

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
July 23, 2013

Committee Members Present: Larry Richardson, Harold Roeder, Jr., George Fluhr, Nadia Rajsasz, Fred Peckham
Committee Members Absent: Debra Conway, Jeffrey Dexter
NPS Partner: Sean McGuinness
Staff: Laurie Ramie, Cindy Odell, Travis O'Dell
Guests: Gerald Euker, Alfred Steppich, Steve Lundgren

The UDC's Project Review Committee held its monthly meeting on Tuesday, July 23, 2013 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 7:52 p.m

A motion to approve the June 25 meeting minutes was made by Rajsasz, seconded by Roeder and carried. There was no public comment on the agenda.

Discussion Items Report

Substantial Conformance

Town of Hancock: T. O'Dell said that he continues to compile and review all pertinent local, county, state and federal regulations with the principles and objectives of the Land and Water Use Guidelines for the Town of Hancock and hopes to have this information together and organize another meeting with the Town to go over the findings. Peckham asked O'Dell to let him know when he has that meeting scheduled.

Project Review Update

Natural Gas: O'Dell noted the DRBC continues their good work with water quality monitoring. They have been working on baseline water quality in the basin. The three main focus areas for baseline characterization have included reanalysis of frozen samples for hydraulic fracturing-related parameters; deployment of HOBO continuous conductivity meters; and collection of new biological samples to fill gaps in existing monitoring efforts.

Town of Deerpark: O'Dell reported that on June 26th he met with Deerpark UDC Representative David Dean, Town Supervisor Karl Barbenech, and Town Engineer Al Fusco Jr. They discussed project review and the role and partnership between the UDC and the Town of Deerpark. Topics of the discussion included options for the Sparrowsbush river access that is located just below the corridor boundary and the possibility of the UDC supporting the Town's efforts to combat misuse of the Hawk's Nest. He noted that one of the major issues is graffiti.

Town of Delaware: O'Dell said the Town has scheduled a special meeting on Wednesday, July 31, at 7 p.m. to adopt Local Law #4 amending their zoning law and map. He said he distributed on July 17 the suggested minor change to the statement regarding portions of the RU district that are located within the River Corridor that he had provided to Delaware Planning Board Chairman Jerry Euker.

Town of Tusten: O'Dell said the Town is in the process of amending their zoning law to add more clarity and tangibility for review and enforcement. Minor changes affect the river corridor. These changes will be discussed under New Business.

Damascus Township: O'Dell noted that two new telecommunications towers are proposed at 199 MacCubbins Road and 52 Jurgensen Road. Both proposals are for 189-foot tree pole communications towers and associated compounds and are located in the Upper Delaware River Corridor. However, both sites are located in the Township's Rural Residential district where communications towers are appropriate conditional uses. A letter was sent to Verizon's contractor after last month's Project Review Committee

meeting. O'Dell believes this issue will come before the Township planning commission on August 8th. Richardson questioned if the letter that was sent requested a balloon test to determine if the towers would be visible from the river. O'Dell said that it did, but he has not received a response. Fluhr suggested reaching out to the company that manufactures the towers to see if they could design one that looks decent. McGuinness feels it is time the Council address the issue of communication towers. He said we all want service and we all want to be connected, but he thinks people should be brought together to discuss what we want the valley to look like in the future. Peckham said the main issue is that the towers should not be visible from the river valley. He said we should reiterate our request for a balloon test. Richardson added the presence of a park ranger or UDC representative is important during this testing. Fluhr said 10 – 15 years ago, people did not want to look at the ugly towers, but those feelings have changed as more and more people use cell phones. He noted there would be opposition to keeping the towers out. McGuinness said we don't want to keep towers out, but do it in a way that they are not so visible. Peckham said we are "trying to strike a balance." McGuinness said the issue is not just about river users, it is about homeowners who will have to view these towers. Fluhr likes the idea of sitting down with a group of people to discuss this issue. It was discussed that a conference could be held and include tower manufacturers, the FCC, and property owners. McGuinness reiterated that we all want cell service, but there needs to be discussion about where these towers will be located and there needs to be sensitivity to the qualities of this area. He feels these goals can be reached, that it may be more expensive, but it is doable. Discussion about abandoned cell towers in the future took place. A motion to send a follow up letter to Verizon's contractor regarding balloon testing for the two proposed Damascus telecommunication towers with Park Service or UDC representation present was made by Peckham. Fluhr asked if we can start thinking about a conference as McGuinness suggested. Ramie said she recalls the UDC hosting a similar conference about 15 years ago. She will look into who was present at that meeting. Peckham's motion was seconded by Rajsz and carried unanimously.

