

MINUTES OF THE MEETING OF JUNE 16, 1993

TIME: 12:10 PM to 1:05 PM  
DATE: Wednesday, June 16, 1993  
PLACE: Canal Commission Office  
Prallsville Mills, Stockton, NJ



DELAWARE AND RARITAN  
CANAL COMMISSION

ATTENDING:

COMMISSIONERS: Messrs. Barker, Jessen, Jones, Pauley,  
Zaikov; Ms. Shaddow (representative  
for Mayor Palmer)

STAFF: Mr. Amon, Mr. Dobbs, Ms. Holms  
Ms. Carol Blasi, Deputy Attorney General

GUESTS: Ramona Bruno, Jamieson, Moore, Peskin & Spicer  
A. Gregory Chase, NJ Water Supply Authority  
Kay & Larry Pitt, Canal Society of New Jersey  
Gabe Sasso, Gale & Wentworth, Inc.  
Adra Fairman, D&R Canal Watch  
Fred Brown, D&R Canal Watch  
Bill Moss, Canal Society of NJ  
John Auciello, D&R Canal State Park  
Joe Bird  
Maren King, Hanna/Olin  
Michael Gardner, Wal-Mart Stores Inc.  
Doug McMurray, Hendon Prop. Assoc.  
Karl Pehnke, Raymond Keyes Associates  
Deborah Poritz, Jamieson, Moore, Peskin &  
Spicer  
Robert V. Kiser, Princeton Twp.  
Ed Schmierer, Princeton Twp. Attorney  
Sharon Bilanin, Princeton Twp. Committee  
Larry Glasberg, Mayor, Princeton Twp.  
Frank J. Petrino, Atty., Yorkshire Village  
Sam Herzog, Partner, Wynnmoor Assoc.  
Bill Guhl, Lawrence Twp.  
Deborah Herzog, Wyndmoor Assoc.  
Leo Laaksonen, Mercer County Planning Dept.

Mr. Jessen opened the meeting and announced that this was a regular meeting of the D&R Canal Commission and that all provisions of the Open Public Meeting Law of 1976 had been met.

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EXECUTIVE  
DIRECTOR  
James C. Amon

COMMISSIONERS  
Benjamin B. Kirkland  
Chairman

Martin D. Jessen  
Vice-Chairman

Donald B. Jones  
Treasurer

Stuart R. Zaikov  
R. William Pauley

Scott A. Weiner  
Frank J. Torpey

Winona D. Nash  
Douglas H. Palmer

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY  
James J. Florio, Governor Scott A. Weiner, Commissioner

Mr. Jones moved the approval of the minutes of May 19, 1993;  
Mr. Pauley seconded the motion and it passed unanimously.

#### LEASES AND PERMITS

Mr. Amon presented one application for a lease renewal; Ms. Kate Roebeling currently pays \$50 per year for the use of a narrow strip of lawn next to her house in Trenton, adjacent to the Perdicaris Waste Gate. Mr. Pauley moved approval to extend the lease for another year; Mr. Jones seconded the motion, and it passed unanimously.

#### REVIEW ZONE ACTIONS

Mr. Amon presented two "A" Zone project applications for approval:

93-2109 - Scherrei Residence, Lambertville;  
replacement of 4-foot-tall wire fence with 6-foot-tall wooden fence in back yard, next to towpath. A condition of approval is that the new fence will be on the property line or on Mr. Scherrei's property.

93-2092 - DeLuca Development, Ewing Township;  
addition of two houses on 7+ acre lot with existing house; the proposed houses would be behind the existing house. There would be no visual impact on the Canal Park.

Mr. Amon recommended approval of both projects. Mr. Barker moved approval of the "A" Zone projects, Mr. Jones seconded the motion, and it passed unanimously.

Mr. Amon then presented an "A" Zone project application for waiver from review requirements:

93-2107 - Lemli Swimming Pool, Franklin Twp., Somerset County

Mr. Amon stated that the applicant proposed to construct an in-ground swimming pool in his back yard. It would not be visible from the canal. Mr. Pauley moved waiving review requirements for the above project; Mr. Jones seconded the motion and it passed unanimously.

Mr. Zaikov then stated that he would be unable to vote on two "B" Zone projects, Beekman Manor and Riverside Farms Section IV, due to possible conflict of interest. Ms. Blasi said that without Mr. Zaikov's vote, the Commission would lose its quorum and would be unable to act on those two projects.

Mr. Dobbs presented four "B" Zone project applications:

- 93-1920A - Forsgate Industrial Complex S-134A, South Brunswick Township;  
1-story 236,498 sq. ft. warehouse and 10,000 sq. ft. office on 16.29 acres with 54% impervious surface.
- 93-2088 - Princeton Montessori School - Montgomery Township;  
1-story addition and new parking on 14 acres with an increase in impervious surface from 6+% to 20%.
- 93-2098 - Princeton Junction Train Station Parking Lot Expansion, West Windsor Township;  
new parking lot on 11+ acres with 30% impervious surface.
- 92-2032 - Maybury Hill - Princeton Township;  
7 single family houses on 15 acres with 15% impervious surface; 6 acres open space, plus a 100-foot stream corridor to be deeded to the township.

