



**Minutes of the Meeting
Delaware and Raritan Canal Commission
April 17, 2019**

TIME: 10:10 a.m.
DATE: April 17, 2019
PLACE: DRCC Office, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman John Loos, Commissioner Bruce Stout, Commissioner Philip Lubitz, Commissioner Mary Leck, and Director Olivia Glenn.

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

GUESTS: Superintendent Patricia Kalleser; Mr. Michael Sellar and Ms. Heather Desko, New Jersey Water Supply Authority (NJWSA); Mr. Robert von Zumbusch and Mr. Herb Spiegel, D&R Canal Commission Advisory Committee; Mrs. Linda Barth, Mr. Robert Barth, Mr. Wayne Petko, and Mr. Jeff McVey, D&R Canal Watch; Mr. Kevin Morse; Mr. Felix Boroday; Mr. Robert Ortego, Princeton University; Ms. Jamie Poli; Mr. David Hodulik; Lindsay Gallagher; Ms. Judy Detrano; Hester Null; Rikki Massand, Montgomery Landmarks Preservation Commission; Ms. Joanne Kang; Ms. Francine Vitaglione; Mr. Christopher Plummer.

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 that the next regular meeting of the Commission would take place on May 15, 2019.

Minutes

Vice-Chairman Loos called for a motion on the March 20 meeting minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked if the Commissioners proposed any corrections or wished to have a discussion on the content of the minutes. Commissioner Lubitz made a correction, noting that his comment about Mr. Tittel, was

that Mr. Tittel would support having license plates where revenue would go to the parks, not specifically the D&R Canal State Park. The Vice-Chairman called for a vote. Director Glenn and Commissioner Leck abstained. Vice Chairman Loos and Commissioners Stout and Lubitz voted to approve the motion. The motion was approved.

Vice-Chairman Loos called for a motion on the March 20 executive session one meeting minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked if the Commissioners proposed any corrections or wished to have a discussion on the content of the minutes. Hearing none, he called for a vote. Director Glenn, Commissioner Lubitz, and Commissioner Leck abstained. Vice Chairman Loos and Commissioners Stout voted to approve the motion. The motion failed.

Vice-Chairman Loos called for a motion on the March 20 executive session two meeting minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked if the Commissioners proposed any corrections or wished to have a discussion on the content of the minutes. Hearing none, he called for a vote. Director Glenn and Commissioner Leck abstained. Vice Chairman Loos and Commissioners Stout and Lubitz voted to approve the motion. The motion was approved.

Vice-Chairman Loos called for a motion on the February 20, 2019 executive session meeting minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Leck seconded the motion. Vice-Chairman Loos asked if the Commissioners proposed any corrections or wished to have a discussion on the content of the minutes. Hearing none, he called for a vote. Director Glenn abstained. Vice Chairman Loos and Commissioners Leck, Stout and Lubitz voted to approve the motion. The motion was approved.

Review Zone Projects

Zone A Projects

18-3288C Princeton University Lake Carnegie Dredging (Princeton, West Windsor)

Vice-Chairman Loos called for a motion on the project. Commissioner Stout moved to approve the project in accordance with the staff report and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked for comment from the Commission and the public.

Director Hutchison briefly described the history of Lake Carnegie and the proposed project.

Commissioner Stout, Director Hutchison, and Mr. Ortego discussed bicycle accessibility and the materials to be used when the dredging pipe will temporarily cross the park path. Mr. Ortego described the timeline of the phases of the project, dredging method, and process of the project. Commissioner Leck and Mr. Ortego discussed silt produced during the dredging process and the project's impact on animals.

Mr. Barth and Mr. Ortego discussed the method of dredging.

Vice-Chairman Loos called further comment. Hearing none, he called for a vote. The project was approved unanimously.

19-0426B 239 North Union Street Proposed Commercial Renovations (Lambertville)

Vice-Chairman Loos called for a motion on the Review Zone B projects. Commissioner Stout moved to approve the project and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked for comment from the Commission and the public. Hearing none, he called for a vote. The project was approved unanimously.

