

MINUTES OF THE MEETING OF APRIL 25, 2000

TIME: 12:15 P.M. - 2:50 P.M.
DATE: Tuesday, April 25, 2000
PLACE: Canal Commission Office
Stockton, New Jersey



DELAWARE AND RARITAN
CANAL COMMISSION

ATTENDING:

COMMISSIONERS: Messrs. Jessen, Herzog, Marshall, Pauley, Torpey;
Ms. Armstrong, Ms. Goodspeed, and Mrs. Nash

STAFF: Mr. Amon and Ms. Holms
Mr. Lewin Weyl, Deputy Attorney General

GUESTS: Susan Herron, Superintendent, D&R Canal State Park
Rebecca Williams, Assistant Superintendent, D&R Canal State Park
Barbara Ross, D&R Canal Watch
Abe Shaikh, NJ Water Supply Authority
Peggy Killmer
David Brook, The Meadows Foundation
David Campbell, Princeton Packet
Jean Mahoney, Millstone Bypass Alert/S.T.O.P.
Robert Von Zumbusch
Frank Scangarella, NJ Water Supply Authority
Jan ten Broek, Millstone Valley Preservation Coalition
Linda Barth, Canal Society of New Jersey
Kathleen Williamson, The Meadows Foundation
Bruce Hamilton, The Meadows Foundation
Michelle McBriarty, The Meadows Foundation
Jeffrey Betz, ESP Associates
Ernest Peters, Jr., ESP Associates
Abigail Barrow
Dale Florio, PPAG
Jonathan Litt, Castle Senior Living
Leonard Kohl, Castle Senior Living
James Cahill, Castle Senior Living
John Clyde
Patrick Lyons, Millstone Bypass Alert/S.T.O.P.

Mr. Torpey 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.

PRALLSVILLE MILLS P.O. BOX 539 STOCKTON, NJ 08559-0539 609-397-2000 FAX: 609-397-1081

EXECUTIVE
DIRECTOR
James C. Amon

COMMISSIONERS

Frank J. Torpey <i>Chairman</i>	Martin D. Jessen <i>Vice-Chairman</i>	Winona D. Nash <i>Treasurer</i>	Sam Herzog R. William Pauley	Robert C. Shinn, Jr. Caroline J. S. Armstrong	Douglas H. Palmer Marfy Goodspeed
------------------------------------	--	------------------------------------	---------------------------------	--	--------------------------------------

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Christine Todd Whitman, Governor Robert C. Shinn, Jr. Commissioner

DISCUSSION OF REQUEST FROM MEADOWS FOUNDATION FOR ADJUDICATORY HEARING ON CASTLE SENIOR LIVING

Ms. Goodspeed moved the following resolution:

Whereas the Open Public Meeting Act provides that a public body such as the Canal Commission may meet in closed session to discuss matters subject to attorney-client privilege;

Whereas the Commission desires to retire to closed session to discuss matters subject to attorney-client privilege;

Now therefore be it resolved that the Commission shall at this time meet in closed session to discuss matters subject to attorney-client privilege, the substance of which will be disclosed publicly only if it does not constitute an unwarranted invasion of individual privacy and will not breach attorney-client privilege.

Mr. Jessen seconded the motion and it passed unanimously. The Commission entered closed session at 12:20 PM. The public session resumed at 12:40 PM.

Mr. Torpey invited representatives of the Meadows Foundation to speak.

Mr. Clyde, a Board member of the Meadows Foundation, raised concerns about the visual impact of the assisted living building on the Canal Park. He said he hoped the matter could be settled before it went to the Office of Administrative Law.

Mr. Hamilton, a founding member of the Meadows Foundation, said that he was not opposed to the senior living facility, but that he was opposed to the obtrusiveness of the proposed building, saying it would change the character of Easton Avenue, and that it did not need to be visible. He said that the balloon demonstration showed that the building would be visible from the Canal Park, and that it was not clear how many trees would be destroyed as a result of the construction. He also said that the proposed neon sign was objectionable.

Ms. McBriarty, a member of the Meadows Foundation, said she was attracted to the serenity of the area, and that the proposed building height would ruin the ambience.

Ms. Williamson, President of the Meadows Foundation, said she personally was not opposed to the facility, but was opposed to its visual impact. She said that the serenity of the Canal Park would be compromised.

