

**Upper Delaware Council**  
**PROJECT REVIEW COMMITTEE MEETING MINUTES**  
**March 24, 2020**

Committee Members Present: Larry Richardson, Harold Roeder, Jr., Jim Greier, Fred Peckham, Al Henry, Sue Sullivan, Aaron Robinson, David Dean, Jeff Dexter  
Committee Members Absent: None.  
Staff : Laurie Ramie, Ashley Hall-Bagdonas  
NPS Partner: Acting Superintendent Jessica Weinman, Jennifer Cluster  
Guests: Roger Saumure- Shohola Township alternate, Dan Paparella- Town of Tusten alternate.

The UDC's Project Review Committee held its monthly meeting on Tuesday, March 24, 2020 via tele-conference. Chairperson Dean called the meeting to order at 7:35 p.m. There was no public comment on the agenda.

**Approval of February 25, 2020 Meeting Minutes:** A motion by Richardson seconded by Sullivan to approve the February 25, 2020 Meeting Minutes was carried. There was no public comment on the agenda.

**Resource Specialist's Update:** Ramie provided a report due to the vacancy of the Resource Specialist position since January 2020.

New York

**Town of Tusten:** The Tusten Town Board has initiated a community survey at [www.bit.ly/tustensurvey](http://www.bit.ly/tustensurvey) to request input to update its 10-year-old Comprehensive Plan. Responses are requested by 4/3. A legal notice advertised a 3/23 public informational meeting at the Tusten Town Hall to discuss the proposed replacement of a culvert on Main Street in Narrowsburg over the Little Lake Erie Outlet, starting at Erie Street and extending to Depot Street. The Draft Design Report by the Town of Tusten in cooperation with the New York State Department of Transportation is available for review at the Town Hall during regular business hours. Ramie relayed there is currently no public access to the Town Hall due to COVID-19. Cluster said she met with the Comprehensive Plan Committee in Tusten on 3/9 to discuss the River Management Plan (RMP) and Substantial Conformance. Ramie said they have a timeline in place as they included that with their Technical Assistance Grant application. Sullivan confirmed that the survey went out and she returned it.

**Town of Highland:** The UDC's 3/5 substantial conformance recommendation for the Highland River Access Class II Significant Project was forwarded on 3/6 to the NPS for its final determination. Cluster said it was sent to the Regional Director for review and should be back around 4/14 as long as operations are continuing. Cluster said she met with Berry Hafkin, the Planning Board Chair, Jim Hanson, and Fred Bosch, on 3/13, to review a packet of changes that Bosch and Hanson compiled that would bring their Zoning into Substantial Conformance. It was reviewed with Hafkin and Cluster made a map later that week showing the corridor laid over top of the Town's parcels and zoning which she forwarded to the three of them. Shortly after that the Town closed its office. Cluster said it seemed things were going very positively but it's stalled for now until the pandemic situation resolves. Ramie said that's great progress that they have been open to the discussions and changes.

**Town of Lumberland:** The Lumberland Town Board at its March meeting approved a resolution to extend the six-month moratorium on permitting solar farms and power plants in the town, which had been enacted through Local Law #2 of 2019.

Pennsylvania

**Damascus Township:** The UDC advised Damascus Township on 2/27 that no review was necessary for the 134 River Road, Beach Lake manufactured home application, based on the 2/17 report prepared by consultant Tom Shepstone, with concurrence from the Project Review Committee and the NPS.

**Shohola Township:** Finalization of the Township's Zoning Ordinance update is needed to complete the Fiscal Year 2019 Technical Assistance Grant project by conducting a substantial conformance review. Robinson said the Planning Commission's 3/19 meeting to advance work on this project was cancelled.

**NYS Renewable Energy Budget Amendment:** The Cohecton and Lumberland Town Boards each passed resolutions at their March meetings opposing an amendment proposed on 2/21 by Gov. Cuomo in the New York State Budget titled "The Accelerated Renewable Energy Growth and Community Benefit Act" which would create a new Office of Renewable Energy Siting (ORES) "to improve and streamline the process for environmentally responsible and cost-effective siting of large-scale renewable energy projects across New York while delivering significant benefits to local communities." ORES would have an expedited 60 days to review applications and if no decision was made in that time, it would automatically be deemed complete, and automatically approved within 12 months. *The River Reporter* reported the Cohecton Town Board's vote of 4-1 to request withdrawal of the amendment was based on their agreement that this was an incursion on constitutional home rule. The Lumberland Town Board also cited a conflict with the town's home rule rights as well as the board's obligation to protect the health, safety and welfare of their constituents. Richardson said he was at the Cohecton Town meeting. He heard the resolution and did question some of the whereas clauses but didn't have any objection to the final resolution. The objection is the effort by the State to take away the home rule option of having some say in project siting. Sullivan said she thinks there is a clear conflict with the position paper which says the Towns can use Special Use permits. Sullivan said we are basing our whole approach to solar on the fact that ultimately Towns have the ability to review a site plan and essentially have the final say in conjunction with the NPS to protect the corridor. She doesn't see how you can do that if the process is over-ridden. Ramie said this is a New York State proposal specifically and there may have been other Towns that have acted on it; she was just aware of these two in particular. Sullivan said she wonders if the New York State Association of Towns has reviewed this? Greier said one of our priority assignments is to protect landowners. If the state is overriding that, we're out of business. Dean said we need more information. Ramie said she would be happy to do more research and circulate more information in case the UDC would like to take action. Greier suggested that representatives talk with each respective Supervisor and share their concerns.