17-4842A 10 Maxwell Lane (Franklin)

Vice-Chairman Loos called for a motion on the Review Zone B projects. Commissioner Stout moved to approve the project and Commissioner Leck seconded the motion. Vice-Chairman Loos asked for comment from the Commission and the public. Hearing none, he called for a vote. The project was approved unanimously.

18-4444D 14 Bridge Street – Stockton Shell Station Canopy (Stockton)

The applicant's engineer, David Hodulik stated that there was an architectural modification in the proposed project because of a requirement by the municipality. The canopy would now be shaped in a "mansard" style, with smaller lettering and Shell logo. Vice-Chairman Loos called for a motion on the project. Commissioner Lubitz moved to approve the project and Commissioner Stout seconded the motion. Commissioner Lubitz noted the value of reviewing the impact of previously approved projects and that he is pleased with the modification. Vice-Chairman Loos asked for comment from the Commission and the public.

Mr. von Zumbusch commented that the change in the canopy design required by Stockton Borough was not in keeping with the Secretary of Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*. He noted that those standards would provide that when a modern design element to a modern building is installed within an historic district, that design element should not be designed in a manner to make it appear historic. Vice-Chairman Loos called for a vote. The project was approved, with the changes proposed by the applicant, unanimously.

Zone B Project

16-4935 Hillsborough Crossings -- Proposed Mixed Use Development (Hillsborough)

Vice-Chairman Loos called for a motion on the project. Commissioner Stout moved to approve the projects and Commissioner Lubitz seconded the motion. Vice-Chairman Loos asked for comment from the Commission and the public.

Commissioner Leck and Director Hutchison discussed wood turtle habitat and the possibility of the turtle species reestablishing itself at the site.

Commissioner Leck noted that some of the proposed plantings were horticultural varieties and might not meet the criteria of native planting. There was discussion about native plant species lists. Mr. Morse, attorney for the applicant, reported that the applicant had worked with DEP to create the planting plan for water quality in the stream corridor at the site and that the applicant was prepared to adjust the plan to move forward. He noted the non-native species listed on the proposed landscaping plan were ornamental shrubs that would not be placed within the boundaries of the Commission-regulated stream corridor.

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Vice-Chairman Loos, Commissioner Lubitz, Director Glenn, and Commissioner Stout discussed the Commission's stream corridor planting requirements and the DEP approved planting plan.

Commissioner Lubitz amended his motion to say the applicant would work with professional DRCC staff to assure only native plants on the Commission native species lists will be planted in the stream corridor. Commissioner Stout seconded the amended motion. Vice-Chairman Loos called for further comment and hearing none, he called for a vote. The motion was approved unanimously.

Hearing none, he called for a vote. The Zone B projects were approved unanimously.

Executive Director's Report

Director Hutchison reported on the monthly workload and fee collections, and preapplication meetings.

Vice-Chairman Loos and Director Hutchison reported on a preapplication meeting with Princeton University regarding a proposed bridge or "flyover" over Lake Carnegie and the canal, including that the project would be subject to visual impact review and possibly stormwater and stream corridor impact reviews. Director Glenn and Vice-Chairman Loos discussed the need for careful vetting and robust analysis of the potential impacts of, and possible alternatives to, the proposal.

The Director reported on a DEP permit coordination meeting related to a proposed flood resiliency project with in Lambertville.

The Director reported on contact with PSE&G regarding an unpermitted tree removal project in Franklin Township.

The Director reported on a meeting with DOT regarding the planting plan the Commission required as a condition of approval for the tree removal project DRCC #19-3921D on Route 29.

The Director reported on office furniture upgrades and exterior maintenance of the building.

Park Superintendent's Report

Superintendent Kalleser reported on the septic project at Port Mercer, the National Opening Day of Trails on April 13, the DEP Scrub event on April 10, and cleanup of 20 cubic yards of debris on April 13 between Old Rose Street and Hermitage Avenue in the City of Trenton and the "missing link" section of the canal park.