TAG Update: T. O'Dell said we have received project completion forms from the Town of Delaware and Damascus Township. He said that all others are aware of the project completion deadline of July 26th. O'Dell noted that the FY 2014 TAG application deadline is August 30, 2013.

Training Update: T. O'Dell said he attended a Google Earth training in Hawley, PA on Friday, July 19th. The training covered many topics such as how to create points, lines and polygons as well as overlaying maps, linking to photos and saving and sharing of files.

New Business

Draft Letter to Town of Tusten: Zoning Amendments: T. O'Dell noted there were just two minor suggested changes to the Town's proposed amendments to the 2012 Zoning Law: the first being an enumeration error; and the second referring to the addition of "Group Homes" as a special use for the Scenic River District (SR). The letter states that, "By definition 'Group Homes' could be considered 'Institutional Uses' according to the Land and Water Use Guidelines contained in the River Management Plan. As you can see in the attached Schedule of Compatible, conditional, and Incompatible Uses, 'Institutional Use' is considered an Incompatible Use in the designated Scenic Segments of the Upper Delaware. We suggest that 'Group Homes' not be added as an appropriate special use in the SR District." Roeder asked what the definition of "group home" is. O'Dell told him it reads, "A nonprofit or for-profit boarding home for sheltered care of persons that also provides some combination of personal care, social or counseling services, and transportation under the direction of New York State Department of Health (NYSDOH)." O'Dell said the Land and Water Use Guidelines defines Institutional Use as "Any land use, generally serving no less than 25 persons at one time, for the following public or private purposes: Educational facilities, including universities, colleges, elementary, secondary and vocational schools, kindergartens and nurseries, cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, supervised residential institutions, rehabilitation therapy centers and public health facilities; military facilities; law enforcement facilities; and other similar facilities, not including small day care centers, Montessori schools, institutional re-use of existing properties, and similar uses." After a brief discussion, a motion to send the letter amended to read, "If 'Group Homes', by the Town of Tusten's definition, exceed

25 or more persons at any one time, they would be considered 'Institutional Uses' according to the Land and Water Use Guidelines contained in the River Management Plan" was made by Peckham, seconded by Roeder and carried.

Approval for TAG 2013-03: Damascus Township, \$2,000: Richardson asked what the township's project was. O'Dell said it was to index their zoning ordinance. A motion to approve payment of completed TAG-2013-03 was made by Roeder, seconded by Peckham and carried.

No action was taken on the Town of Lumberland's TAG as the completed project had not been received by the time of the meeting.

Approval for TAG 2013-08: Town of Delaware, \$1,499.44: O'Dell explained that Delaware's projects included obtaining tax maps and soil and topographic maps for their assessor and completing a historical website for the town. Roeder said the new website is great and can be accessed at www.callicoononthedelaware.com. A motion to approve payment of completed TAG 2013-08 was made by Roeder, seconded by Rajszt and carried.

Other: Peckham said he has received a couple of phone calls from people advising him of a post on Josh Fox's Facebook page declaring that there are no property owners/landowners in the Upper Delaware River and he invites everybody to come here and enjoy it. Fluhr noted that every map that the Council and the Park Service has put out has been very specific that most of the property along the river is privately owned. Peckham said a statement like Fox's can cause rumors and raise fears. McGuinness said he will follow up on this issue. Peckham said this has upset him and many of his neighbors. McGuinness reiterated that he will look into this.

