



**Minutes of the Meeting
Delaware and Raritan Canal Commission
February 20, 2019**

TIME: 10:10 a.m.
DATE: February 20, 2019
PLACE: DRCC Office, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman John Loos, Commissioner Bruce Stout, Commission Philip Lubitz and Director of the DEP Division of Parks and Forestry Olivia Glenn. Commissioner Mary Leck via phone.

STAFF: Executive Director John Hutchison, Mr. Joseph Ruggeri, Ms. Colleen Christie Maloney. Deputy Attorney General Melissa Abatamarco via phone.

GUESTS: Superintendent Patricia Kalleser via phone; Mr. Michael Sellar, New Jersey Water Supply Authority (NJWSA); Mr. Robert von Zumbusch, D&R Canal Commission Advisory Committee; Mrs. Linda Barth, Mr. Robert Barth, and Mr. Wayne Petko, D&R Canal Watch; Ms. Judy Niederer, Union Fire Company and Rescue Squad; Mr. Jordan Rizzo, Dynamic Engineering; Mr. Bill Doran, Lightbridge Academy; Ms. Judy Detrano; Mr. Tom Letizia, Pepper Hamilton.

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.

Administrative Items

Vice-Chairman Loos confirmed the March 20, 2019 Commission meeting date.

Vice-Chairman Loos noted the Commission would elect officers for the 2019 year.

Commissioner Stout moved to re-elect Vice-Chairman Loos as vice chairman; Commissioner Lubitz seconded the motion. Vice-Chairman Loos called for further nominations. Hearing none, he called for a vote. The Commission voted unanimously to re-elect John Loos as Vice-Chairman of the Commission.

Commissioner Stout moved to re-elect Commissioner Lubitz as Treasurer; Commissioner Leck seconded the motion. Vice-Chairman Loos called for further nominations. Hearing none, he called for a vote. The Commission voted unanimously to re-elect Phillip Lubitz as Commission Treasurer.

Minutes

Vice-Chairman Loos called for a motion on the January 16, 2019 meeting minutes. Commissioner Lubitz made a motion to approve the minutes and Commissioner Stout seconded the motion. Vice-Chairman Loos asked if any Commissioner proposed any corrections or wished to have a discussion on the content of the minutes. Hearing none, he called for a vote. The minutes were approved unanimously.

Vice-Chairman Loos called for a motion on the January 16, 2019 executive session meeting minutes. Commissioner Lubitz made a motion to approve the minutes and Commissioner Stout seconded the motion. Vice-Chairman Loos asked if any Commissioner proposed any corrections or wished to have a discussion on the content of the minutes. Hearing none, he called for a vote. The executive session minutes were approved unanimously.

Review Zone Projects

Zone A Projects

Director Hutchison noted that project 19-3020E was inadvertently listed as a Zone B project on the agenda and that the project is within Review Zone A.

18-3921D DOT Tree Removal (Hopewell Twp, Stockton Borough)

Commissioner Stout moved to approve the project with conditions as listed in the staff report. Commissioner Lubitz seconded the motion, noting he wished to discuss the project.

The Commissioners discussed the condition recommended in the staff report. Commissioner Lubitz noted that Route 29, the site of the project, historically had a beautiful canopy of trees along Route 29. Commissioner Stout amended his motion to the following:

1. The applicant shall submit a planting plan and receive approval of such plan;
2. The applicant shall replace the removed trees at a ratio of greater than 1:1;
3. The applicant shall set forth a schedule for the replacement of removed trees pursuant to a specified timeline;
4. The applicant shall provide for the replacement of trees using native species from the list maintained by the Commission, and in sizes and locations approved by the Commission staff;
5. The applicant shall ensure that replaced trees have a survivability rate of 80% after three years;
and
6. The planting plan shall be approved by the Commission staff in consultation with the Division of Parks and Forestry in the Department of Environmental Protection.

Commissioner Lubitz accepted the amended motion.

Commissioner Leck and Director Glenn discussed survivability and the replacement ratio of the trees. There was discussion about "no net loss" policy within the DEP. Commissioner Stout amended his motion to the following:

1. The applicant shall submit a planting plan and receive approval of such plan;
2. The applicant shall provide for the replacement of removed trees at a ratio of greater than 1:1;
3. The applicant shall set forth a schedule for the replacement of removed trees pursuant to a specified timeline;
4. The applicant shall provide for the replacement of trees using native species from the list maintained by the Commission, and in sizes and locations approved by the Commission staff;
5. The applicant shall ensure that replaced trees have a survivability rate of 100% after three years, which if not adhered to shall require the applicant to replace any trees that do not survive; and
6. The planting plan shall be approved by the Commission staff in consultation with the Division of Parks and Forestry in the Department of Environmental Protection.

Commissioner Lubitz accepted the amendment to the motion. Vice Chairman Loos called for a vote. The motion was approved unanimously.

