



**April 15, 2020 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:05 a.m.
DATE: April 15, 2020
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman John Loos; Commissioner Bruce Stout; Commissioner Phillip Lubitz; Director Olivia Glenn, designee for Commissioner Catherine McCabe; Commissioner Doug Palmer; Commissioner Caryl Shoffner; and Commissioner Julia Allen all participated via online platform and teleconference.

STAFF: Executive Director John Hutchison was present in the Commission conference room. Commission Engineer Joseph Ruggeri, Ms. Colleen Maloney, and Deputy Attorney General Jason Kane participated via online platform and teleconference.

GUESTS: Park Superintendent Patricia Kalleser; Marc Brooks, Executive Director New Jersey Water Supply Authority (NJWSA); Mike Sellar, NJWSA; Robert von Zumbusch, D&R Canal Commission Advisory Committee; Daniel Brenna, Golden Nugget Antique Flea Market; Mitchel Ardman, Reynolds Group; Judy Detrano; Rikki Massand.

Vice-Chairman Loos announced that this was a monthly meeting of the Delaware and Raritan Canal Commission and that the provisions of the “Senator Byron Baer Open Public Meetings Act” (OPMA) had been complied with in the scheduling of the meeting.

Vice-Chairman Loos announced that the meeting was being taped pursuant to the exception set forth at Section C.(1) of DEP Policy & Procedure 2.85 “Prohibition of Recording in the Workplace” Policy adopted on September 18, 2019.

Administrative Items

Since Commission members were participating via telephonic device pursuant to Article III, Section 4 of the Commission Bylaws, the Vice-Chairman directed the Executive Director to take the roll. There being seven Commissioners present, the Director indicated to the Vice-Chairman that a quorum was present and that the transaction of Commission business could therefore proceed.

Vice-Chairman Loos announced that the State Senate had provided its advice and consent to the nomination of Caryl “Chris” Shoffner to be a member of the Delaware and Raritan Canal Commission. Deputy Attorney General Kane then administered the Oath of Office to Commissioner-designate Shoffner. Vice Chairman Loos congratulated Commissioner Shoffner and welcomed her to the Commission. Commissioner Shoffner made brief remarks thanking the Commissioners and stating how she looked forward to serving on the Commission.

Vice-Chairman Loos confirmed the May 20, 2020 Commission meeting date and stated that, given the ongoing public health emergency and declared state of emergency related to the COVID-19 virus, that the meeting would likely be held via online platform and teleconference.

Minutes

Vice-Chairman Loos asked if there were any comments with respect to the March 18, 2020 meeting minutes, and, hearing none, he called for a motion. Commissioner Lubitz motioned to approve the minutes and Commissioner Stout seconded the motion. Director Glenn abstained from vote. Commissioners Lubitz, Stout, Allen, Palmer, Shoffner, and Vice Chairman Loos voted to approve the motion. The motion carried.

Review Zone Projects

Vice Chairman Loos requested that the Commissioners identify any Zone A project for which they had comments or sought detailed discussion. The Golden Nugget Antique Flea Market was identified.

19-1414B Golden Nugget Antique Flea Market -- Café Decks (West Amwell Township/Hopewell Township)

Commissioner Palmer motioned to approve the project and Commissioner Lubitz seconded the motion. There was discussion about the proposed improvements to the property. Mr. von Zumbusch noted his interest in the site, which is part of the Delaware River Scenic Byway. He suggested that the planting of trees along the Route 29 could enhance the byway and provide a visual screen for the proposed project site from the Delaware and Raritan Canal State Park.

Commissioner Lubitz agreed that additional trees could enhance the visual appeal of the scenic byway, but noted that issues of traffic safety may preclude the planting of trees in the highway right-of-way. Commissioner Stout noted that a planting plan could improve the park users’ experience given the proximity of the park multiuse trail, which parallels Route 29, to the proposed project site.

