related to habitat flow in temperature needs of fish and other species of concern in the tailwaters of Cannonsville, Pepacton, Neversink and the Delaware River above Lordville. Topics that were discussed at this November meeting included ongoing dewatering events in the Upper Delaware, estimating thermal stress loads in Lordville, and concerns with the thermal mitigation bank allowance. A draft outline for the process for SEF was distributed amongst the members and the next meeting is scheduled for Dec. 18th. Peckham said they haven't addressed the real problem, adding the Wallenpaupack releases. When Wallenpaupack releases are counted toward Montague it's an artificial because everything is shut off up here. If they took Wallenpaupack out of it there would be a lot more water flowing automatically. Henry said Don Hamilton mentioned at the WU/RM meeting there is concern with the double barrel release on the Mongaup. NPS may not be in favor of that release due to the flow and the deficit it creates down in Mongaup. If they are concerned with one tributary, why aren't they equally concerned about releases on the Lackawaxen. Henry suggested Golod contact Hamilton and ask him why are they not doing it across the board

regarding tributaries. Any of them above the Montague gauge should be looked at seriously if you want to maintain the flows up here.

Old Business: None

New Business:

Town of Delaware Ordinance Amendment Substantial Conformance Review: This review is for Local Law §220-35 E (9) Zoning of the Code of the Town of Delaware, specifically for the renewable energy systems (solar). Golod started with Principle A, Maintain the high water quality found in the Upper Delaware River Objective 1. Soil erosion and sedimentation from construction on steep slopes is limited by: Golod marked F. Other Schedule of District Regulations for Delaware River (DR) district. The town has created Delaware River district overlay which is to reflect the final river management plan. It is further intended that those portions of the District within the Upper Delaware Scenic and Recreational River Corridor Overlay Zone be subject to the Land and Water Use Guidelines contained within the River Management Plan. Golod felt that Principle A, Objective 1 was substantially met. Objective 2. Maintain natural cover to control storm-water runoff, limit flooding, protect groundwater supplies and provide erosion control by: Golod marked C. Requiring conditional use/special use review of projects involving greater than 10% lot coverage or impervious surface coverage; or E. Other §220-35 E (9) Renewable Energy Systems Non-farm commercial solar systems with nameplate capacity of 25k W or more of energy for sale to utility companies or for other commercial use shall, notwithstanding any other provisions of this Subsection E(9), be considered special uses in the RU Rural District subject to the following additional standards and review criteria. Furthermore, this amendment reduces the surface area of land permitted by solar collectors therefore reducing the footprint. Recommendation: Principle A, Objective 2 is substantially met. Objective 3. Protect special erosion hazard areas along river banks through one or more of the following measures: Golod marked Other N/A Schedule of District Regulations for Delaware River (DR) district. It is intended that the (DR) District within the Upper Delaware Scenic and Recreational River Corridor Overlay Zone be subject to the Land and Water Use Guidelines contained within the River Management Plan. Nothing in the amendment changes the underlying effect therefore, does not alter/affect erosion. Golod felt Principle A, Objective 3 was substantially met. Objective 4. Protect special erosion hazard areas along the ridge lines through one or more of the following measures: Golod chose D. Other N/A. The amendment does not change the underlying zoning code. Principle A, Objective 4 was substantially met. Principle A, Objective 5 Limit pollution problems from septic systems located on poor soils, by one of the following measures: he chose D. Other N/A. There was no septic involved. Principle A, Objective 5 was substantially met. Objective 6. Solid waste disposal sites must be located outside of the river corridor. Principle A, Objective 6 was substantially met. Principle B Objective 1. Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection of natural resources. Golod marked D. Requiring a 100 feet minimum separation of all principal structures located along the river. Clustering may be permitted as a conditional/special use provided it meets density guidelines for the district and E. Other §220-35 E (9)(j) Renewable Energy Systems. §220-35 E (9)(j) Renewable Energy Systems. All commercial solar system components shall have a minimum setback of 100 feet from any lot lines. The Town of Delaware Planning Board shall, additionally, have authority to increase these setbacks relative to the visibility of the facility such that a setback for a facility visible from a home or publicly traveled road may be increased so as to ensure a minimum setback of no less than 500 feet or non-visibility, whichever is less. He felt Principle B, Objective 1 was substantially met. Principle B, Objective 2. Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures by: Golod marked A: Limiting building height to 35 feet with exceptions for farm structures, water and grain towers, small windmills, bridges, etc., or C. Other §220-35 E (9)(f) Renewable Energy Systems. §220-35 E (9) Renewable Energy Systems All ground-mounted panels shall not exceed 10 feet in height. §220-35 E (1) Renewable Energy Systems Solar panels or arrays shall be placed on a principal or accessory structure, on the ground or on a monopole not exceeding 35 feet in height. Principle B, Objective 2 was substantially met. Principle B, Objective 3. Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways by: Golod marked A. Requiring a minimum front yard of 35 feet; or B. Requiring a minimum building setback of 35 feet and C. Other §220-35 E (9)(j) Renewable Energy Systems. §220-35 E (9)(j) Renewable Energy Systems All commercial solar systems components shall have a minimum setback of 100 feet from any lot lines. The Town of Delaware Planning Board shall, additionally, have authority to increase these setbacks relative to the visibility of the facility such that a setback for a facility visible from a home or publicly traveled road may be