The Superintendent reported park planting related to tree removal in Titusville and seasonal employment opportunities.

Vice-Chairman Loos asked the Superintendent to speak with Stephanie Fox, the Delaware and Raritan Canal State Park naturalist about the best way for PSE&G to manage the stumps left in the wake of the PSE&G tree cutting in Franklin Township near Amwell Road.

Commissioner Lubitz and Superintendent Kalleser discussed the fenced area at the Lockatong Creek on Route 29, which previously served as a parking and access area for fishermen, but also serves as a parking areas to access an illegal rope swing on the Delaware River. Commissioner Lubitz noted his concern about how the fencing creates loss of public access from the canal, the park and the creek for all

the canal's user groups.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported on the status of the canal dredging project, and that dredging would commence on May 1. He reported that a temporary repair at the Six Mile Run culvert would commence that week and the permanent repair design was under way. Mr. Sellar reported that the Cedar Grove Brook watershed project was in a final schematic design phase. Mr. Sellar also reported on a leak at Brookville Hollow in Stockton, where a French drain will be installed.

Ms. Desko reported that the NJWSA would report on the hydrilla treatment plan at the next Commission meeting and that educational signage would be replaced this season.

Commissioner Stout reported the development of ruts on the park path in the vicinity of Route 202 which impeded use of the park path. Mr. Sellar noted NJWSA would investigate.

Old Business

Director Glenn noted that DEP staff and members of the Commission would meet on May 14 to discuss Bulls Island.

Vice-Chairman Loos noted Director Hutchison had drafted two Requests for Proposals (RFPs) for the Master Plan and Development Plan revisions at the request of the Commission. Director Hutchison noted that the Millstone Valley Preservation Coalition has shown interest in approaching the Legislature to allocate funds for the Master Plan revision as part of an effort to secure additional maintenance monies for the Delaware and Raritan Canal State Park. There was discussion between the Executive Director and members of the public about wording of the scope of work, and how best to compose it in a way that is both comprehensive and cost-effective.

Vice-Chairman Loos suggested a subcommittee to continue to make suggestions to the Executive Director on the draft documents. Mr. Barth commented that the history of the park is a very important element. Mr. von Zumbusch commented that the history of the canal is a major consideration. Ms. Pettit commented that the more tiers of consultants one has the more money is lost. The Vice-Chairman deferred the matter to Director Hutchison for discussion with the Master Plan Advisory Committee, to be reported at the May or June meeting.

Public Forum

Mr. Barth reported on the D&R Canal Watch activity list, including the boat ride fundraiser which would benefit the East Millstone Bridgetenders Station and the April 27 annual symposium of the Canal Society of NJ in Morristown.

Ms. Detrano, a Lambertville resident, raised her concern of vegetation removal by the NJWSA on the western embankment of the canal in the municipality. She requested that the Commission take the NJWSA to task for the tree cutting, vegetation removal, and resulting debris and demand that the NJWSA: 1) repair the stone wall throughout Lambertville, 2) provide for aesthetic and wildlife habitat restoration, and 3) that the NJWSA issue public notification to the City of Lambertville in regard to any proposed work in Lambertville and hold public meetings between notification and work. Ms. Detrano noted further concerns including 25 years of no maintenance of the wall and vegetation, and which resulted in complete erosion, and dirt and debris.

Ms. Pettit, a Lambertville resident, stated that the NJWSA tree removal is not in keeping with a trout stocked waterway, as trout need shade, and that vegetation removal affected the wildlife habitat. Additionally, she noted that the trees and vegetation protect the residents' privacy when there is various foot traffic within the park on a weekend. Ms. Pettit stated that the tree removal was an environmental disaster for wildlife, trout, and aesthetically. She requested a public forum on the issue.

Mr. Plummer, a Lambertville resident, commented that no public information about NJWSA work was being done.