Mr. Ardman, consultant for the applicant, agreed with Commissioner Lubitz that traffic, especially the need to maintain safe sightlines for vehicles entering Route 29 from the flea market site, would need to be considered. A conversation then ensued between the Commissioners and Mr. Von Zumbusch about the existence of public utilities poles in the highway right-of-way, and whether trees could be planted along the right-of-way in a manner so as to further screen the project from the park.

Mr. Brenna, the applicant, commented that he was currently contemplating plans to enhance the 50-year-old site with more extensive landscaping, and that the proposed project was one component of a thoughtful plan designed in consultation with a local architect. He also noted that the business was shut

down and monetary resources were suffering due to the state of emergency arising from the COVID-19 pandemic. He further offered to consult with the Commission on the placement of landscaping in the future in order to further minimize the visual impact of the project on the Delaware and Raritan Canal State Park.

Commissioner Palmer commented that the Golden Nugget had a long history of working with the Commission, and that the applicant had been a good neighbor in the past when addressing issues such as accumulated trash on the site. Vice-Chairman Loos called for further comment, and hearing none, he called for a vote. Vice-Chairman Loos, Director Glenn, and Commissioners Allen, Stout, Lubitz, and Palmer voted to approve the project. Commissioner Shoffner abstained. The motion was approved.

Vice-Chairman Loos asked for a motion on the remaining Zone A projects:

- 19-0389G Rutgers Preparatory School -- Turf Field Pavilion and Building Additions (Franklin Township)
- 19-2834C U.S. Route 1/Bakers Basin Road -- Proposed Fast Food Restaurant (Lawrence Township)
- 20-3460G Delaware and Raritan Canal State Park -- Delaware River Water Trail Signage (Various)
- 20-3486A Maidenhead Meadows -- Lawrence-Hopewell Trail Addition (Lawrence Township)
- 19-3759B 435 Canal Road -- Telecommunications Facility Unmanned Equipment Compound/Antenna Attachments (Franklin Township)

Commissioner Stout motioned to approve the remaining Zone A projects and Commissioner Lubitz seconded the motion. The vice-chairman called for comment, and hearing none, he called for a vote. Vice-Chairman Loos, Director Glenn, and Commissioners Allen, Stout, Lubitz, and Palmer voted to approve the project. Commissioner Shoffner abstained. The motion was approved.

Vice-Chairman Loos requested a motion to approve the Zone B projects.

- 19-2945C Hightstown High School -- Traffic Circulation Improvements (Hightstown Borough)
- 20-3582I Rider University -- New Storage Building (Lawrence Township)
- 20-3582K Rider University -- Science and Technology Center Addition & Renovation (Lawrence Township)
- 19-4391B PSE&G Plainsboro Substation & Hunters Glen Switch Rack (Plainsboro Township)
- 19-5364 Odin Pharmaceuticals, LLC -- Building Expansion & Renovation (Franklin Township)
- 19-5484 Penske Truck Leasing Co., LP -- Proposed Truck Leasing Facility (Cranbury Township)

Commissioner Stout made the motion and Commissioner Lubitz seconded the motion. The vice-chairman asked for comment from the Commission, and then the public. Hearing none, he called for a vote. The motion was approved unanimously.

Executive Director's Report

Director Hutchison reported on the workload for the period encompassing March 19th to April 14th. He noted that despite the limitations imposed by working remotely, the Commission staff managed to perform a considerable number of project reviews -- in addition to the 11 projects on the agenda -- generally on-time and at a level that exceeded the monthly workload addressed under normal operations.

The Executive Director detailed the procedures that had been implemented in the Commission office as a result of the COVID-19 state of emergency. Director Hutchison noted that suspension of municipal planning and zoning board of adjustment meetings has acted like a brake on the Commission review process, since under the Commission's enabling statute and regulations, projects cannot be calendared for Commission consideration until they first obtain a memorialized copy of their local land use approval. However, he noted that some of those bodies were arranging to meet remotely, and that the situation could soon change.

