



DELAWARE AND RARITAN  
CANAL COMMISSION

**MINUTES OF THE MEETING OF APRIL 16, 2003**

TIME: 12:15 PM – 3:00 PM  
DATE: Wednesday, April 16, 2003  
PLACE: Canal Commission Office  
Stockton, New Jersey

**ATTENDING:**

COMMISSIONERS: Mayor Palmer, Messrs. Herzog, Jessen, and Weingart; Ms. Armstrong and Ms. Penney

STAFF: Mr. Amon and Ms. Holms

Ms. Eileen Kelly, Deputy Attorney General

Ms. Deborah Gnatt, Deputy Attorney General

**PUBLIC:**

Barbara Ross, D&R Canal Watch

Joe Shepherd, NJ Water Supply Authority

Linda Barth, Canal Society of New Jersey

Sol Inspector, MBS Development

Jeffrey Hall, Esq., Viacom Outdoor

Mr. Weingart 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. He then invited the Commissioners and guests to introduce themselves.

**MINUTES OF FEBRUARY 16, 2003**

Mr. Weingart made one correction to the minutes of February 16, 2003. On page 4 under Old Business, Mr. Weingart said that the statement "the new policy... no longer allows paying for Commission meeting lunches" is incorrect, because it is not a policy. With that correction, Mr. Jessen moved approval of the minutes of February 16, 2003, Ms. Penney seconded the motion, and it passed unanimously.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
James E. McGreevey, Governor Bradley M. Campbell, Commissioner

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## REVIEW ZONE ACTIONS

Mr. Amon presented the following "A" Zones applications for review and approval:

03-2933 – Bridge/McDowell Residence Addition – Franklin Township, Somerset County

Mr. Amon said that the applicants are proposing to build a 300-square foot addition onto the rear of their house that is across the road from the Canal Park, near the Griggstown Causeway. He said the addition would be in harmony with the character of the house.

03-2934 – Fuege Residence – Franklin Township, Somerset County

The applicant is proposing to build a new 3-story house and 2-story barn approximately 600 feet from the Canal Park. Mr. Amon said it will be largely or totally blocked from view by topography and existing trees from the Canal Park.

Ms. Armstrong moved approval of the "A" Zone applications; Mr. Jessen seconded the motion, and it passed unanimously.

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

02-2851 – East Windsor Medical Office – East Windsor Township

02-2904 – Sharbell Village Residential Subdivision – Plainsboro Township

02-2907 – Marriott Residence Inn – West Windsor Township

02-2879 – Riviera at East Windsor – East Windsor Township

02-2861 – Somerset County Head Start Center – Franklin Township

02-2911 – Watson Self Storage – Hopewell Township

Ms. Holms presented a request for waiver from strict compliance of the Stream Corridor Impact Regulations for Riviera at East Windsor. She said the applicant has proposed a 1:1 buffer averaging plan as compensation for 1,619 square feet of encroachment into the stream corridor. She said that she recommended approval of the waiver, conditioned upon provision of further averaging for the grading that is proposed to occur in the corridor next to the encroachment. She also recommended that a portion of the detention basin and segments of a recreational path be constructed within the corridor (conditional uses). Mr. Jessen moved approval of the waiver, the conditional uses, and approval of the project; Mayor Palmer seconded the motion. The motion passed.

Mr. Amon said that the other "B" Zone applications conformed with the Commission's Regulations and recommended approval. Ms. Armstrong moved approval of the remaining "B" Zone projects, Ms. Penney seconded the motion, and it passed unanimously.

Mr. Herzog joined the meeting at 12:30 PM.

Ms. Holms presented the following application for waiver from strict compliance with the Stream Corridor Impact Regulation:

03-2915 – Horzepa Subdivision – Millstone Township, Monmouth County

Ms. Holms said that the applicant has proposed 1:1 buffer averaging for encroachment of 34,319 square feet into the stream corridor. Mayor Palmer moved approval of the Horzepa waiver; Mr. Jessen seconded the motion, and it passed without dissent.