increased so as to ensure a minimum setback of no less than 500 feet or non-visibility, whichever is less. Principle B, Objective 3 was substantially met. Principle B Objective 4. Prevent unnecessary sign proliferation by limiting off-premises signs by: A. Prohibiting off-premises advertising signs, except those informational signs recommended by the Council, that are used for directing visitors to public access areas; or D. Other §220-35 E (9)(m) Renewable Energy Systems. There shall be no signs except announcement signs, such as “no trespassing” signs or signs required to warn of danger. A sign shall be placed at any entrance to the facility, which sign shall identify the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis. Furthermore, the amendment does not include/involve septic and does not change the underlying zoning. Principle B, Objective 4 was substantially met. Principle B, Objective 5. Business identification (on premises) signs larger than 10 square feet in size should be limited by: F. Other §220-35 E (9)(m) Renewable Energy Systems. This does not apply to institutional or trespassing signs. §220-35 E (9)(m) Renewable Energy Systems There shall be no signs except announcement signs, such as “no trespassing” signs or signs required to warn of danger. A sign shall be placed at any entrance to the facility, which sign shall identify the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis. Golod feels Principle B, Objective 5 is substantially met. Principle C. Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource. Objective 1. Encourage recreational providers to locate intensive use recreational facilities outside of undeveloped or scenic segments of the river by: D. Other N/A. Principle C, Objective 1 was substantially met. Principle C Objective 2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational parks by: E. Other N/A. Principle C, Objective 2a was substantially met. Principle C Objective 2b. Provide for the orderly development, operation and maintenance of boat liveries and other recreational uses by: B. Other N/A. Principle C, Objective 2b was substantially met. Principle C, Objective 2c. Provide for orderly development, operation, and maintenance of all recreational uses by: D. Other N/A. Principle C, Objective 2c was substantially met. Principle D. Encourage and support agricultural uses in the corridor by: D. Other N/A. Principle D, Objective 1 was substantially met. Principle D. Objective 2. Encourage the appropriate location and mitigate the effects of certain intensive livestock operations which are likely to create problems of waste disposal or odors by: D. Other N/A. Principle D, Objective 1 was substantially met. Principle D, Objective 3. Provide for sound timber practices within the corridor by: F. Other N/A Principle D, Objective 3. Was substantially met. Principle E. Conserve river area resources. Principle 1. Ensure traditional resource extraction operations (not including subsurface and major surface mining) are permitted but consistent with the protection of the public health, safety and welfare by: Golod chose C. Other N/A Principle E, Objective 1 was substantially met. Principle E, Objective 2. Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by: Golod chose F. Other N/A. Principle E, Objective 2 was substantially met. Principle F Maintain existing patterns of land use and ownership. Objective 1. Limit housing density and intensity of uses with consideration to the existing character of the River corridor by: Golod picked A. Establishing a special zoning district for the river corridor within which the minimum lot size is two or more acres; or C. Using “overlay districts” or “Sub-zones” to set density for those portions of a zoning district whining the river corridor and those which are of special concern. and D. Other Schedule of District Regulations for Delaware River (DR) district. The DR Delaware River District is intended to provide land uses substantially in accord with the provisions and purposes of the Upper Delaware Scenic and Recreational River (UDSRR) corridor as defined and designated as a “Scenic Segment” or “Recreational Segment” in the November 1986, Upper Delaware Final River Management Plan (RMP) prepared by the Conference of Upper Delaware Townships in cooperation with the National Park Service. This District is further intended to preserve the scenic integrity of that portion of the Upper Delaware River Corridor within the Town of Delaware, while allowing recreational use and development of the area, to the extent which would remain compatible with the aforementioned RMP. It is further intended that those portions of the District within the Upper Delaware Scenic and Recreational River Corridor Overlay Zone be subject to the Land and Water Use Guideline contained within the River Management Plan. Principle F, Objective 1 is substantially met. Principle F, Objective 2. To control density, the following considerations must be remembered: Golod checked D. Other N/A Principle F, Objective 2 was substantially met. Conclusion: Through the Proposed Local Law §220-35 E (9) Renewable Energy Systems, the Town of Delaware has attempted to conform to the River Management Plan and Land and Water Use Guidelines. This Substantial Conformance review has shown that the proposed Renewable Energy Systems Ordinance meets the intent of the Land and Water Use Guidelines. The reviewed amendment strictly addresses one subsection, Solar Energy System Standards, of the entire Zoning Ordinance for Renewable Energy Systems. Furthermore, the Town of Delaware’s Zoning Amendment for Renewable Energy Systems has redefined many of the requirements previously set forth in the original ordinance to the benefit of Town and the Delaware River District, nor have