Director Hutchison noted that in the short-term, staff would be engaged in reviewing 39 pending project applications that were under review prior to the declaration of the COVID-19 state of emergency. He further notes that, at present, there were 13 project applications under review. Whether that represented the beginning of a long-term contraction of New Jersey's economy, or whether there will be a robust rebound in applications once social distancing restrictions are eased and construction activities are allowed to resume was uncertain.

Director Hutchison thanked Joe Ruggeri, Damian Freibell, Collen Maloney and Tammy Romsdahl for their hard work under and adverse conditions, as well as the DEP Office of Information Resource Management for giving the information technology tools needed to continue Commission operations. He also noted that the COVID-19 public health emergency and declared state of emergency justified the Commission's investment in remote meeting technology.

Mr. Hutchison noted that while the Commission was still living the COVID-19 emergency, there were a few lessons that could be learned and issues should be examined once the immediate situation has stabilized. These included conferring with the Office of the Attorney General about the legality of using electronic signatures for the Vice-chairman and the Executive Director when producing Commission documents remotely, and using social media to communicate with the regulated community in order to keep them aware of changes to the Commission's review process.

Director Glenn noted that any use of social media should be coordinated with staff from the DEP Office of Communications in order to manage social media communications from both content and messaging standpoint.

Director Hutchison also noted that the current situation highlighted the need to move sooner rather than later to a system of electronic project submissions. He noted that this would not be easy undertaking from a technical or fiscal perspective, and it would entail budgetary expenditures that the Commission might not be able to bear if New Jersey and the Nation were entering a prolonged and sustained downturn in economic activity. However, the Director states that once the immediate crisis has passed, it would be irresponsible not to examine this issue in a serious way.

Director Hutchison noted that the Governor announced on April 1st that the current State Fiscal Year would be extended until September 30th. From the perspective of the Commission, Mr. Hutchison did not anticipate that the change would have a significant impact upon operations for the remainder of the fiscal year. He noted that, at the February Commission meeting, deposits for Fiscal Year 2020 were \$402,238, and that the Commission has already exceeded its anticipated annual appropriation of \$389,000 by approximately \$13,000. He stated that even if revenues were to decline precipitously for the remainder of the extended fiscal year, he believed that with prudent spending decisions -- and

barring the withdrawal of the present waivers provided for fringe and indirect costs -- the Commission would still be able to meet its obligations through the end of September.

Mr. Hutchison noted that on April 14th he received an email from the DEP Budget and Finance Office advising that the Office of Management and Budget (OMB) was conducting a review of all carryforward balances within DEP and had reached out to the Commission for comment, along with a spreadsheet to help with completing their request. That document indicated that the Commission had a carryforward balance of \$269,963.05. The obvious implication of this exercise was that OMB was examining accounts which may be lapsed to the General Fund in order to address the State budget implications of the COVID-19 emergency. Director Glenn inquired whether any Commission accounts had been placed in "reserve" by OMB. Director Hutchison stated that none had been so designated.

Director Hutchison reported that the demanding workload and the limitations imposed by working remotely had delayed completion of the 2019 annual report, the relaunch of the Commission website and the acquisition of the new Commission vehicle. He stated that he hoped to have more to report on all of these topics at the May Commission meeting.

Mr. Hutchison stated that the annual NJWSA Hydrilla report would be rescheduled to the May or June Commission meeting.

The Director noted that he fielded a complaint from a resident of Lambertville who objected to the alleged display of an American flag within the boundaries of the Delaware and Raritan Canal State Park. The Park Service subsequently investigated the complaint and found that the flag was in fact placed on private property and that the complaint was entirely without merit.

