DELAWARE AND RARITAN
CANAL COMMISSION

MINUTES OF THE MEETING OF 18 MAY 1988:

TIME: 12:29 - 3:25 pm
DATE: Wednesday, 18 May 1988
PLACE: Prallsville Mill Complex
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Messrs. Kirkland, Torpey, Jones, Jessen, Zaikov, Guidotti, Mrs. Nash & Mrs. Fenske

STAFF: Messrs. Amon, Dobbs and Mrs. Greenwald
Mrs. Dorothy M. Highland, Deputy Attorney General

GUESTS: A. Gregory Chase, N.J.W.S.A.
Peter Zirnite, Princeton Packet
Paul Stern, D & R Canal State Park
Larry & Kay Pitt, Canal Society of N.J.
Ursula Buchanan, D & R Canal Coalition
Dorothy Bayless, Lawrence Township
Keld R. Hansen
David & Mia McRae, Princeton Township
Barbara Johnson, Town Topics
Helen Davis, Kingston
John Kraml, Division of Parks & Forestry
Mary C. Tanner, Lawrence Township
Jim Mullen, Shanley & Fisher for Howco Inv. Corp.
Jeffrey Freireich
Bob Wolfe, Princeton Forrestal
Bob Durkee, Princeton University
Karen Jezierny Princeton University
Gene McPartland, Princeton University
Andy Wolf, Trenton Times
Marvin R. Reed, Princeton Borough
Duggan Kimball, Princeton Regional Planning Board
Lawrence W. Kerr
Miggy Meiss, Friends of Princeton Open Space
Babs Thomsen, Friends of Princeton Open Space
Merritt M. Cootes, Friends of Princeton Open Space
Diane Plucienkowski, Waters, McPherson, McNeill, et. al.
Dolly Minis, D & R Canal Coalition
Elizabeth Hutter, D & R Greenway
Robert von Zumbusch, Princeton Township
Jeffrey A. Horn, NJ Chapter, NAIOP
Abigail & Thomas Barrows

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Mr. Kirkland opened the meeting and stated that all applicable provisions of the Open Public Meeting Law of 1976 had been properly met.

MINUTES

Mr. Zaikov made a motion to approve the minutes from the meeting of 20 April 1988. Mr. Jones seconded the motion. Mrs. Nash then stated that she had a correction for the minutes. She wanted to be on record as voting against the Mansion Hill proposal because she believed that the testimony by the attorney and the developer in a field in which they were not qualified to testify, i.e. historic preservation, was self-serving and not in the best interest of the Canal Park. Mr. Zaikov then agreed to change his motion to approval of the minutes as amended. Mr. Jones seconded and the motion passed unanimously.

REVIEW ZONE PROJECTS

Mr. Amon presented the following A Zone project to the Commissioners with his recommendation for approval:

88-1647 - Somerset County Park Commission

Mr. Jessen moved approval of the above project. Following Mr. Kirkland's second the motion carried unanimously.

Mr. Amon then presented the following A Zone projects for which he requested waiver of Commission requirements:

87-1364 - Closson, Edward
Princeton Sewer Operating Committee

Mr. Zaikov moved approval of the above waivers, Mr. Jessen seconded the motion which passed unanimously.

Mr. Dobbs presented the following B zone projects to the Commissioners with his recommendation for approval.

88-1628 - Princeton University Regional Detention
88-1642 - Princeton University Swimming Facility
8300248 - Lawrencewood II
88-1589 - Drinking Brook
88-1572 - Indian Path
86-1095 - RGC Realty, Phase III
88-0703 - Franklin Township Sewerage Authority
87-1535 - Michael John Associates

Following a motion by Mr. Jessen, and a second by Mr. Zaikov the above projects were unanimously approved.

Mr. Kirkland introduced Helen Fenske to the members of the Commission and to the public.

He then informed the Commissioners that former Commissioner John Bullitt had passed away.

