

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
April 28, 2015

Committee Members Present: Larry Richardson, Fred Peckham, Nadia Rajs, Jeff Dexter, David Dean, Harold Roeder, Jr., Debra Conway, Susan Sullivan, Aaron Robinson
Committee Members Absent: Alan Henry
NPS Partner: Kris Heister, Carla Hahn
Staff: Laurie Ramie, Cindy Odell, Travis O'Dell
Guests: None

The UDC's Project Review Committee held its monthly meeting on Tuesday, April 28, 2015 at the Council office in Narrowsburg, NY. Chairperson Larry Richardson called the meeting to order at 6:33 p.m. Richardson welcomed Aaron Robinson, Shohola Township's first alternate, to both the Project Review and Operations Committees.

A motion to approve the March 24 meeting minutes was made by Peckham, seconded by Rajs and carried with Robinson abstaining. There was no public comment on the agenda.

Discussion Items Report

Project Review Update

Damascus Township: T. O'Dell reported that a legal notice regarding the proposed RV campsite in the *Wayne Independent* stated that the Board of Supervisors were required to render a written decision within 45-days after the conclusion of the January 19 public hearing. No decision was rendered. In accordance with the Township's Zoning Ordinance of 2013, Section 608.2B5(b);53 P.S. Section 10913.2(b)(1), failure to render such a decision within the said forty-five (45) days results in a deemed decision in favor of the applicant.

Town of Highland: O'Dell said that a letter to the Town requesting further information with regards to the Reber's River Trip Livery in Barryville is enclosed in members' packets and will be discussed under New Business. He noted that a copy of the UDC comment letter dated April 7, 2015 to the Town regarding the proposed supplementary parking regulations in all districts was provided in the packet as well for members' information.

Town of Tusten: O'Dell said the Town is proposing a 105x165 foot solar field at the Town Barn off Route 97 south of Narrowsburg.

Cortese Landfill: O'Dell stated that a legal notice in the March 27, 2015 edition of the *Sullivan County Democrat* gave notice of the availability of the Draft Restoration Plan Addendum for the Cortese Landfill Superfund Site under the Comprehensive Environmental Response, Compensation and Liability Act. The original 2007 Final Restoration Plan for the site presented a number of restoration projects. A 2014 wetland restoration Funding Opportunity for the site did not receive any response. Due to the lack of response, the approximately \$100,000 is now proposed to be used by Trout Unlimited and the Friends of the Upper Delaware River for stream restoration projects on the East Branch of the Delaware River.

Shohola Township: O'Dell noted that Shohola is in the midst of a zoning change. He asked Robinson what the status is. Robinson said they are still soliciting public input.

Masthope Sewage Discharge: O'Dell referenced the copy of the response from Pennsylvania Department of Environmental Protection provided in members' packets. He noted the Department has conducted three inspections of the Mast Hope WWTP since 2011. He reported that Aqua PA representatives are scheduled to address the Council at its June 4th meeting. The DEP inspection schedule and sampling were discussed. Heister shared information that came out of her March 13th meeting with Aqua PA regarding this issue,

including an agreement for the National Park Service and Aqua PA to conduct simultaneous sampling upon request of NPS.

Enforcement Programs: O'Dell said letters went out to all members' code enforcement officers on April 7, 2015 requesting the municipalities to submit all building permits, variances and ordinance changes within the river corridor only for the year of 2014. O'Dell reported that to date he has received packages from Damascus Township (11 building permits and 1 variance), the Town of Hancock (3 building permits), and the Town of Delaware (4 building permits); there were no permits issued within the corridor in the Town of Fremont. Once these packages are received from all the members, a complete report will be produced, O'Dell stated. He added that this is a responsibility of the Council that has not been done until now.

HR 1772 "Delaware River Basin Conservation Act of 2015": O'Dell said that this legislation, introduced on April 14, 2015 by Rep. John Carney (Dem. Delaware-At Large), would create a Delaware River Basin Restoration Program in the U.S. Fish and Wildlife Service to develop a coordinated approach to identify, prioritize, and implement restoration and protection activities across the Basin; and to provide a competitive grant and technical assistance program to support on-the-ground work by state and local governments, non-profit organizations, and universities. A fact sheet was provided in members' packets. O'Dell said at the WU/RM committee's request, he requested a legislative support package, but has been advised that it is not available yet. Congressman Gibson's attendance at the July 2 full Council meeting to provide more information on this legislation has been requested, but not confirmed.

HR 510 "Defense of Property Rights Act": O'Dell referred members to the information regarding this proposed legislation provided in their packets. It was introduced on January 22, 2015 by Rep. Tom Reed (R-NY-23) to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the Fifth Amendment. The legislative support package is not yet available. A brief discussion regarding this bill took place.

TAG Update:

T. O'Dell noted that he has received Mid-term Progress reports from all participants. He stated that the final TAG projects are due by August 21, 2015.