Mr. Brook, member of the Meadows Foundation, said the Commission should do the right thing and draw the line. He said that having an adjudicatory hearing would strengthen the standards of the Commission's Regulations. He said that the Meadows April 5th request for a hearing raised

sufficient legal questions to satisfy the request for an adjudicatory hearing. He said that the Meadows Foundation fell under the definition as an affected party, and would be directly impacted by traffic generated by the facility, as well as additional contaminated runoff. He said that these issues were not adequately addressed in the Commission's review and that if a hearing were to be held, it would be found that the approval given was not compliant with the Commission's Regulations.

Mr. Torpey then invited representatives of Castle Senior Living to speak.

Mr. Cahill, attorney for Castle Senior Living, said that the preceding comments were appropriate eight months ago, but not now. He said that the results of the balloon demonstration showed that the balloons were visible only when the wind was blowing, but that they were not visible from the Canal Park when the air was still. He said that conditions required as part of the approval adequately addressed visibility and height issues, and that as a result of approvals received, the applicant bought the property for \$3 million in December, 1999.

Mr. Amon reviewed a memo he wrote to the Commissioners regarding the response to the request for a hearing. He said that the balloon test showed that the top of the proposed building would not be visible from the Canal Park. He also said that Commission staff and one Commissioner investigated the site after the balloon test and concluded that the tallest trees that would block the top of the building would be removed. The Commission, therefore, approved the proposed building with the condition that the trees necessary to screen the top of the building be preserved with a conservation easement that has been recorded. He said that the height of the tree canopy screening the top of the building would not change in winter as opposed to summer. Mr. Amon said that the Commission also conditioned the approval upon a revised landscape plan to include more trees and shrubs to provide additional screening.

Mr. Amon said that with regard to adversely impacting the historic character of the Canal Park and the Van Wickle house, the building will have a negligible visual impact on the Canal Park because it is more than 1,000 feet from the nearest border of the park. He also mentioned that Easton Avenue, a busy, four-lane highway acts as a boundary of the 19th century character of the park. He said that the proposed building would be even less visible to the Van Wickle house than it would be to portions of the Canal Park.

Mr. Amon responded to the Meadows Foundation that traffic was not adequately addressed by saying that the Commission concluded that there were no other feasible planning techniques to direct traffic away from the park.

Mr. Amon said that the Commission's engineer, Madu Guru, reviewed the stormwater management plan for the proposed building and determined that it met the Commission's standards for drainage and water quality. He said that the application also received a permit from DEP's Stream Encroachment Division.

Mr. Hamilton said that he was concerned that trees would be killed as a result of a lack of fencing during construction, and changes in grade. Mr. Torpey suggested that fencing was a proposal that could still be negotiated. Mr. Cahill responded that the applicant would discuss anything except moving the buildings. Mr. Brook said that there will be no negotiations if a hearing is denied. He expressed concern that a traffic study was submitted after the approval was given.

Mr. Herzog moved the following resolution:

Whereas the Open Public Meeting Act provides that a public body such as the Canal Commission may meet in closed session to discuss matters subject to attorney-client privilege;

Whereas the Commission desires to retire to closed session to discuss matters subject to attorney-client privilege;

Now therefore be it resolved that the Commission shall at this time meet in closed session to discuss matters subject to attorney-client privilege, the substance of which will be disclosed publicly only if it does not constitute an unwarranted invasion of individual privacy and will not breach attorney-client privilege.

Ms. Goodspeed seconded the motion and it passed unanimously. Mr. Jessen left the meeting at 1:30 PM. The Commission entered closed session at 1:30 PM. The public meeting resumed at 2:00 PM. Mr. Herzog moved denying the adjudicatory hearing and the stay of the Certificate of Approval for Castle Senior Living; Mrs. Nash seconded the motion. Messrs. Herzog, Marshall and Torpey, Ms. Armstrong, Ms. Goodspeed and Mrs. Nash voted in favor of the motion; Mr. Pauley abstained. The motion passed.

Ms. Goodspeed left the meeting at 2:05 PM.

MINUTES

Mrs. Nash moved the minutes of the meeting of March 15, 2000; Mr. Pauley seconded the motion, and the motion passed without dissent.

