

## **UPPER DELAWARE COUNCIL MEETING MINUTES**

### **October 5, 2017**

The Upper Delaware Council held its monthly meeting on Thursday, October 5, 2017 at the Council office in Narrowsburg, NY. Chairperson Jim Greier called the meeting to order at 7:01 p.m. The Pledge of Allegiance and roll call followed.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jim Greier, Town of Delaware-Harold G. Roeder, Jr., Town of Cochecton-Larry Richardson, Town of Tusten-Susan Sullivan, Town of Highland-Jeff Haas, Town of Deerpark-David Dean, Damascus Township-Steve Adams (7:15 p.m.), Berlin Township-Alan Henry, Shohola Township-Aaron Robinson, Westfall Township-Mike Barth, State of New York-Bill Rudge, National Park Service-Kris Heister. Staff in attendance: Executive Director-Laurie Ramie, Resource Specialist-Pete Golod, Secretary-Cindy Odell. Absent: Town of Lumberland, Lackawaxen Township, Commonwealth of Pennsylvania, Delaware River Basin Commission. Media: Dave Hulse. Guests: Karen Henry, Dick Eckersley, Jim Barth, Roger Saumure.

**Presentation on National Park Service Upper Delaware budgetary procedures by Karen S. Henry, Upper Delaware Scenic & Recreational River Administrative Officer:** Greier introduced Henry who showed a PowerPoint titled, "Federal Budget Cycle." She noted that it is a 2-year process to get a new park funded. She explained the federal budget cycle which includes the "requesting", "receiving" and "distributing" of funds. She said that the National Park Service is one of those discretionary budgets that "comes and goes at the will of Congress and the President of the United States." Henry passed around the budget structure of the National Park Service based on the President's Budget Request for FY 2018. She noted there are 11 appropriations that they can tap into. The primary one is "Operation of the National Park System (ONPS)". She explained this is the annual funding with which they pay their salaries and everything they do in operations. Henry reported that the Continuing Appropriations Act, 2018 (P.L. 115-56) was signed by the President on September 8, 2017. It covers the period of October 1 through midnight on December 8, 2017. The FY 2018 bill provides funding at a daily rate for operations at the FY 2017 level less a .06971% across the board reduction. She stated that a rate of 18.9% is available for obligation after adjusting for the reduction through December 8. The total for the Upper Delaware Scenic & Recreational River for this period is \$645,000. Henry noted that as funds are approved and after assessments, reductions, or increases are applied, Washington Support Office (WASO) sends official notification to the Regional offices in the form of a program authorization or funding advice for the Park Base Operating allocation. Regions then apply costs for contingency and uniforms and then distribute a final allocated amount to the parks. Regarding funding distribution within the Park, it is from the allocation of an Operating Park Base that the parks then determine how best to spend the funding, Henry stated. Fixed costs are programmed first as they must be paid with the permanent employees first and then temporary employees. She noted that UPDE personnel costs for FY 2018 account for 79% of the park base total. Other fixed costs include the UDC Cooperative Agreement, the dispatch service from Delaware Water Gap, utilities, vehicle maintenance, mandatory training and travel, contracts for Law Enforcement services, portable toilets, and water, and general safety needs and routine supplies. These fixed costs are 20.5% of the park base total. That leaves about .75% to distribute for other needs that get prioritized. Henry spoke of the important deadlines that pertain to funding, including the acquisition deadlines. She showed a slide with trends in the

budgets of the Upper Delaware Scenic & Recreational River (UPDE) and Upper Delaware Council from the year 2000 to date and explained those trends. She noted that the UDC receives 11% of UPDE's fixed cost budget.

A brief question and answer session took place. Dick Eckersley, the Council's auditor, commented that he felt it was good for everyone to hear the work the Administrative Officer has to go through to get things done.

Henry commented that if the UDC were to receive additional funding, it would come out of UPDE's budget and be that much less money for them to operate with. Greier asked if the UDC can count on the \$300,000 per year funding that we've been receiving. Henry said she can say tonight that "it's a safe bet, but on December 9<sup>th</sup>, I don't know what that safe bet is anymore". Heister referred to the budget trend slide and noted that the Park Service's budget has gone up and down over the years and there has really only been one instance when their budget had been cut to the extent that they felt they couldn't operate without a cut to the UDC budget. She added that the Park Service absorbs most of those cuts and they are willing to continue to do that. She does not foresee any situation under which the \$300,000 that the UDC receives would not be provided.