**NYS DOT Region 9 Project Notifications:** Department of Transportation Maintenance Environmental Coordinator James Buck advised the UDC and NPS on 2/26 of an emergency rock-scaling project in the **Town of Fremont** (reference marker 97 9602 1481 along NYS Route 97 north of Basket Brook Road) in which the DOT would use a long-reach excavator to remove several rocks in danger of falling toward the shoulder, with daily lane closures controlled by flag persons. On 3/6, Buck reported that the work had been completed. On 3/6, Buck sent a notice for Hazardous Tree Removal along NYS Route 97 at three identified locations in the **Town of Tusten** (cross streets: Lackawaxen Road; Francis Drive; Brook Road/Co. Rt. 23) to remove trees creating hazards to shading and fixed objects, and to improve sight distance for the traveling public. These locations were identified in a previous contract but were removed due to funding limitations. All of the work will be done on lands owned by DOT. The project will be undertaken by subcontractors as their schedule allows. A report provided to the Upper Delaware Scenic Byway Committee on 3/23 by Kris Gilbert, DOT, states that "This work is currently on hold."

**2020 Technical Assistance Grants:** The four projects in Hancock, Delaware, and Tusten (2) must be completed by 8/28, with supporting documentation submitted and substantial conformance determined (where necessary) to request reimbursement payment.

**Annual Code Enforcement Program Report:** On 1/3 Resource Specialist Pete Golod submitted letters to all 13 UDC municipal members Code Enforcement Officers and Planning Board/Commission Chairs requesting they provide all building permits, special/conditional use permits, and variances issued within the designated river corridor from January 1 to December 31, 2019, as well as any modifications made to their laws, plans, ordinances, and zoning map changes. The materials were requested by Monday, March 2<sup>nd</sup>. As of 3/24/20: The only additional response was a 2/27 submission from Town of Lumberland Planning Board Vice-chair Suzanne Edzenga, providing information on Local Law #1 of 2019: Amending the Zoning Law of the Town of Lumberland (two Rt. 97 properties added to the River Hamlet Districts); and Local Law #2 of 2019: Imposing a Six-Month Moratorium on the Processing of Applications for, and the Issuance of any Approvals or Permits for, Solar farms and Solar Power Plants in the Town of Lumberland, to supplement a 2/3 submission from Assistant Code Enforcement Officer Christy Flynn citing five building permits. Reports are still needed from: the Town of Tusten, the Town of

Highland, Lackawaxen Township, and Shohola Township. Ramie said she will send out reminders to those four Town/ships that they are overdue.

#### **Old Business:**

**Project Review Workbook Update and Rollout Sessions:** Last month Dorene Warner was able to provide the mockup of the cover and formatting. Today Ramie received an update from Warner that many of her clients needed help adding putting up COVID-19 precautions on their websites. Warner is hoping to send a PDF of the Workbook for review to Ramie, Weinman, and Claster later this week. Warner has been in touch with the printer, Spring Hill Laser Services. They sent an email out last week saying they were shutting down production guided by authorities. They are planning on opening with a small crew on 4/6 contingent on the virus status. Warner thinks we can still plan on getting the Workbook completed in April as planned or May at the latest if working remotely doesn't go smoothly. Steps have been taken to schedule workshops in June and these could proceed even if they are online presentations. The idea was to have the workshop in three different locations along the corridor: Long Eddy, Narrowsburg, and Shohola. Ramie is waiting for responses on preferred dates and times for the workshops due by 3/27. She will compile the most popular choices and go from there with the planning team. Claster had the idea of filming Tom Shepstone for an orientation session to be shown at all of the workshops and he enthusiastically agreed. Ramie said these sessions would be two hours with planning assistance and refreshments provided by National Parks Conservation Association (NPCA) donation.

**Status of Shohola and Highland Zoning Ordinance Updates, and Tusten Comprehensive Plan:** Provided during the Discussion Items Report.