REVIEW ZONE PROJECTS

Mr. Amon presented two "A" Zone projects for review and approval:

98-2486 - Griggstown Sewerage Pump Station - Franklin Township, Somerset County

Mr. Amon said the proposed pump station on Canal Road would be composed of brick with a steeply-pitched asphalt roof and wooden door.

99-2521 - Marconi Self Storage - Franklin Township, Somerset County

Mr. Amon said that traffic would access off of JFK Boulevard, and that the proposed storage buildings (3) would be screened by existing and new landscaping plus a small house. Easton Avenue is also between the proposed buildings and the Canal Park.

Mrs. Nash moved approval of the two "A" Zone projects; Ms. Armstrong seconded the motion, and it passed unanimously.

Mr. Amon presented the following "B" Zone projects for review and approval:

99-2562 - 68 Culver Road - South Brunswick Township
 99-2563 - Golden Crest at Evans Oak - Lawrence Township
 99-2548 - LDLJ Associates Offices - Montgomery Township
 99-2526 - Red Fox Run North - Montgomery Township
 99-2576 - High Pointe at Hopewell - Hopewell Township
 00-2608 - Levico Subdivision - Plainsboro Township

Mr. Amon said that the project called Golden Crest at Evans Oak had a DRCC stream corridor, and that the applicant proposed to build an access road across the corridor (a conditional use). Mr. Amon recommended approving the use. He said that the applicant for High Pointe at Hopewell requested a waiver from strict compliance with the Stream Corridor Impact Regulation, offering to preserve other land adjacent to the corridor as mitigation to encroachment. Mr. Amon recommended approving the waiver request. Otherwise, Mr. Amon said the projects conformed with the regulations and recommended approval. Mrs. Nash moved approval of waiver from strict compliance with the Stream Corridor Impact for High Pointe at Hopewell and approval of the "B" Zone projects. Mr. Pauley seconded the motion and it passed unanimously.

Mr. Amon presented another project application request for waiver from strict compliance with the Stream Corridor Impact Regulation:

00-0005A - 750 College Road East - Plainsboro Township

He said that the proposed building site contained a stream corridor and that the applicant proposed construction of parking in the corridor, and preserving a larger wooded area next to the corridor as mitigation. Mrs. Nash moved approval of the waiver request, Ms. Armstrong seconded the motion, and it passed unanimously.

WATER SUPPLY AUTHORITY PROJECT: CLEANING PRALLSVILLE CULVERTS

Mr. Shaikh described the project to clean the Prallsville Mill culverts. He said a vacuum truck would be parked on the bridge and that the staging area would be at an adjacent area, so that the project would not interfere with mill events. Mr. Herzog moved approval of the Prallsville

culverts cleaning; Mrs. Nash seconded the motion and it passed unanimously.

Mr. Amon announced that a public forum on a proposed regulation for wireless communication towers would be held Wednesday, April 26, 7:30 PM, at the Canal Commission office.

CANAL PARK SUPERINTENDENT'S REPORT

Ms. Herron reported that a black bear had been seen on the towpath at Washington Crossing. She said that DOT was in the process of resurfacing the towpath between Rocky Hill and Blackwell's Mills. Interpretive programs on the Canal Park are being scheduled, and a bike ride sponsored by the East Coast Greenway is scheduled for May 17th. The Canal Park received a federal grant of \$15,000 for interpretive signs.

OLD BUSINESS

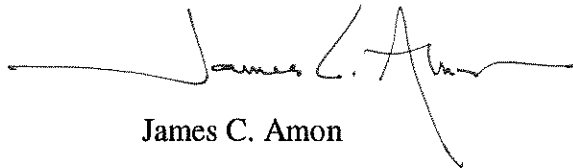
Mr. Pauley passed around photos of a crane test conducted in Griggstown to show the height of a proposed cell tower.

PUBLIC FORUM

Ms. Killmer expressed concern that at a meeting regarding the state budget, DOT had requested \$11 million for the proposed Millstone Bypass. She asked if the Commission had received any recent correspondence from DOT regarding the bypass. Mr. Amon said they had not. Ms. Mahoney read several letters from citizens opposed to the bypass, and Mr. Lyons also spoke in opposition to the proposal.

The meeting adjourned at 2:50 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James C. Amon", with a long horizontal line extending to the left and a vertical line extending downwards to the right.

James C. Amon