A brief discussion about NPS staffing and budget took place. Heister noted there is never going to be more staff in the UPDE than they have now.

Richardson stated that since the UDC is a line item in the UPDE budget, he does not see us ever getting more than the \$300,000 as long as it has to come out of the UPDE budget. Henry stated that the budget that the UDC gets is based on the proposal which is negotiable. She added that if the UDC puts in a request for more than the \$300,000, it will be reviewed on the local and regional levels, and a determination would be made based on evaluation of other Park needs. Heister stated that if a base increase to the UDC budget is being asked for, that is difficult, but there are other funding options for "project-type" work.

A brief discussion about funding request deadlines took place.

Robinson stated that we've discussed the status of our unrestricted funds. He asked Karen Henry if she could comment on that. She said not right now. Ramie said there is a conference call scheduled on October 19 to discuss that issue.

Dave Hulse asked if New York State were to make a payment to the UDC, would the NPS reduce their funding to the UDC. Heister said no, a contribution from New York State would have no bearing on the Park Service budget.

Richardson stated that the option to roll over funds from one fiscal year to the next would make it possible to accomplish projects that might not be able to accomplish otherwise. Henry said the funding is based on annual funds and they expire on September 30<sup>th</sup>. Richardson said that because the system of payment to the UDC changed from receiving the lump sum to the monthly reimbursement process we now follow, the Council needs to have its own money in order to maintain continuous operation. Rudge suspects that New York State's option for funding, if there is one, will be on a reimbursement basis as well.

Ramie questioned what the timeframe is for the processing of the UDC's FY 2018 funding request. Henry said she will know better after the meeting on October 19<sup>th</sup>. She added that the processing of the paperwork can't happen until after October 16<sup>th</sup> as the Park Service accounting system is down until then. Henry provided a list of participants for the October 19<sup>th</sup> phone call.

A brief discussion about the unrestricted funds took place. Dick Eckersley noted that for those funds to be zeroed out, the NPS would have to reduce the UDC's budget that they authorized below the \$300,000. He provided some examples for when unrestricted funds would be used. Eckersley added that those funds are there and the Park Service has known they are there as reports have been submitted and accepted. He said it is "working capital" that has accumulated over the years from a variety of sources. A brief discussion about accounting practices, ways to increase the reserves and grant writing took place.

Discussion about the River Management Plan providing for the UDC's funding took place. It was noted that it called for \$100,000 each from both New York and Pennsylvania and \$300,000 from the federal government. Robinson asked if the legislation provided for the funding. Heister stated that the legislation articulates that the NPS can contract for certain services. Robinson said he thought it was a mandate. Greier said that the Council was "created, formed, and funded by an act of Congress of the United States of America." Eckersley is unsure if the law states the amount of funding or whether it states that there should be an organization called the Citizens Advisory Council. He does not think that the legislation written in 1988 would have had a specific amount as the presumption would be that any funding would

increase over time. He added that this has not happened as the UPDE Park Service budget has been almost as fixed as the UDC budget has been. He added that if they don't receive an increase, there is little chance for the UDC to get an increase. Robinson questioned if the UDC is a discretionary element to the legislation. Eckersley stated that the funding is, not the existence of the organization. Robinson said if there is no funding, the UDC could not exist. Karen Henry stated that they treat the UDC as "fixed cost" right now. She added that the National Park Service's budget is discretionary funding to the federal government as a whole.

Greier thanked Henry for her presentation.

**Approval of September 7 Meeting Minutes:** A motion by Peckham seconded by Richardson to approve the September 7 meeting minutes was carried unanimously.

**Public Comment on the Agenda:** None

**Committee Reports:** Committee reports were provided based on the meeting minutes. They were: September 19 Water Use/Resource Management by Peckham, September 26 Special TAG Project Review and September 26 Project Review by Richardson, and September 26 Operations by Greier.