18-2090J Union Fire Company and Rescue Squad Sign (Hopewell Twp)

Vice-Chairman Loos observed that the project was visible from the Delaware and Raritan Canal State Park and that the applicant requested the sign be approved based upon a waiver of strict compliance for compelling public need. Ms. Niederer, representing the Union Fire Company and Rescue Squad, reported that the electronic sign would replace the existing lighted sign and would feature messages transmitting matters of public health and safety, such as notices of flooding, fire safety information, reminders to replace household smoke detector batteries, and recruiting new volunteers for the company. She stated that while the new sign would be illuminated, it would not have flashing or intermittent lights. The new sign would feature technology that allows members to change messages on a more frequent basis from a computer and would allow messages that are presently limited by the number and spacing of the plastic lettering of the current sign.

Commissioner Stout asked for clarification that the sign would only communicate public service messages; and not "rent the banquet hall" for instance. Commissioner Lubitz asked for clarification that the sign would not display graphics or photos. Ms. Niederer confirmed the messages would be of a public health and safety nature, and that graphics or photographs would not be displayed on the sign.

Vice-Chairman Loos called for a motion. Commissioner Stout moved to approve the project and Commissioner Leck seconded the motion. Vice-Chairman Loos called for further comment and hearing none, he called for a vote. The motion was approved unanimously.

193020E Weston Canal Rd and Randolph Rd Warehouse Facilities Major Modification (Franklin Twp)

Vice-Chairman Loos called for a motion. Commissioner Stout moved to approve the project, and Commissioner Lubitz seconded the motion. Vice-Chairman Loos called for further comment and hearing none, he called for a vote. The motion was approved unanimously.

Zone B Projects

Vice-Chairman Loos asked if there would be comment on the Review Zone B projects. Commissioner

Lubitz noted he would abstain from voting on DRCC# 18-5267 as he is a shareholder of applicant corporation.

18-5267 PSE&G Brunswick-Trenton Upgrade Project (South Brunswick Twp, Plainsboro Twp, West Windsor Twp)

Vice-Chairman Loos called for a motion. Commissioner Stout moved to approve the project. The vice-chairman called for the motion to be seconded. Hearing no second, he stated the motion dies for lack of interest.

Ms. Detrano, a resident of Lambertville, identified herself as a member of "Citizens Against the Penn East Pipeline." She inquired whether this project was related to the Penn East pipeline project. Director Hutchison explained that the project is the replacement of existing electric transmission towers, and that Penn East is not listed on the project application form as an applicant owning 10% or more in the project.

Vice-Chairman Loos called for a motion on the project. Commissioner Stout moved to approve the project as recommended by the Commission staff, which motion was seconded by Director Glenn. Vice-Chairman Loos, Director Glenn, and Commissioners Leck and Stout voted to approve the project; Commissioner Lubitz abstained. The project was approved.

Vice-Chairman Loos requested a motion on the remaining five Zone B projects:

- 18-5301 Goddard School (Montgomery Twp)
- 18-5323 Lawrence-Hopewell Trail Pedestrian Bridge (Hopewell Twp)
- 18-3529B Hillsborough Self Storage (Hillsborough Twp)
- 18-5321 Enclave at Cranbury (Cranbury Twp)
- 18-5243 Light Bridge Academy (South Brunswick Twp)

Commissioner Stout moved to approve the five projects and Commissioner Lubitz seconded the motion. Vice-Chairman Loos called for comment.

Commissioner Leck and Director Hutchison discussed the mitigation proposed for 18-5243 Lightbridge Academy. Director Hutchison clarified the amount of intrusion and the amount of land to be placed into a Commission conservation easement. Due to a reduction in the amount of the intrusion that was verified by Commission engineering staff, the applicant had established a 2:1 ratio for mitigation on the project site, rather than a 1:1.88 ratio as stated in the staff report.

Hearing no further comment, Vice-Chairman Loos called for a vote on the remaining five Zone B projects. The projects were approved unanimously.

Executive Director's Report

Director Hutchison reported on the monthly workload and fee collections.

The director noted that the Commission staff attended a Fiscal Year 2019 2nd Quarter Budget Meeting with DEP Fiscal staff on January 31st. Although DEP Fiscal staff expressed concern that fee collections were lagging, Director Hutchison indicated that a review of fee deposited in FY 2019 totaled \$241,191, which compared favorably to the same in FY 2018 when the Commission had deposited \$250,400. He also noted that staff had approximately \$30,000 in uncashed checks that need to be reviewed to ensure that the applicants have paid the correct fees.

The Director noted that he met with the HR Director of the New Jersey Building Authority to discuss a possible alternative arrangement for funding the Commission engineering staff.

The Director noted that the conference room furniture was delivered last, and thanked Jeff Kook at DEP General Services for his assistance in the procurement process. Mr. Kook and a representative from WB Mason also took measurements for new office furniture

Director Hutchison noted that the office interior fluorescent lights and the broken exterior safety lights would be replaced at an approximate cost of \$5,000. In place of the 35-year fixtures, Bryan Electric will install energy efficient LED lighting. The Director noted that according to the U.S. Department of Energy, LED lighting offers savings of over 80 percent and a service life that is 25 times longer than traditional lighting. It is also consistent with DEP sustainable building initiatives and will help lower utility costs paid by the Division of Parks and Forestry.