He informed the Commissioners that Mayor Holland had recently been operated on for cancer and was recovering. All Commissioners expressed their hopes for a speedy recovery for the Mayor.

Anyone interested in addresses or information for either Commissioner should contact the Canal Commission staff.

DISCUSSION OF DRAFT RESPONSE DOCUMENT FOR QUESTIONS RAISED DURING THE REGULATION'S COMMENT PERIOD

Mr. Kirkland addressed the public and stated that any individuals who were interested in commenting on the proposed regulations would be given the opportunity to do so. He requested that each speaker limit his or her talk to 3 minutes. He stated that once public presentations were completed he would close the public forum and the Commissioners would then discuss and vote on the draft response document.

Mr. Amon then explained that the period for public comments on the proposed regulations had closed on April 6th. This did not, he said, mean that no one could speak on this subject but it did mean that the Commission was not obliged to respond to the comments and the Commissioners were not to base any decision on the regulations upon comments received after the close of the public comment period.

Mr. Amon also told the Commission that he had received a petition urging adoption of the proposed regulations with approximately 600 signatures and exactly 100 letters with the same message. He made the petition and letters available for the Commissioners but added that they, too, were received after the close of the comment period.

Mr. Durkee, Princeton University, informed the Commissioners and the attending public that Princeton University had withdrawn its plans for the proposed development of the former Princeton Nurseries property. In making the announcement, the University expressed its appreciation for the perspectives and advice offered by many individuals and organizations in recent months.

The University also expressed its concern about several aspects of the proposed regulations currently under consideration by the Commission and its hope that withdrawal of the Nurseries plan would facilitate efforts to arrive at a mutually agreeable set of proposals.

A written statement was presented to the Commission by Mr. Durkee.

Marvin Reed, President, Princeton Borough Council also gave the Commission a written statement which reinforced the Council's recent resolution of support for the regulations. Mr. Reed emphasized the great value of the Canal Park and its positive effect on real estate values in the region. He urged the Commission to maintain the region's value by assiduously protecting the Canal Park.

Duggan Kimball, Princeton Regional Planning Board, stated that the Regional Planning Board endorses and supports the proposed regulations and urged their adoption. In particular they endorse the increased setbacks, stream corridor preservation and the traffic impacts.

David McRae stated that the D & R Canal Coalition endorses the regulations. He encouraged developers to take a long term view of what the development is doing.

Mary Tanner, President of the Lawrence Township Conservation Foundation, stated that she agreed with all that the prior speakers said and stated that her organization would also like to go on record as supporting the revised regulations. She feels that a consistency of standards and principals along the canal is needed.

Jim Mullen of Shanley & Fisher was concerned about the following:

1. The reasoning behind the 100 foot buffer. He questioned what type of study was available.

2. Felt a simultaneous review should take place between the Commission and the municipal reviewing agency.

3. Felt that a grandfather clause should be included in the new regulations.

Lawrence Kerr, representing Friends of Princeton Open Space, stated their support for the proposed regulations and urged their adoption.

Robert von Zumbusch, who had principle responsibility for the Development Plan of the Delaware & Raritan Canal State Park, said that the stream corridor provision was environmentally and economically sound.

He strongly urged that the regulations be adopted as proposed. He felt that the Canal Commission has been open and receptive to developers. It is important that the Commission get sufficient funding to adequately review and enforce these regulations.

Mr. Torpey agreed that the Commission needs additional funding not only for staff but for land acquisition and development of the park.

Jeffrey A. Horn, National Association of Industrial and Office Parks, expressed his concerns with the proposed regulations and opposed adoption of the regulations. He felt that the Commission was going beyond its statutory authority and suggested that the Commission was opening itself to claims.

Tom Barrows, a member of the Franklin Township Council, enthusiastically supported the proposed regulations and urged their adoption.

Elizabeth Hutter, of the D & R Greenway, spoke in support of the adoption of the proposed regulations.

Mr. Kirkland then closed public discussion and asked Mrs. Fenske if she wished to make a comment.