**Other:** None.

#### **New Business:**

**Next Steps to Incorporate the Conclusions of the Utility-Scale Solar Energy System Position Paper into the River Management Plan:** This PowerPoint presentation was provided in advance as compiled by Claster and Weinman. It attempts to lay out what the next steps would be now that the Utility-Scale Solar Position Paper has passed in terms of integrating that into the River Management Plan (RMP). Looking at the third page of the presentation, Claster reviewed that Management Responsibilities of the UDC as defined in the 1986 RMP are: Project Review and Determination of Substantial Conformance; Plan Implementation and Evaluation; Plan Revision; Minor Amendments; Notification and Reports. Claster highlighted Minor Amendments because that would be the next step in incorporating the inclusions of the position paper into the RMP and Land and Water Use Guidelines. Regarding Plan Revision, Claster referenced page 26 of the RMP: "In certain situations, it may become apparent, following the approval for the RMP, that a certain action or group of closely related actions called for in the plan cannot, or should not, be implemented or that they should be modified. It is also possible that an essential action needed in the future may not be included in the RMP". Claster said that last piece speaks to new land uses that were not foreseen such as Utility-Scale Solar. The text continues: "If a revision is needed, or a new action is required to meet management needs, the RMP can be amended. An amendment to the plan would essentially deal with a single issue that can be addressed without requiring revision of other parts of the plan." Claster said an amendment would handle just one item, not open up the plan. Minor Amendments are minor or technical changes to the RMP that do not substantively change the intent or standards defined in the plan. Minor Amendment Steps that have been completed: There is a clear definition of the issue or problem to be addressed; Adequate documentation and analysis of information about the issue or problem is presented; Identification and analysis of alternative actions has been done to address the problem or issue, including the selection of a proposed action; The proposed amendment has been determined to be consistent with the intent of the RMP the Land and Water Use Guidelines and the Wild and Scenic Rivers Act.

Minor Amendment Steps Remaining: UDC and NPS would have to agree to amend the Secretary's Guidelines; the proposed amendment will be advertised publicly in accordance with the standards defined in Notification and Reports section on page 28 of the RMP; the proposed amendment will be read at the full Council meeting following the advertisement, following which oral and written comments will be received from the public. It will also be placed on Planning Environment and Public Comment (PEPC) website for public comment for two weeks, beginning on the meeting date. Substantive public comments will be addressed by NPS in a "Response to

Comments” document. Revisions to the proposed action may be necessary to address the comments. Changes would require concurrence from UDC. The vote by Council membership will be taken the following month, with a unanimous vote in support of the amendment by all members of the Council being necessary for it to be adopted (no “no” votes). Claster and Weinman provided slides showing sample definitions and additions to the Schedule of Uses. For finalization of the Amendment, NPS will finish the compliance process as a categorical exclusion with documentation in PEPC and NPS will publish the amendment in the Federal Register.

Claster said we are about halfway through the process of the Minor Amendment. Robinson said he believes in PA you would have to have a public hearing for each Township because it impacts zoning ordinances. That would be a parallel track for the township to pursue. He said a public hearing is formal with a stenographer and public advertisement. It’s quite a process. He said the original RMP was signed off by each respective Board of Supervisors or Town Board that was affected by the RMP. He said he would think that any Amendment would also need the support of the Supervisors via a resolution which empowers the representative to vote one way or another. He said as the Township Representative he doesn’t have the authority to vote without a resolution from the Board of Supervisors. Greier agreed that he would need approval from his Town Board. Sullivan said in New York towns, a change that affects their zoning does require a public hearing. Richardson said he disagrees. He feels the conclusions of our position paper are already reflected in his town’s zoning. He doesn’t think Cohecton would need to have a public hearing. Claster wanted to clarify that there is a process for amending the RMP and a different process for amending Town Zoning. Amending Town Zoning would not happen at the same time as the RMP Amendment. She doesn’t see that as the RMP is amended, every single Town/ship has to unanimously at the same time revise their zoning. These are two processes on different timetables. Robinson said towns and townships should look into this because UDC and NPS will be reviewing large-scale solar projects relative to this position we have approved. Richardson said if someone wants clarification on whether it would require individual public hearings or one public hearing, UDC could ask our attorney. Henry said we’re not getting anywhere with this discussion now. A Motion by Greier seconded by Peckham to table this discussion until the Project Review Committee is back in normal working procedures carried with Richardson opposed. Ramie said the action we could take in the meantime is to try to clarify if each Town/ship would need a public hearing on this. Robinson said something that can be brought back to Town/ship boards is whether a representative has the authority to vote on amending a plan when the original parties to this plan were the elected officials. Dean said he thinks that’s a wise observation and hopefully all Town/ships should make a statement on their feelings. Claster said she hopes that Town/ships are already weighing in on delegates’ votes. Richardson said that once this item was tabled, the discussion should be over.

**Other:** None.

**Public Comment:** None.

**Adjournment:** A motion by Roeder, seconded by Richardson, to adjourn the meeting at 8:04 p.m. was carried.

*Minutes prepared by Ashley Hall-Bagdonas, 3/30/2020*