Commission employee Tiffany Bennet has now moved on to cataloging records compiled by former-Director Amon relating to entities that have leases over or under the canal. It was the Director's intention to have them scanned and compared with the records held by our partner agencies.

The Director reported that DEP/OIRM had installed a battery backup power system to the office computers. This system will allow the computers to remain operating for a short interval if the power to the building is cut. Conversations with OIRM over the need and desirability to switch the office telephones to Voice Over Internet Protocol (VOIP) are continuing.

The Director reported that ACCESS NJ will provide staff with a quote to strip the clear coating off the office concrete floor and re-coat the floor. They believe that the floor will respond favorably to this treatment, but the work needs to be done when the temperature exceeds 60 degrees.

Mr. Hutchison noted that the staff has been fielding calls from the residents of Lambertville regarding brush and tree removal activities being undertaken by the Black River & Western Railroad. He was in contact with the DEP Green Acres program to determine whether these activities are consistent with the railroad easement that the railroad enjoys in the city. Ms. Detrano reported her concern that trees were cut along the canal in Lambertville.

Vice-Chairman Loos reported on tree and brush removal by PSE&G in the park near East Millstone in Franklin Township. He noted there is exploration by Franklin Township about whether a replanting and restoration program should be implemented.

Park Superintendent's Report

Superintendent Kalleser reported on the details of the fatal drowning of a 14-year old youth from Trenton who fell through the ice in Cadwalader Park.

The Superintendent reported she attended a DEP meeting regarding the proposed swing bridge at Moore's Creek. She also discussed a proposal to allow bow hunting at Six Mile Run, and that the Park Service would be in contact with stakeholders such as the Division of Fish and Wildlife, DEP Park Police, local farmers, and Franklin Township municipal officials to discuss the matter. She noted staff was busy with preparation of upcoming permits.

Commissioner Lubitz and Superintendent Kalleser discussed species of trees present at Bulls Island Recreation Area, which were under consideration for removal several years ago, and if the appearance of Emerald Ash Borer (EAB) would affect any tree removal plans. Superintendent Kalleser noted she anticipated that an updated tree survey would be necessary.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported on the status of the dredging project, including the hauling of dried dredge material through late March. He noted tree work would begin for the next two reaches to be dredged this year. Mr. Sellar reported that the Landing Lane and Raritan River bank rehabilitation design was reviewed by NJWSA, and the schematic plan was sent to be reviewed by SHPO.

Mr. Sellar reported on proposed repairs to the western canal embankment of the canal in Stockton Borough; a schematic design was approved, and final design would be completed shortly, and the project would now include borings. Commissioner Stout and Mr. Sellar discussed the condition of the canal towpath in this area of Stockton, including tarps, seeding, grout work, design work, and public access.

Mr. Sellar reported that the temporary repair at the Six Mile Run culvert was postponed due to weather but would start soon, and that a contract was awarded for the permanent repair. He reported that the Cedar Grove watershed rehabilitation RFP was under development.

Mrs. Barth and Mr. Sellar discussed stormwater runoff into the canal.

Old Business

Director Glenn recommended a meeting with the commissioners to discuss Bulls Island.

Commissioner Stout reported on the DRCC/DOT Joint Bridge Task Force which is developing standards for bridges which cross the canal. He noted a memorandum of understanding (MOU) was drafted and is being reviewed by the DAG of each party, and he anticipated the MOU would be on the Commission's meeting agenda in about two months.

Vice-Chairman Loos reported on the progress of the proposed Easton Avenue pedestrian bridge. He noted he met with the Franklin Township Open Space Advisory Committee to discuss funding for the bridge and received a favorable result. In March, he will meet with the Somerset County Open Space Commission to discuss further funding.

New Business

None.

Public Forum

Mr. Barth announced a fundraiser, a boat ride on the Lehigh Canal. Funds from the activity would be used to support preservation of artifacts of the canal, specifically the East Millstone Bridgetenders basin. Vice-Chairman Loos stated that he and Director Hutchison had the opportunity to talk with the county engineer about moving the Bridgetender's House building, which is vulnerable to damage due to its proximity to the road.

Executive Session

At 11:20 a.m., Vice-Chairman Loos noted the commission would need to enter executive session for the purpose of discussing personnel matters. Commissioner Lubitz moved to approve entering executive session for such purpose, and Commissioner Stout seconded the motion. The motion was approved unanimously.

Public Session

The Commission returned to public session at 11:50 a.m. Vice-Chairman Loos reported that the Commission discussed Penn East litigation and personnel matters.


Vice-Chairman Loos called for a motion. Commissioner Lubitz moved to award a pay raise of 4% to the executive director based on the performance evaluation. Commissioner Stout seconded the motion. Vice-Chairman Loos and Commissioners Leck, Lubitz, and Stout voted in favor of the motion. Director Glenn abstained from the vote. The motion was approved.

Adjournment

There being no other business, Vice-Chairman Loos entertained a motion to adjourn. Commissioner Lubitz moved to adjourn, which motion was seconded by Commissioner Stout. The motion was approved unanimously.

The meeting adjourned at 11:55 a.m.

Respectfully submitted,



John Hutchison, Secretary