Mrs. Fenske advised the Commissioners to consider their proposed stream corridor preservation regulation in light of the direction that is being taken by Statewide programs.

She said that New Jersey is a microcosm of national problems; that problems with clean air, superfund sites, and the need for open space funding are nationwide, but hit New Jersey first and hardest. The values of protecting stream corridors, she added, no longer need further documentation. The public and private financial benefits are clear, as are the environmental benefits. The State Planning Commission has recently made this issue very clear.

Up to now, however, protection of stream corridors in the State has been fragmented. Mrs. Fenske said that the stream encroachment law was intended to be an engineering law and that flood control and wetlands provisions each have their own mandates. A more holistic approach is emerging, however, as is exemplified by the Commission's proposal, by policies adopted by the Office of Green Acres, and by the State Planning Commission. This developing concern for the preservation of a network of "greenways and blueways" will have an important effect upon public well being in the State.

STREAM CORRIDOR

Mr. Jones agreed with the stream corridor response document as proposed. He said that he is all for stream corridor preservation.

1:50 Helen Fenske left and Frank Guidotti took her place.

Mr. Jessen objected to the proposed stream corridor regulation on several bases. He does not think streams should be considered unless they are tributary to the canal, he thinks that including all of the stream up to the point at which it drains less than 50 acres is too inclusive, he objects to protecting stream corridors that may be as

much as 20 miles from the canal, and he is concerned about the effect of the regulations on individual homebuilders.

Mr. Amon stated that the 50 acre cut-off was selected because it is used by the Division of Coastal Resources in the DEP, he pointed out that the stream corridor regulation would only affect major projects, not individual homebuilders, and he argued that all major streams should be included because they either enter the canal at flood time (when their pollution load is highest) or they are part of the natural system which is essential to the protection of the Canal Park.

Mr. Zaikov asked the total acreage of the stream corridors proposed for regulation.

Mr. Amon responded that this information had not been obtained for two reasons. First, it would require extremely costly and lengthy analysis. Second, it is his opinion that the total number of acres is not a relevant statistic. The relevant issue, he said, is whether the corridors as defined are environmentally sensitive and should be protected for the good of the Canal Park, not if a corridor comprises one hundred or two hundred acres.

Mr. Zaikov said that he believes that no action should be taken until we know exactly how much land is involved.

Mr. Jessen said that the stream corridors constitute a vast area, way beyond what he believes the Commission should be addressing. He added that he believes that the regulations should protect people, not animals. He also agreed with Mr. Zaikov that the total area should be determined before action is taken.

Mrs. Nash said that she does not believe it is necessary to have this information. She asked if anyone knew exactly how large the "A" and "B" review zones were before they were adopted.

Mr. Amon said that the exact size of the "A" review zone has never been calculated. He has no idea what it is today.

Mr. Jessen said that he strongly supports measures that protect the water quality in the canal but that this proposal goes too far. He asked what was being done about agricultural polluters.

Mr. Amon said that the Commission's enabling statute does not give the Commission the authority to control agricultural practices unless they require a municipal permit.

Mrs. Nash said that agricultural practices result in less pollution than many lawn care practices carried out by homeowners. She believes that the stream corridor proposal will be an important protective measure for the canal's water quality.

Mr. Jones moved approval of the stream corridor response document as prepared and submitted by the Canal Commission staff. Mr. Guidotti seconded the motion.

Mr. Zaikov again objected. He believes that the Commission is "creating a monster," and that other governmental agencies should be left to address the preservation of stream corridors.

Mr. Jessen also expressed disapproval. He asked if we might discover that the stream corridors will include 50% of the full review zone.

Mr. Amon said that flood plain maps have been studied and he believes the total area affected is within 5 - 10% of the full review zone.

Mr. Jones said that the area is not important, the affect is important.

Mr. Guidotti said that he believes the proposed stream corridor regulations are in line with the pattern of land use regulation that the DEP and other regulatory agencies are practicing. He said that guidelines for developments must be established or the region will have major problems in the future.

