



DELAWARE AND RARITAN  
CANAL COMMISSION

**MINUTES OF THE MEETING OF OCTOBER 18, 2006**

TIME: 10:05 AM – 11:10 AM  
DATE: Wednesday, October 18, 2006  
PLACE: Canal Commission Office  
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Chairman David DelVecchio, Messrs. David Knights, Martin Jessen, John Loos, Jose Fernandez, and Richard Albert; Mayor Phyllis Marchand and Ms. Alison Mitchell

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

GUESTS:

Craig Cherry, Toll Brothers Inc.  
Linda Barth, Canal Society of New Jersey  
Joe Shepherd, NJ Water Supply Authority  
Stephanie Fox, D&R Canal State Park

Vice-Chairman Jessen 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 said descriptions of the applications deemed complete for review had been posted on the Commission's website.

**MINUTES OF THE MEETING OF AUGUST 16, 2006**

Mr. Knights moved approval of the minutes of the meeting of August 16, 2006; Mr. Albert seconded the motion, and it passed unanimously. Mr. Albert then moved approval of the minutes of the meeting of September 13, 2006; Mr. Knights seconded the motion, and it too passed without dissent.

**REVIEW ZONE APPLICATIONS**

Ms. Mitchell moved approval with conditions of the following "A" Zone applications:

06-2262A – Mauzerall Pool (Lambertville)

06-3411 – Broad Street Commons (Trenton) – *conditioned upon 1) submission and recordation of a conservation easement for the open space area and 2) further development of the landscape plan for the open space area, as coordinated between the City of Trenton Planning Department, the Canal Commission staff, and the applicant.*

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Jon Corzine, Governor Lisa P. Jackson, Commissioner

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Mr. Knights seconded the motion and it passed unanimously.

06-3414 – Breidt Residence Elevation (Stockton)

Ms. Mitchell asked about the DEP Stream Encroachment Section's jurisdiction for this application. Ms. Guru explained that the Stream Encroachment Section reviews single family homes in the floodplain if reconstruction is required, as opposed to repair.

06-3242A – Marty Residence Modification (Stockton)

Mr. Hahn said that this house had been previously approved by the Commission and is presently under construction. The house being built, however, is taller than what was approved, and the garage is not attached, both violations of the Commission's approval. The applicant has agreed to face the garage in cultured stone to match the house façade, use "carriage doors" for the garage, and plant four evergreen trees along the front of the property to help screen the structure from the Canal Park.

Mr. Loos joined the meeting at 10:15 AM. Chairman DeVecchio joined the meeting at 10:20 AM.

A discussion ensued about a donation proposed by Mr. Marty to the Canal Park as mitigation for the violation. The Commission agreed that rather than accepting donations as mitigation for violations, the Commission should seek a legislative provision to require civil administrative penalties.

Mr. Loos moved approval of the Marty House Modifications, without acceptance of the donation as mitigation for the violation; Mr. Knights seconded the motion and it passed unanimously.

05-3170A – Sevilla Residence Modification (Stockton)

Mr. Hahn said the applicant is proposing to add a second floor addition to an existing house. He said the addition would not expand the existing footprint of the building and that it was architecturally in keeping with the existing historic house.

Mr. Jessen moved approval of both the Marty and Sevilla Residence Modifications; Mr. Albert seconded the motion and it passed unanimously.

Mr. Jessen then moved approval of the following "B" Zone applications:

06-3008 – MAB Office Building – Princeton Township

06-3349 – Institute for Advanced Study Bloomberg Hall Addition – Princeton Township –  
*conditioned upon receipt of signed resolution of municipal approval*

04-3119 – Meadow View – Delaware Township

02-2865 – Tamke Tree Experts Complex – West Amwell Township

06-3383 – SOLD Properties Housing Development – Ewing Township

06-3062A – Matrix Stults Road Warehouse/Office – South Brunswick Township

The Commissioners discussed with DAG Weyl Mayor Marchand's concerns about whether to recuse herself from Princeton Township applications; she concluded that her participation would not be a conflict. Mr. Albert seconded the motion and it passed unanimously.

Mr. Loos then moved approval of the following "B" Zone applications:

06-3359 – Cedar Brook Café – Cranbury Township  
06-3399 – Cranbury Housing – Cranbury Township  
04-3088 – Roycebrook Meadows – Hillsborough Township

Mr. Jessen seconded the motion and it passed unanimously.

#### EXECUTIVE DIRECTOR'S REPORT

Mr. Hahn reported that the lawsuit regarding the illegally-built Infinity Advertising billboard was found in the Commission's favor, and thanked Mr. Weyl for his work on the case. The Commissioners discussed enforcement actions; it was suggested that if a violation occurred enforcement actions should be taken against both the applicant and the municipality where it occurred.

Mr. Hahn said that PSE&G buried the gas pipeline across the canal in South Bound Brook. He said there was an apparent illegal utility pole recently installed in the Canal Park in Trenton. Mr. Hahn also reported that most of the path in and around Lambertville that was damaged from last summer's flooding has been repaired by NJ DOT. He said that Chairman DeVecchio will be meeting with the Chairs of the Senate and Assembly Environmental Committees, to discuss fees and administrative penalties for development applications.

Chairman DeVecchio suggested moving November's meeting to Tuesday, November 21 at 10:00 AM because of a conflict with the League of Municipalities conference the week before. The Commissioners agreed to that change.

#### D&R CANAL STATE PARK REPORT

Naturalist Stephanie Fox reported that the Canal Park has a new ranger, and that there would be a program on Raptors and Reptiles on October 21<sup>st</sup> in Kingston. She said the maintenance staff was continuing cleanup activities from the summer flood at Bull's Island.

#### WATER SUPPLY AUTHORITY REPORT

Mr. Shepherd reported that out of six FEMA applications for flood repair reimbursement, four were approved. He said tree removal along the main canal stem is ongoing, and grouting along the embankment at Station 163 in Stockton was complete. He said the Authority met with the design team for the rehabilitation of the Swan Creek aqueduct.

## NEW BUSINESS

The Commission discussed issues regarding donations as mitigation for violations. Mr. Fernandez recommended the Commission adopt a standardized policy for impact fees. Mr. Weyl said he would research whether the Commission had the authority to require impact fees.

Mr. Fernandez reminded the Commission and public about Ballot Question #2 in the upcoming election, which if passed, would establish a stable source of funding for capitol improvement projects for State Parks.

Mr. Fernandez then moved approval of entering into Executive Session; Ms. Mitchell seconded the motion, and it passed unanimously.

The Commission entered Executive Session at 10:55 AM and returned to public session at 11:10 AM. The meeting adjourned at 11:10 AM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ernest P. Hahn".

Ernest P. Hahn