Mr. Dobbs stated that Commission requirements for stormwater management and water quality had been met for all projects and recommended approval. Mr. Pauley moved approval of the "B" Zone applications, Mr. Jones seconded the motion, and it passed unanimously.

#### DISCUSSION OF NASSAU PARK RETAIL CENTER PHASE I APPLICATION

Ms. Blasi said that after conferring with Mr. Zaikov, Mr. Zaikov had determined that his relationship with Alan Landis, owner of NLA Associates (previous applicant for Nassau Park) would not present any conflict in regard to his voting on the Nassau Park application. Ms. Poritz pointed out that NLA no longer has any financial interest in this project.

Mr. Amon stated that the project application known as Nassau Park Retail Center Phase I (Wal-Mart) was declared a complete application by the staff Tuesday afternoon (June 15th), and was therefore placed on the June agenda. Mr. Zaikov expressed concern that the public was not given proper notification. Ms. Blasi stated that under the Open Public Meetings Law, the Commission must announce meetings and their agendas, to the extent known. She said that it is not necessary that the agenda be complete at the time that the notification is sent. Mr. Jones asked whether more Commissioners would have attended had they known about this addition to the agenda. Mr. Amon replied that Commissioners Nash and Kirkland were out of town, and that he had spoken to Mr. Torpey on Tuesday and was told that Mr. Torpey would not know if he would be able to attend.

Mr. Schmierer, Attorney for Princeton Township, stated that the township received notice of the agenda change at 3:30 PM on

Tuesday. He disagreed with the interpretation of the Open Public Meetings Law, and felt that reasonable notice must be given for specific applications on an agenda. He stressed the importance of this matter and felt it was unfair to put it on the agenda at the last minute. On behalf of Princeton Township, he recommended that the matter be tabled, that proper notice be given, and that an opportunity be given for anyone to look at the plans for public comment. Ms. Blasi asked whether he could cite case law about putting specific applications on an agenda. Mr. Schmierer replied that if matters are added to the agenda that have a great deal of public interest, that an effort should be made to give notice under the 48-hour rule. He thought that he could find some cases that would indicate that. Ms. Poritz stated that there was no case law that she was aware of that would say that the Commission would be in violation of the Sunshine Law. Ms. Blasi added that there was no law preventing the Commission from tabling the application, if as a matter of policy, the Commission wished to respond to the commenters' objections.

Mr. Zaikov said that he was not sure that presenting this application at this time was a good idea. Mr. Jones agreed, saying that it was too important an issue to present it on such short notice. Mr. Jessen said that although it was in the public's interest to expedite the review process, sufficient notice should be given to those parties involved in order to be fair to both sides.

Mr. Moore said that the delay of the Canal Commission's approval was costing his client a great deal of money, and that the application had been conceptually reviewed for over a year.

Mr. Jessen noted that the last time he had spoken with Mr. Amon, it was still unknown whether Wal-Mart would be on the agenda. Mr. Amon added that the last written notice received by the Commissioners from the staff indicated that Wal-Mart would not be on the agenda because the application was still incomplete at that time. Since then, however, the applicant made additional submissions and the staff determined on Tuesday that the application was complete.

Ms. Poritz asked whether the Commission could schedule a meeting on June 23rd. The Commissioners agreed that if a quorum was possible, the meeting would be scheduled. Mr. Jones moved postponing the Wal-Mart application until a special meeting to be scheduled on Wednesday, June 23rd, for the reason that the information given to the Commission to complete the application was received within 24 hours, and more time is needed to study it. Mr. Zaikov seconded the motion with the addition that the two "B" Zone applications that were also tabled (Beekman Manor and Riverside Farms Phase IV)

should also be placed on the agenda of June 23rd. The motion passed unanimously.

#### CANAL PARK SUPERINTENDENT'S REPORT

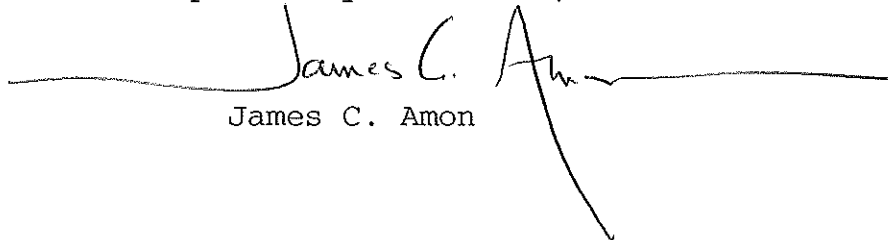
Mr. Auciello, Chief Ranger for the D&R Canal State Park, stated that the Canal Park's other Chief Ranger was promoted to Chief of Law Enforcement for the Division of Parks and Forestry. Another ranger is leaving for a career in law, and the head of maintenance accepted a position as Superintendent of the new State Park, the Paulinskill Valley Trail. He stated that a significant number of trees in the park were blown down by last Wednesday's storm. He said that the Water Supply Authority did an excellent job improving the path between Zarephath and Landing Lane.

#### PUBLIC FORUM

Mr. Brown asked about the status of the new road that Trap Rock was building. Mr. Amon replied that they had begun moving earth for berms.

The meeting adjourned at 1:05 PM.

Respectfully submitted,

  
James C. Amon