The secretary was then asked to call the roll for a vote on the motion. The motion carried as follows:

Guidotti - Yes
Jones - Yes
Zaikov - No
Jessen - No
Kirkland - Yes
Torpey - Yes
Nash - Yes

Mr. Amon then introduced the response document entitled "Definitions" Mr. Kirkland moved to approved the document as submitted. Mr. Jones seconded the motion. The motion carried as follows:

Guidotti - Yes
Jones - Yes
Zaikov - No
Jessen - Yes
Kirkland - Yes
Torpey - Yes
Nash - Yes

Mr. Amon presented the response document entitled "Procedures". Mr. Kirkland moved approval of the document as submitted. Mr. Jones seconded the motion which then passed unanimously.

Mr. Amon presented the response document entitled "Storm Drainage and Water Quality Improvements". Mr. Jessen moved approval of the document as submitted. This motion carried unanimously following Mr. Torpey's second.

Mr. Amon presented the response document entitled "Traffic Impact". He pointed out that as a result of the public comment it was clear that the original draft of this regulation did not clearly represent the Commission's goals for the regulation of traffic impact on the Canal Park. The response document therefore includes a revised version of the proposed regulation which clearly states that it affects "A" zone projects or projects that front on an "A" zone road and that traffic pattern improvements are to be onsite.

Mr. Jessen questioned the requirement to eliminate vehicular use of an existing bridge if a new bridge over the canal is to be constructed. He said that this provision might be undesirably confining on the Commission's ability to assess each situation on its own merits.

Mr. Amon said that he believes this is a good guideline because nothing is more disruptive to the continuity of the park than a new crossing. Since continuity is the primary goal of the Master Plan, this provision seems valuable. He said that at the time the Commission was created municipal and county master plans showed dozens of proposed new canal crossings. Their elimination is, in Mr. Amon's view, one of the Commission's accomplishments.

Mrs. Nash said that she believes that it is a good principle to require the closing of a bridge when a new one is opened, and that if it is not suitable for a specific situation a waiver can be issued.

Mrs. Nash moved approval of the response document as submitted. Mr. Torpey seconded the motion and it passed with the following votes:

Guidotti - Yes
Jones - Yes
Zaikov - No
Jessen - No
Kirkland - Yes
Torpey - Yes
Nash - Yes

Mr. Amon discussed the response document entitled "Visual & Natural".

Mr. Zaikov said that he does not believe that the Commission should encourage agricultural practices in the "A" review zone since these practices create so much pollution.

Mrs. Highland was asked about the Commission's role regarding agricultural practice relative to this matter. She said that it would not hurt to delete reference to agricultural use since the Commission does not have authority to regulate it.

Mrs. Nash moved approval of the response document with references to agricultural uses deleted. The motion passed unanimously following Mr. Torpey's second.

Mr. Amon discussed the response document entitled "Miscellaneous".

3:10 Messrs Zaikov and Jessen left.

Following discussion Mr. Kirkland moved to adopt for publication the draft with the changes as submitted by the staff. Mr. Torpey seconded the motion.

Mr. Guidotti pointed out that references to the Canal Park as a "natural area" may be confusing since there is a precise definition for "natural areas" and the Canal Park as a whole does not apply.

Mrs. Highland suggested that the document refer to the Canal Park as an area that should be maintained in a natural state. She felt that would address the point that was trying to be made. Messrs. Kirkland and Torpey accepted this change and the Commission voted to unanimously approve the document.

3:25 - Mr. Guidotti left.

Mrs. Highland distributed some material to the Commissioners regarding a regulation for hardship waivers. She suggested that the Commission may wish to expand its draft hardship waiver provision in order to establish specific guidelines for such an action.

Mr. Amon suggested that the Commission staff review the material and prepare a recommendation for the Commission at the June meeting. The Commission generally agreed to this idea.

ADJOURNMENT

The meeting was adjourned at 3:25.

Respectfully submitted,

James C. Amon
Executive Director

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