During his September 26 Special TAG Project Review Committee meeting report, Richardson noted that Berlin Township's request did not meet the current threshold for funding according to the National Park Service. He noted that following the Special Meeting there were numerous emails circulated. Richardson said there was some re-thinking going on about the funded amounts for the awards with the idea of expending the full amount budgeted for the program. He reported that there are two alternative Resolutions to be considered for the Technical Assistance Grant awards in members' packets; one with the amounts that came out of committee and one that came about as a result of the e-mail discussion following the committee meeting.

### **Status Reports**

**Delaware River Basin Commission:** The DRBC was absent, however, the September 29<sup>th</sup> hydrologic report was provided in members' packets. The total combined storage was at 76.5% with Cannonsville at 66.8%.

**NYS Dept. of Environmental Conservation:** Rudge referred to the October 5 news release titled, "DEC Announces New York's Youth Big Game Hunt Kicks Off Columbus Day Weekend" provided in members' packets. He said there are many activities underway to recruit a new generation of hunters in New York State as hunting is an important tool in the management of wildlife.

Rudge stated that he checked with the Executive Staff to see where they were in terms of the UDC's request for funding. The request is under review, he reported.

Peckham asked Rudge if New York State is still going to have the regulation prohibiting the transport of whole deer into the state. Rudge said yes, noting that deer have to be processed before they can be brought into the state. Due to the spread of Chronic Wasting Disease (CWD) within the United States and Canada, New York has established special restrictions on the importation of carcasses and parts of big game animals from areas where CWD is detected. More information is available on the NYS DEC website.

Barth, referring to the New York State firewood regulations, questioned why the restrictions aren't designed based on regions. Rudge stated that it is illegal to transport untreated firewood more than 50 miles from its source within New York State. It is also illegal to bring untreated firewood into New York State. More information is available on this topic on the NYS DEC website.

Roeder asked if there is anything new to report about the Eurasian boars. Rudge said he will check to see if any updates are available and report back.

Sullivan asked Rudge if any advocacy for the UDC's project funding request to the DEC from member towns would be beneficial. Rudge said yes and suggested that those towns let their local elected representatives in the Assembly and Senate know their opinions.

Dean thanked Rudge for the dumpster placed by NYS in the Town of Deerpark and suggested that it be taken away if it has not been already.

**PA Dept. of Conservation and Natural Resources:** No report in the absence of Representative Tim Dugan.

**National Park Service-Upper Delaware:** Heister reported that Tennessee Gas had to abandon their horizontal bore crossing method for the Lackawaxen River. They will be moving to the wet cut crossing method and will conduct hourly turbidity monitoring during the trenching and provide those results to the NPS and others on a daily basis. She said that last night along Westcolang Road in Lackawaxen, a pond tractor pulling dirt back into a trench ruptured the line that is already in, resulting in the venting of gas into the atmosphere, evacuation within a half mile of the rupture, and gas to the line cut off. The incident is being investigated, Heister added.

Heister said that National Public Lands Day was held on Saturday, September 30<sup>th</sup>. Sixteen volunteers were engaged in three projects including a river clean-up between Narrowsburg and Ten Mile River, the removal of Mile-a-Minute weed at the Lackawaxen River Access, and trail work on the Tusten Mountain Trail. Volunteers donated 92 hours. Sponsors for the event included Lander's River Trips, the Pennsylvania Environmental Council, American Rivers, and the National Environmental Educators Foundation.

Heister reported this year, excluding National Public Lands Day, 355 volunteers donated 14,023 hours of service to the community and National Park Service. At an estimate of \$24.14 per volunteer hour, that equates to \$338,515 in donated services. Over 2,500 volunteer hours were donated by local youth representing Damascus and Hawley, PA and Barryville, Fosterdale, Highland Lake, and Narrowsburg, NY.

Kelleen Lanagan, the Wild and Scenic Rivers Fellow, finished her assignment with the UPDE on September 30<sup>th</sup>. One of her products was a follow up to a request from the UDC for a Trail of Geology. A draft product will be presented to the WU/RM committee for comment, Heister added.

Heister said that UPDE maintenance worker, Mike Worley, returns to work this week after a three-week hurricane duty detail to Cumberland Island National Seashore and Fort Sumpter National Monument. Law Enforcement Ranger Sean McNeil left for a two to three-week hurricane duty detail to Big Cypress National Preserve in Florida on September 28.