changes been made that reduce the original ordinance. The Upper Delaware Council recommends that this amendment to the Town's Zoning be found in substantial conformance with the River Management Plan for the Upper Delaware Scenic and Recreational River. Henry asked why on page nine number three did Golod check all three on the question: Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structure from highways. He asked if it was contradictory. Golod said that is from the amendment. It's 100 feet from all lot lines so he felt it met the requirements for the front yard minimum setback and the minimum 35 foot building setback. The amendment requires a minimum of 100 feet from any lot. Richardson said this is a very good amendment. Richardson recommends that this amendment of the town zoning be found in substantial conformance with the River Management Plan for the Upper Delaware Scenic and Recreational River with recommendation of full council. A motion by Roeder, seconded by Henry to approve that recommendation carried.

Report on LULA Training (10/5, 10/19, 11/2, 11/19): Golod asked committee members to read his report at their leisure. The training specifically focused on land development for sustainable uses, focusing on green infrastructure. Golod said the LULA team was extremely passionate and knowledgeable about their craft. Peckham asked who the sponsor was. Golod said it was Pace University Land Use Law Center. Golod felt that some of the presentations did not relate to the UDC because the training is based on a community, whether it is a local government, municipality or county. UDC is a unique organization where we advocate for 13 municipalities so Golod had to translate information being utilized for the City of Poughkeepsie or the City of Newburgh and equivocate it to the Town of Hancock, for example. The majority of the material drove the point home as to the movement that UDC is going towards with land developing, including the necessity for updating comprehensive plans, while starting to look toward the future for green infrastructure and how it is essential to the betterment for the community and holistically for all. Claster said she also learned a tremendous amount at the training and felt that for anyone dealing with land use in New York, it would be a great training. There were volunteer planning board members and they also had Open Space committee members there from various towns. Claster said it's a training intended for municipal volunteers with educational credits likely provided. If you can promote it in your community, you can get a lot out of it. It's a good way to stay current and it was free. Golod also appreciated that the platform was very interactive and it was not just presenters. You are put in a group you meet on the first day; Golod sat with a town supervisor, a zoning board chair, an assistant planner. The deputy director who coordinates the training also implements a lot of roleplaying scenarios. It was very interactive and as they call it "training the trainer". Dean said he appreciated what Golod and Claster said and sees that it is beneficial. He asked all to remember the people that UDC represents are private property owners and that should be in the forefront of the UDC's mind. When dealing with anything that affects private property, we are working for the people that own the dirt. Dean feels that is crucial. He cautioned to keep a close eye on the enthusiasm to some degree. Private property rights should be paramount. Richardson said he had the privilege of sitting through one of the LULA trainings in the past and he also came out very enthusiastic. He went back to his town and planning board with that enthusiasm. Richardson said with his eight years' experience on the planning board and 20 years on town board, you look to see what you could do with the parameters that the state gives you as a zoning board and how can you sit down with different entities involved, such as private property owners, business owners, and environmentalists, and bring them all together. Richardson