Old Business

Town of Delaware Zoning Amendment Update: T. O'Dell said there is not much of an update. He noted he sent out an e-mail to members of the proposed change that he submitted to the Town Board Planning Board Chairman Jerry Euker. McGuinness asked O'Dell if he could clarify where exactly the zoning stands right now as there seems to be some discrepancies. O'Dell said the Town of Delaware has changed their boundary lines to accommodate the tax parcels so that it is easier to assess. O'Dell showed members a copy of the map and explained a note under their Amendment 401 RU district reads "Some portions of the RU District uses are subject to regulations pertaining to the Upper Delaware Scenic and Recreational River as provided herein and may not be permitted within said corridor, as mapped on topographic maps contained in the River Management Plan." O'Dell said he proposed to change that comment by saying "River Overlay portions..." and adding the word "be" to "may not be permitted" to read "may not be permitted". O'Dell said he has not heard whether his suggestions were incorporated. He believes the town is moving to approve the amendments on July 31st. Gerald Euker, the Town of Delaware Planning Board Chairman, said the town is passing what had been brought before the Council already, noting that has not been changed. He said for the Town to go back and tweak it again is a lengthy process which would require a public hearing among other steps. O'Dell said he believes an oversight in the language occurred on everyone's part and said adding the words "River Overlay" would provide more clarity. He is not sure that just changing two words would require the whole process be gone through again. Euker said they will look at the zoning again in the next year and maybe make some of the changes that are being suggested. Euker said with the exception of three individuals, no one has any issues with the proposed zoning amendments. Euker said he agrees that the wording could be tweaked to make it sound a little bit better, but added it is enforceable the way that it is. O'Dell reiterated that by adding the two suggested words, it would add more clarity and make the zoning easier to enforce. Rajszt does not believe that the addition of the two words would be a substantial enough change to call for a public hearing. She does agree that it would enhance clarity. Fluhr suggested that Euker ask the town solicitor (attorney) whether a public hearing would be required for that small suggested change and whether the addition of the two words may prevent someone in the future from taking legal action because the interpretations were different. Euker said he will inquire. Roeder spoke of a proposed solar project in the Town that has been delayed as a result of the zoning amendments not being in place. He said the Town wants to get the ordinances on the books, and if they need to be tweaked after that, they are not set in stone. Richardson asked for clarification that the only step left in this process is the Town

Board to vote on it. A special meeting to vote on this is scheduled for July 31st. McGuinness said when a Town/Township is determined to be in substantial conformance, we do not look at Class I projects. Good faith will come into play that Class I projects will not be approved if they should not be. Rajszt suggested that the recommendations be put in the form of a letter to the Town to become part of the record. Steve Lundgren, a resident of the Town of Delaware, suggested that the Renewable Energy section of the Town's proposed zoning ordinance and other non-controversial sections could be passed by themselves so not to stall a proposed solar project, but requested that the Town Board let the rest of the proposed amendments ride for another month in order to take another look at the section that has a few residents concerned. Fluhr made a motion that the Council voice no further objection to the Town of Delaware's proposed zoning amendments at this time. His motion was seconded by Roeder. Roeder feels the Town should pass their proposed ordinance and if it needs to be reviewed as it goes down the road, he said they will be glad to do so. Rajszt asked if the proposed ordinance was reviewed by Sullivan County and if the 239 Review was issued. Roeder said the review was done and is being worked on right now. Roeder said the Town has no intention of denigrating this river corridor. Richardson said that people come and go on these town boards and people interpret things differently. He said the danger comes in when there is no clarification. He asked Mr. Euker if the Planning Board would be willing to put in a side letter to the UDC of their interpretation on how this would be handled. Rajszt asked O'Dell if his suggested edits to the wording were documented. O'Dell said a letter was sent. Euker said that special use within the overlay zone has to go through special use review by the planning board and by the UDC. Euker explained that these changes were initiated when the Town's attorney advised them that zoning districts should be definable on the ground. He noted the river corridor line is not definable on the ground. He said this is the reason they started this whole thing. The zoning change is a local law that has been proposed and has been through a public hearing, Euker said. He added that if they want to make any changes they will have to go back to another public hearing process. Rajszt does not think that would be required if it is not a substantial change. Euker agreed that the language may not be considered a substantial change, but Mr. Lundgren's suggestion to move on just one section of the zoning would be. Euker said he will speak to the attorney about the language change. He said that if that can be done, maybe they will agree to it. Richardson said the request was to just change some language for clarification and he takes Euker's word that he will speak to their attorney. He said that if it is not a big deal, please have it done. Euker said if it can't be done right now, the Town will look at it in the next year as there are other things they want to change in the zoning. McGuinness said to be clear, we were not very comfortable with the zoning map changes, but it is within substantial conformance what they are doing. They have taken land out of the river corridor and re-zoned it. He said it is not a very comfortable situation, but the Town has agreed to manage under the Land and Water Use Guidelines, McGuinness added. Euker said that any special use has to go before the planning board and any special use within the river corridor has to go before the UDC. Peckham noted there is a motion on the floor unless Fluhr withdraws it. Ramie said the motion is to voice no further objections at this time, which essentially is no action. It was discussed the motion has to be voted on unless it is withdrawn. After a brief discussion, a vote was taken and the motion carried 3 – 2 with Richardson and Rajszt voting no.

Use of the 1988 Project Review Workbook: The consensus of the committee was to table this review until next month due to the time.

Other: None

Public Comment:

Adjournment: A motion by Peckham, seconded by Roeder to adjourn the meeting at 9:08 p.m. was carried unanimously.