Heister noted that in the late 1980's, the NPS obtained funding to create a video of Floyd Campfield building and operating his eel weir. The VHS tape has been converted to DVD and into a mp4 format so it can continue to be viewed. She said it will be posted to a platform called NPS Gallery where it will be able to be viewed by the public in perpetuity. A link to it will be placed on the UPDE website.

Heister referred to two handouts provided by her. She said that two major projects have been completed to improve the accessibility of our resources to the public and to provide inspiration to them before they get here. The first is the Upper Delaware Virtual Tour which is now available on the UPDE website. Created for the National Park Service Centennial celebration, the virtual tour, in five separate modules, is an interactive reference guide to the Outstandingly Remarkable Values of the Upper Delaware Scenic and Recreational River. She provided a brief overview of the tour. It is hoped that local businesses will link to certain aspects of this tour from their own websites. The second project to be completed is the cataloging of the UPDE museum collection. Heister said you will be able to view 200 objects from the park's museum collection on-line through the NPS Museum Web Catalog at [www.museum.nps.gov](http://www.museum.nps.gov). She provided a brief overview for navigating the website.

Heister stated that transcriptions for three oral histories have been completed. One is on fishing, one is on quarrying, and the third is the transcription of the Floyd Campfield eel weir video. She said they are currently working on the Doc Homer fishing oral history and then they will be moving on to the Art Barnes interview.

Heister reported that UPDE has successfully competed for and been awarded funds for two natural resource projects. They received \$66,000 over two years to assess the abundance and age distribution of juvenile American Eel in the Delaware River; and \$176,947 over three years through the USGS/NPS Water Quality Partnership Program to evaluate the occurrence and potential risk of microplastics in both Lake Mead National Recreation Area and the Delaware River. Microplastics are an emerging contaminant of concern and come from many different sources, Heister said. There is mounting evidence that microplastics present a significant threat to aquatic organisms, she added.

A brief discussion about engaging local scouts in Park Service events took place. Barth noted that his son recently received his Eagle Scout rank.

Referring back to the Tennessee Gas Lackawaxen River crossing, Richardson asked if there is a crossing preference. Heister said yes. The first preference would be horizontal bore as there is no disturbance of the stream bed. The second preference would be a dry crossing. Tennessee Gas tried both the dry crossing and horizontal bore, but were unsuccessful with each attempt so had to move to the third option of a wet crossing. Jim Barth asked how deep the trench is and if it gets covered up. Heister explained the process of a wet crossing noting that the trench needs to be at least six feet under the bed of the river. She believes it is a 30" pipe.

Ramie asked if the Park Service will be issuing a press release about the availability of the museum collection. Heister said they will be. Ramie asked if a link to the Park Service Virtual Tour could be posted to the UDC website. Heister said yes.

A brief discussion about the gas line rupture took place.

Peckham asked what the time frame is for Tennessee Gas to cross the Lackawaxen River. Heister said it will take them about three weeks.

**UDC Executive Director's Report:** Ramie reported that a conference call has been scheduled for October 19 to discuss the UDC's Unrestricted Funds. She spoke of who will be involved with the call and the goals they hope to accomplish. She said that she and UDC Auditor Dick Eckersley will be participating on the UDC's behalf. A brief discussion about unrestricted funds took place.

Ramie stated that on September 28<sup>th</sup>, the DRBC's Regulated Flow Advisory Committee (RFAC) held a meeting. She said she was unable to attend, but that Golod did. Golod reported that a lot of information was provided to those in attendance in a very short period of time. He reported that the Decree Parties have drafted a framework for a two-part, 10-year agreement. He said that New Jersey and Delaware are ready to sign the agreement; New York City stated that they are not; and the other Decree Party representatives did not comment at that time. The new Plan closely resembles the former Flexible Flow Management Program (FFMP) in that the Montague and Trenton flow targets will remain the same as 2016, and the New York City and New Jersey diversions will remain the same as in 2016 during normal and drought conditions. Included in this new framework will be the ability to be adaptive with an increase in public input. They are to work on the creation of a thermal relief bank, Golod added. He noted there was an agreement to bank water set aside to eliminate the erratic "yo-yo" releases and water releases will be kept in the higher release tables for longer time periods. Golod noted that there is no formal agreement to be signed yet. He spoke of what will happen if the agreement is not in place by October 10. It was noted that New York City will not extend their voluntary releases past that date. A more formal report about this meeting will be given at the October 17 WU/RM meeting. Golod said there was a large contingent at this meeting from the Upper Delaware region as many are concerned about the flows. Heister stated that all five Decree Parties are to be in attendance at the Friends of the Upper Delaware River's "Water, Water Everywhere" conference on October 11<sup>th</sup>. Sullivan asked Bill Rudge why the New York State Decree Party Principal were not in attendance at the September 28 meeting. Rudge said he did not know why New York State was not present, but stated that New York State is "actively engaged in this agreement." Sullivan asked where the State stands. Rudge said that as far as he knows, "we are conceptually behind the agreement." Peckham asked if there was anything in the agreement about flood mitigation. Golod said there was brief mention, but noted that it was reinforced during the meeting that the agreement is currently just a framework and they are still working out details. Ramie noted that Golod was able to read the UDC's September 7<sup>th</sup> letter into the testimony.