said this group is excellent at teaching you how to do that. Golod read part of his report: "The training program did not recommend any particular strategies or point of view about how land should be developed or conserved. Instead, presentation focused on how to develop sound and balanced strategies to accomplish policy objectives and to carry them out effectively. Richardson said none of this happens unless the community wants it. Peckham said this sounds similar to the Town of Hancock and what Friends of the Upper Delaware River are doing with the creeks. They are recommending many things but issues they are running into are property owners. They can only accomplish a quarter of what they want because a property owner says "no, you are not going to change the course of the creek through my property". In New York with solar energy they want towns in a little block and supply all their power there. Golod said Climate Smart Communities was a big part of the training. The Town of Tusten has been awarded a Climate Smart Community grant which Golod believes is \$5,000. They are trying to show all 'toolboxes' that are available at your disposal.

Other: Ramie mentioned next month is when all three committees are scheduled for one night on December 18th and this meeting will start at 6:30 p.m. Greier said the Town of Fremont received a letter from the Department of Interior National Park Service addressed to the Supervisor, requesting their amendments and additions to local laws

and land ordinances and zoning maps. Greier said the Town of Fremont took offense to that. They feel that NPS is acting out of its jurisdiction requesting this information. The Town of Fremont doesn't belong to NPS; if UDC requested it and the council wanted to share that information, that's fine. There is nothing in the letter separating the river corridor from the rest of the town. Hahn replied part of the job that UDC asked NPS to do in developing the GIS tool requires that they get the mapping data updated so when it goes public, people can use it for your benefit. With regard to ordinance amendments and updates, when NPS or UDC goes to do a project review they are looking to see the ultimate content of the zoning documents. Hahn gave an example. She was doing a project review four years ago and the first step was to look up that particular township's zoning to see what their zoning said regarding the type of project she was looking at. When she went to look online, even though she knew the town had it, the ordinance was not there. Ultimately they got that worked out with that Township. They started doing an update to make sure they are looking at the most current information. It's all public information. NPS could get it another way; they are just going directly to the Town. Hahn said this is the 3rd or 4th time requesting this information. Shippensburg University did look at all the data. Another thing that's happened is that there are Townships where NPS has put in GIS data into the system, which is basically the map, the map didn't agree with the zoning. This happened with the Town of Tusten. They went and talked to them about this issue. They are helping to distinguish issues like that. When towns do an ordinance amendment and send it to the county, once the county has reviewed it and sent it back, the town votes on the ordinance. A lot of the Townships do not send the final version back to the county, so the county doesn't have the complete collection of information either. Everyone is working together to make sure the best, most important information is available. Henry said if the Town is concerned maybe NPS can wordsmith the letter in conjunction with the UDC to indicate we are requesting the information out jointly. That may placate some concerns and be received a little more favorably. Hahn said she would take that into consideration for next year.

Public Comment: None

Adjournment: A motion by Roeder, seconded by Greier, to adjourn the meeting at 7:26 p.m. was carried.

Minutes prepared by Ashley Hall-Bagdonas, 12/5/18