Mr. Amon then presented a detailed resolution regarding mitigation for infractions that took place in the stream corridor for the development known as Red Fox Run North in Montgomery Township. Although the Commission had passed a similar version of the resolution in February, Deputy Attorney General Weyl suggested that a more detailed resolution be approved. Mr. Jessen moved approval of the new resolution, Ms. Penney seconded the motion, and it passed unanimously.

Mr. Amon presented a request from the same developer (for Red Fox Run North) to amend the easement that presently exists for the stream corridor. The present easement does not allow sufficient space for back yards for two houses in the development. The applicant has proposed buffer averaging in order to provide for the back yards. Mr. Amon recommended approving the easement amendment conditioned upon installation of a fence and conservation monuments to clearly define the boundary of the stream corridor. The developer, Mr. Inspector, said that he had no objection to installing monuments, but that the houses had been sold and installing a fence at this time would present a hardship. He suggested planting a row of trees instead. Ms. Armstrong moved approving the amended easement conditioned upon a submission of a revised landscape plan that was acceptable to the Commission's Executive Director. Mr. Herzog seconded the motion and it passed unanimously.

#### D&R CANAL STATE PARK PROJECT: SIGNS AND KIOSKS

Mr. Amon presented proposals for signs and kiosks in the Canal Park at Kingston, Blackwell's Mills, Griggstown, Rocky Hill, and the Millstone Aqueduct. He recommended tabling the application for Kingston because a kiosk has been erected without Commission approval and details relating to it are unresolved. Mayor Palmer moved approval of the other signs and kiosks, Mr. Jessen seconded the motion, and it passed unanimously.

#### WATER SUPPLY AUTHORITY PROJECT: CULVERT AT NIECE LUMBER IN LAMBERTVILLE

Mr. Amon said that the Water Supply Authority is proposing to install a pipe in a badly-eroded pit next to a culvert, clean the culvert, repair the wing walls, and cover the pit. Mr. Jessen moved approval of the culvert repairs, Ms. Armstrong seconded the motion and it passed unanimously.

## DRAFT REVISION OF REVIEW ZONE REGULATIONS

Mr. Amon presented a draft revision of the Commission's Review Zone Regulations, stating that he recommended postponing revision of the Stormwater Management and Stream Corridor regulations until DEP's new rules have been adopted. Ms. Armstrong suggested that changes be made to the Stream Corridor regulations at this time. Mr. Amon said he would prepare a revised draft for May's meeting.

## WATER SUPPLY AUTHORITY REPORT

Mr. Shepherd said that the Authority was removing dead trees from the canal, and that New Jersey Transit was repairing the dinky bridge across the canal. He said that the Five-Mile Lock project was underway, and that the Authority was re-grading access areas at Scudders Falls and Fireman's Bridge. He said that Henry Patterson was appointed Executive Director on March 31<sup>st</sup>.

## OLD BUSINESS

Mr. Amon said that the Canal Commission's budget had been proposed to be eliminated as a separate line in the DEP's overall budget for Fiscal Year 2004, but that Commissioner Campbell had assured Chairman Weingart that the DEP would continue to fund the Canal Commission. Mr. Amon said that Chairman Weingart and he are still working on reinstating the Commission's separate line.

## PUBLIC FORUM

Ms. Barth asked about several items that were in the draft development plan but not in the final version. Mr. Amon said it was his understanding that they were in both versions, but he would look again to make sure.

## NEW BUSINESS

Chairman Weingart suggested starting the Commission meetings at 10:00 AM. The Commission agreed to try out the new time starting in May.

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;

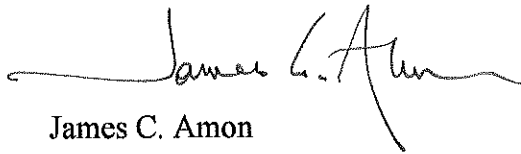
Whereas the Commission desires to retire to closed session to discuss such matters subject to attorney-client privilege;

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 Executive Session at 1:45 PM. The public meeting resumed and adjourned at 3:00 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James C. Amon". The signature is fluid and cursive, with a long horizontal stroke at the beginning and a vertical stroke at the end.

James C. Amon