New Business:

Review of FY 2016 Work Plan: Ramie said she wrote the UDC Five-Year Operating Program first as the overall umbrella which refers to the work plans for the specific tasks that each committee is charged with taking on. She noted she has been advised by the Park Service that the functional allocations are no longer necessary in the work plans. Peckham questioned if the Project Review Committee should take on some of the tasks assigned to the Water Use/Resource Management Committee as their committee membership is much lower than Project Review. Ramie encouraged additional members to join the WU/RM Committee. She said that each committee has a description for what it is supposed to handle according to the River Management Plan. Richardson suggested a page-by-page review of the work plan. Heister stated that her Cooperative Agreement Statement of Work comments, which are to be addressed at Operations, will apply to this work plan as well. Ramie began the page-by-page review explaining the edits staff had made. Dexter questioned if Berlin Township's substantial conformance determination has been re-evaluated since they joined the Council in 2008. O'Dell said they were originally determined to not be in conformance as they do not have zoning in place. That determination was made by the Park Service, Ramie stated, adding that the Council has never done a substantial conformance review on them. Robinson stated that according to the Pennsylvania Municipal Code, if a Pennsylvania county has a zoning plan in place, a township can defer to the county zoning. He suggested that be considered when determining conformance. Hahn said that two years ago she and an assistant completed a project which documents updates in zoning from the time of substantial conformance reviews up until the time of the project. She said zoning changes have been inventoried. A list exists of each municipality noting when they were in substantial conformance and the changes that have been made to their zoning since that point. Hahn believes that Berlin Township did adopt Wayne County's subdivision and land development ordinance (SALDO). She added that SALDO does not necessarily conform 100% to the Land and Water Use Guidelines. Dean questioned what the downside is to

not being in substantial conformance. O'Dell explained you are subject to more project review. The concept of substantial conformance was discussed. Ramie noted that conformance determination does not affect membership on the Council. Hahn shared some history of the Upper Delaware's designation into the Wild and Scenic River System. Robinson suggested that a town/township could create an ordinance that applies solely to the area within the river corridor. A discussion took place about strip or spot zoning. Robinson said if there is no other way to zone an area in Pennsylvania, strip zoning can be legal and shared an example in Shohola. He commented that he could understand if a township had limited area with poor topography in the river corridor, why it wouldn't want to accomplish zoning because it is expensive and time consuming. After a lengthy discussion, Ramie questioned if O'Dell should investigate Berlin Township's substantial conformance status since joining the UDC in 2008 utilizing Park Service information on zoning updates and looking into potential Wayne County SALDO coverage. Dexter noted that this task is already listed in the FY 2016 work plan as #5 under "Substantial Conformance Review Tasks". Members continued their page-by-page review of the work plan. Dean questioned how a major project is differentiated from a minor project. O'Dell said the Land and Water Use Guidelines have definitions for major and minor projects. Richardson asked Heister if she had comments that applied to this plan, to address them now. Members were referred to the Cooperative Agreement Statement of Work in their Operations Committee packet. Heister referred to #3 under "B. The Upper Delaware Council agrees to" and recommended adding the wording "the adequacy of" to the first sentence so that it reads "Make an annual review of the adequacy of the town's enforcement program..." Members agreed with the addition of this wording. She then referred to #4 under the same heading suggesting that the wording from "In the event it has not, the Council shall..." be omitted and replaced with the original language along with an additional line. It would read "Provide recommendations to the National Park Service for the purpose of making a final determination regarding whether local plans, laws, and ordinances, ordinance amendments, challenges and variances, and significant projects substantially conform to the Land and Water Use Guidelines and River Management Plan. Recommendations will include town and township compliance, noncompliance, or compliance with modifications recommended by the UDC. Recommendations as provided for in the River Management Plan will also be provided to the National Park Service regarding enforcement if the Council finds that a substantially conforming ordinance(s) is not being adequately enforced and is unable to effectively resolve the problem." Heister explained her reasons for wanting this language added back in. Robinson objected to omitting "None of the above review responsibilities will apply to lands outside the river corridor, and nothing herein should be construed as imposing requirements or suggesting authority for making recommendations regarding a town's land use management program outside the river corridor." Members shared their opinion on this statement being left in the document. After brief discussion, it was decided that this statement be left but moved to the beginning of the document. Ramie referred members back to the work plan and noted that task #3 on page three would be changed to add in "the adequacy of" to match the Cooperative Agreement Statement of Work. Heister said her recommendation should be added to the work plan also. Ramie said once the changes are incorporated, she will provide a second draft prior to the May 7 full Council meeting at which time resolutions will be passed approving the documents in time for the May 15 deadline to file the federal assistance package. A motion to refer the Project Review work plan with the suggested changes to the full Council at its May 7 meeting was made by Rajsz, seconded by Conway and carried with Dean and Dexter opposed.

Draft Letter to the Town of Highland: Reber's Livery: O'Dell stated this letter was requested out of the March Project Review meeting. The copy provided in members' packets also contains a copy of the September 2013 letter to the Town of Highland which remains unanswered. Heister said she spoke with Bill Rudge of NYS DEC about the property and it has been determined that the livery is clearly operating on state land. New York State is to send a letter to the owner articulating what is allowable on that property and what is not allowed. Robinson questioned if this operation is located at the Carriage House. He was told it was and the history was shared with him. The state land boundaries were discussed. Robinson stated for informational purposes that businesses in Barryville have the privilege of using the state right-of-ways. Conway noted that this project does not concern the NYS Route 97 right-of-way. Dean questioned if they were issued a Commercial Use Authorization (CUA). Heister said they were, but that the Park Service authority only extends to the mean high water mark. She added that the CUA covers activities from one side of the river to the other. The CUA does state that the holder has to comply with all relevant laws which apply on the river. Robinson asked for confirmation that this issue is strictly a land use issue beyond the

mean high water mark. Heister told him that was correct. After a brief discussion, a motion to send the letter reiterating the request for more information was made by Rajs, seconded by Sullivan and carried.

Old Business

Use of 1988 Project Review Workbook: Because of the time, members agreed to table review of the Workbook until next month.

Other: None

Public Comment: None

Adjournment: A motion by Rajs, seconded by Roeder to adjourn the meeting at 8:07 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 4/30/15