Mr. Hutchison reported that on April 14th he issued a General Permit No. 1 to the Department of Transportation (NJDOT) for temporary repairs to Bridge Street in the City of Lambertville. An inspection in March found that a rail from the railroad tracks which cross the street had become loose and constituted a hazard to the motoring public. The temporary repair proposed by NJDOT entails the removal of the track and signal masts until such time as planned repairs of the street are undertaken. The Black River and Western Railroad was made aware of the proposed repair.

The Director noted that he had been informed by Ken Klipstein of the NJWSA on March 31st that a contract to install the native plantings along the canal in Lambertville as designed and approved was awarded to Torsilieri, Inc. Director Hutchison stated that Mr. Klipstein, Stephanie Fox and all the staff at the NJWSA and the Division of Parks and Forestry deserved a great deal of praise for resolving the vegetation issue in Lambertville in a way that allowed the authority to maintain the canal as a water transmission complex, met the ecological goal of planting of native species that supported birds and pollinators, complies with the goals of the Commission's Master Plan for that section of the park, and met with the approval of the concerned residents of Lambertville.

Commissioner Lubitz inquired whether the Commission staff had received an application to construct a new Lambertville City municipal complex at the so-called "Acme Market" site on South Union Street, and to construct affordable housing at the site currently used as the city police department. Director Hutchison noted that he had received a number of emails objecting to the purported projects. He further noted that he had contacted Mr. Alex Torpey, the Lambertville City business administrator, who

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indicated that the city was soliciting resident's views on the projects, and that both projects were in the conceptual stage. Director Hutchison noted that Mr. Torpey related to him that a project application would not be forthcoming for a considerable period of time.

Park Superintendent's Report

Superintendent Kalleser reported that a body found floating in the Delaware and Raritan Canal on March 27th has been identified as that of city man who had been missing since late February. The Superintendent reported on the policies and procedures that would be employed in order to secure the park during a statewide park closure directive. The Superintendent reported that all park events planned for the month of May would be cancelled due to the COVID-19 pandemic.

The Superintendent also reported on the planned resurfacing of a portion of the park multiuse trail along the "abandoned" portion of the Delaware and Raritan Canal in the vicinity of Bordentown. She also reported on the planned removal of diseased and dead Ash and Ailanthus (Tree of Heaven) trees in the vicinity of Byram in Kingwood Township.

Finally, the Superintendent reported the Park Historian Vicki Chirco had recently completed a study of the Delaware and Raritan Canal locks, which was available on the park Facebook page.

New Jersey Water Supply Authority (NJWSA)

Executive Director Brooks reported on the late June start of Hydrilla treatment program, and commencement of monthly updates for water customers on the progress of the program. He reported that the planting plan in Lambertville had been executed and noted the cooperation between State agencies and the City of Lambertville in bringing the project to a successful conclusion. Lambertville resident Judy Detrano commented that the NJWSA had done a good job with the project.

New/Old Business

No new or old business was discussed.

Public Session

Mr. Massand requested detailed information on the decision-making employed in the closure of the State Park system, and what process would be used for the reopening of the parks. Director Glenn responded that State parks were closed in order to limit the spread of COVID-19 and ensure appropriate social distancing practices. The Director further noted that State parks and forests were closed until further notice pursuant to Executive Order No. 118 (2020), and that the parks would reopen at the discretion of, and pursuant to a subsequent Order from the Governor. She informed Mr. Massand that any decision to reopen the park system would be undertaken after a review of: the public health implications of a reopening; consideration of how best to accomplish the reopening in an organized and phased manner from an operational perspective; how best to maintain appropriate staffing levels; how and when seasonal staffing arrangements are implemented; and other operations contingencies.

Executive Session

None.

Adjournment

There being no other business, Vice-Chairman Loos entertained a motion to adjourn. Commissioner

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Lubitz moved to adjourn, which motion was seconded by Commission Stout. The motion was approved unanimously.

The meeting adjourned at 10:59 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", written in a cursive style.

John Hutchison, Secretary