Ramie said the UDC hosted the kick-off meeting for the Upper Delaware Economic Research Project here on September 27<sup>th</sup>. The meeting was attended by approximately 25 people. The project is sponsored by the National Parks Conservation Association (NPCA). The consultant, Michele Archie, anticipated this will be a 16-month process and will focus on facts, figures, and people's stories from the 5-county New York and Pennsylvania region on a watershed scale. The first step in this project will be to look at the existing studies, reports and plans. The products of the project will be driven by what is deemed useful to Upper Delaware stakeholders, Ramie noted. This study will look at tourism impacts, quality of life issues, challenges, and they will talk to people to get their stories to find out why they live here and how they make their money. This project will be organized through the Upper Delaware River Roundtable.

They hope to meet again this fall. Ramie said she thought really good discussion took place at this meeting. She asked Dave Dean, who was in attendance, if he had any impressions he wanted to share. Dean felt that some of the discussion was condescending to the local people. He elaborated on this statement. He said he took no offense to the discussion, but kept hearing “you poor people who live here, you need outside help so that you can understand how valuable this place is.” Dean said he does not need any help to understand how important and how great this place is. Dean said he was disappointed that no other Council members were in attendance. He suggested that if the opportunity presents itself in the future, he would urge some of the others to come and listen. He said his impression is just one man’s perspective. Ramie said we will announce it when there is another opportunity to attend a meeting.

Ramie stated a response to our September 7 letter urging PennDOT to maintain the existing 1901 Skinners Falls-Milanville Bridge rather than building a new structure or eliminating the crossing was received on September 29 from Susan Hazelton, Assistant District 4 Executive. She referred us to her reply to the Upper Delaware Scenic Byway organization on the same topic. The letter states in part, “Please be assured the concerns ... have been noted. The NY-PA Joint Interstate Bridge Commission is in the process of studying various long term options for the structure and is committed to finding a solution that meets the needs of all project stakeholders. As this process continues, the bridge will be maintained at the current 4-ton posting status.” Also in regards to the Skinners Falls-Milanville Bridge, Ramie said that Ed Wesely provided us with a copy of a September 13 letter that Milanville resident Mary Sue Sweeney Price wrote to the National Trust for Historic Preservation in Washington encouraging that organization to add the bridge to its list of Endangered Historic Places due to its Baltimore Truss construction, prominence in the Milanville Historic District, and importance to local history and commerce. Price also enclosed letters from the UDC and UDSB in her correspondence.

Ramie noted that the attorney’s comments to our 2<sup>nd</sup> draft of the UDC Bylaws amendments were reviewed at the last meeting of the Operations Committee. She will revise the draft and send the amended version incorporating the attorney’s recommendations to the full Council for action at a later meeting. Our Bylaws require a 30-day notice before changes can be made. The review also prompted a change to the language in the Conflict of Interest Disclosure Policy regarding the board’s authority to vote on setting the meeting compensation rate. Ramie pointed out that tonight is the first night that the new Member Participation Policy applies. She reminded members to submit their W-9 forms if they have not done so already.

Ramie reported that Courier Printing delivered the Fall/Winter edition of *The Upper Delaware* newsletter on Monday, October 2<sup>nd</sup>. She noted this edition contains a tribute to Phil Chase, an interview with Mike Barth along with other articles, and said extra copies are available for distribution.