Director Hutchison noted that with respect to tree removal within the Delaware and Raritan Canal State Park, that the Emerald Ash Borer tree removal project was in fact reviewed and approved by the Commission. The Director further noted that the 1986 lease agreement between the State of New Jersey and the NJWSA allows that authority to conduct maintenance activity within the prism of canal and along the embankment, and that the lease agreement contains scale drawings of the boundaries of the NJWSA's jurisdiction. The Director noted that he would supply copies of the agreement to any member of the public upon request. Mr. Hutchison noted that pursuant to the 1986 agreement at Section IV, the NJWSA is not required to obtain approval from the Commission for maintenance activities within the canal water transmission complex.

Mr. Hutchison noted that former-Director Amon and the authors of the Delaware and Raritan Canal State Park Master Plan had displayed great foresight when they recognized that the canal was simultaneously an historic, recreational, and water supply resource that benefits the people of New Jersey. Mr. Hutchison noted that the "Delaware and Raritan Canal State Park Law of 1974" and the implementing regulations recognize the different roles of the canal as a water supply system, a recreation site, historic site, natural area, and means of enhancing urban areas. The park Master Plan specifically notes that these roles are not ranked in importance so that compromises can be made that places one role ahead of another; but rather that the Commission and the staff accommodate the equal importance of each use.

Commission Stout noted that NJWSA, when managing the water supply, is often at odds with the Commission on visual and aesthetic goals. He specifically noted that the tarps on the Stockton embankment were an example where the authority has not acted with sufficient speed to maintain the canal as an historic and recreational resource.

Ms. Kessler, a Lambertville resident, commented that the removal of trees neat Coryell Street in the vicinity of the Blue Raccoon store was a theft to the Lambertville community, and done without thought to what they contribute to the environment.

Mr. Sellar stated that there is a May 3 meeting to be convened by the Mayor of Lambertville with DEP staff, NJWSA staff, and Director Hutchison to discuss NJWSA maintenance.

Ms. Detrano referred to the Master Plan regarding habitat and vegetation. She discussed reforestation and stated that NJWSA was not adhering to areas of the Master Plan regarding vegetation.

Ms. Kang, a resident of Lambertville, stated that in addition to trees cut at the canal wall, additional trees

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were cut. Mr. Sellar noted that vegetation was removed in order to permit the authority to get its equipment to the site.

Mr. von Zumbusch noted the problems with wall maintenance and repair is up and down the canal, not just in Lambertville. The matter needs to be addressed for historic preservation and to protect the historic integrity of the canal.

Commissioner Lubitz commented that the three entities having jurisdiction in the park: the DEP Division of Parks and Forestry; the Commission; and NJWSA, may at times be at odds, but, in most cases, there is a confluence of the goals, with NJWSA playing the major role in the maintenance and repairs of the canal. Commissioner Lubitz further noted that the condition of the Delaware Canal in Pennsylvania, is as an example of what can happen to a canal when maintenance by an entity such as NJWSA is not undertaken on a regular basis.

Vice-Chairman Loos and Director Glenn discussed how public notice for each maintenance activity up and down the 70-mile corridor of the park could be onerous. One idea, Director Glenn noted, may be that a list of maintenance priorities could be presented by NJWSA once a year. Commissioner Lubitz suggested that notice may be given when a project may have significant visual impact.

Mr. Spiegel, a resident of Lambertville who resides on the canal and a member of the Master Plan Advisory Committee, requested transparency with reference to work done in the park.

Vice-Chairman Loos requested that Mr. Sellar ask NJWSA to put a hold on further vegetation removal until the May 3 meeting with the City of Lambertville, and an opportunity was given for a report on the outcome of the meeting to the Commission.

Director Hutchison responded to a question about removal of railroad cars in Lambertville, including that the Black River and Western Railroad (BR&WRR) has an easement with the NJDEP that allows the BRWR to conduct railroad activities within the boundaries of the former-Flemington Branch of the Belvidere Division of the Pennsylvania Railroad.

Executive Session

There was no executive session.

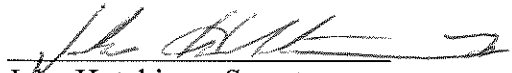
Adjournment

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 12:35 p.m.

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Respectfully submitted,



John Hutchison, Secretary