Ramie referred members to the October calendar of UDC Meetings, Activities and Deadlines provided in their packets. She said a presentation by Shippensburg University on the DRB 2070 Mapping and Modeling project is scheduled for the November 2 full Council meeting. She added that she continues to look to line up a speaker from the Susquehanna River Basin as has been suggested to obtain some perspective on the impacts of natural gas drilling where it has been occurring in Pennsylvania.

Robinson asked if anyone had the opportunity to check with the Pennsylvania Turnpike Commission about the availability of the call boxes that are being taken down along the turnpike. Golod said he has not, but is planning on it.

Al Henry asked Eckersley if it is his opinion that the unrestricted funds belong to the Upper Delaware Council. Eckersley said yes. Henry recommended having a plan in place for the October 19 phone call. Richardson suggested that information gathered on this call should go back to the Operations Committee for further discussion. Eckersley said it is his understanding that the phone call is for information gathering. He is currently unsure what the issue is. A brief discussion of where the unrestricted funds came from took place. Eckersley said he sees this upcoming call as an exploratory one. Dean suggested that Eckersley and Ramie handle the phone call. He feels that members interjecting in the conversation might confuse the issue.

**Old Business:** None

**New Business:**

**Draft Resolution 2017-12: Approving Technical Assistance Grants for Fiscal Year 2018:** Ramie said as mentioned earlier in the meeting by Richardson, there are two versions of the Resolution provided in members' packets for consideration. The first version (a) is what the Project Review Committee had discussed as their recommendation on September 26 and the second (b) is the result of conversation in which it was discussed to award amounts that would expend the full budgeted amount for the TAG program. The second version would fully fund the Town of Tusten's project, fully fund Damascus Township's project, and partially fund Berlin Township's project. A motion to approve the first version (a) of Resolution 2017-12 was made by Richardson and seconded by Robinson for discussion. Robinson asked Ramie to reiterate her analysis. Ramie said she did not know why the committee was cutting back the \$15,100 funding that was allocated since we already had reduced our line item by more than half this year's amount and limited the types of projects to land use and zoning. Richardson said he read the Park Service's comments on Berlin Township's application and he agreed that it did meet this year's criteria for the TAG program. He doesn't feel the Council should increase that project's funding as we are not sure it will be allowable. Sullivan said she found Ramie's logic for the second version of the Resolution 2017-12 (b) to make sense. After a brief discussion, the motion to approve version (a) of Resolution 2017-12 was voted on. The motion failed with one aye. A motion to approve version (b) of Resolution 2017-12 was made by Roeder and seconded by Sullivan. A vote was taken and the motion passed with Peckham and Richardson voting no and Adams abstaining. Richardson said the Park Service has made a determination that the Berlin Township project is not a legitimately funded project. He is unsure how this is going to play out down the road and suggested that payment of this grant may have to come out of the UDC's unrestricted funds. Richardson said that the guidelines are pretty specific this year. Heister said that Ramie has been asked to itemize the TAG projects in the budget this year.

**Accept Project Review Committee September 26, 2017 Recommendation: Town of Tusten Zoning Ordinance Amendments (4) Substantial Conformance:** Golod said per the Project Review workbook, a final step once the Project Review Committee makes their initial recommendation, is to move the recommendation to full Council for a final vote on whether it substantially conforms or not. The ordinance amendments for the Town of Tusten include: Amendment for Solar Energy Systems, the Tusten Camping Law, the Tusten Subdivision Law, and the Tusten Zoning Law. After a brief discussion, a motion to accept the Project Review Committee's recommendation that the four Town of Tusten Zoning Amendments are in substantial conformance with the Land and Water Use Guidelines was made by Richardson, seconded by Peckham and carried with Haas abstaining.

**Approval of Contractual Services for Snow Plowing:** The Council was provided with a written report outlining the two quotes for snowplowing that were received after numerous quotes were solicited as a result of receiving notice that the current contractor was no longer going to provide this service. A motion to accept the bid of K&D Enterprises, LLC was made by Richardson, seconded by Robinson and carried.

**Other:** None

**Public Comment:** None

**Adjournment:** A motion by Haas, seconded by Peckham to adjourn the meeting at 9:18 p.m. was carried unanimously.

*Minutes prepared by Cindy Odell 10/17/17*