



DELAWARE AND RARITAN  
**CANAL COMMISSION**

**MINUTES OF THE MEETING OF NOVEMBER 16, 2009**

TIME: 10:05 AM – 11:25 AM  
DATE: Monday, November 16, 2009  
PLACE: Canal Commission Office  
Stockton, New Jersey

**ATTENDING:**

**COMMISSIONERS:** Chairman David DelVecchio, Messrs. Martin Jessen, Al Payne, Richard Albert, David Knights, and Ms. Alison Mitchell

**STAFF:** Messrs. Hahn and Weyl, Ms. Holms

**GUESTS:** Bill Bogosian, NJ Water Supply Authority  
Robert H. Barth, Canal Society of NJ and D&R Canal Watch  
Brad Bohler, Bohler Engineering  
Doug Knehr, Esq.

Chairman DelVecchio 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.

**MINUTES OF THE MEETING OF OCTOBER 21, 2009**

Ms. Mitchell moved approval of the minutes of the October 21, 2009 meeting, with changes to the paragraph on page 2 regarding the Monroe Fire House application. In place of that paragraph, she suggested the following:

Ms. Mitchell asked whether the land slated to be used for the firehouse was land acquired by the township as part of an open space set-aside. She said that Monroe Township has an open space set-aside ordinance, whereby land acquired can be used for public facilities such as the proposed firehouse. She said that the ordinance allowing the lands to be used for these types of proposed facilities may not be legal. Mr. Weyl said it was not within the Commission's authority to question the legality of municipal ordinances, and that ordinances were valid until challenged until overturned. The Commissioners requested staff to inform the Green Acres office that this project is being proposed, in the event that the site is part of an open space set aside, or on the Green Acres Recreation and Open Space Inventory.

Mr. Albert seconded the motion with the revision, and it passed unanimously.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Jon Corzine, Governor     Mark N. Mauriello, Acting Commissioner

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## REVIEW ZONE ACTIONS

Mr. Jessen moved approval of the following "A" Review Zone project applications:

08-3650 – Rok Residence Redevelopment, Franklin Township  
08-1742B – NJ Public Health Labs, Ewing Township

Mr. Albert seconded the motion and it passed unanimously.

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

09-3799 – Blyman Estates, Washington Township  
09-3860 – Twin Pines Airport Municipal Park, Hopewell Township  
09-3788 – Princeton ProCure Medical Office Building, Franklin Township

Ms. Mitchell seconded the motion and it passed unanimously.

Mr. Hahn presented the following "A" Review Zone project application for review and approval:

09-2902D – Lambertville Station Inn Roof Repair, City of Lambertville

Mr. Hahn said the existing roof is comprised of faux slate tiles, which give the building an historic character, even though the building is approximately 25 years old. The new roof will be dark gray asphalt shingles, and will not have the same historic character. After some discussion, the Commissioners agreed that, despite the lack of historic character, the new roof would not pose an adverse visual impact on the Canal Park, in part because the building itself is not historic. Mr. Knights moved approval of the application, Mr. Jessen seconded the motion, and it passed unanimously.

Mr. Hahn then presented the final "A" Review Zone project application for discussion:

1113D – Knehr Garage, Lawrence Township

Mr. Hahn summarized the history of the application, going back to its initial submission in 2007. He said the property presently has a single-family residence and a 4-unit apartment building on it, and the applicant is proposing to construct either a 5-car garage or a shed on existing pavement. He said the application is not complete because it has not received municipal approval. He also said that any new proposals for the property are considered non-conforming uses by the township and will require zoning board approval. Mr. Hahn said that although the application is incomplete, the applicant objects to the required fee and conservation easement for the onsite stream corridor which would be held by the Commission. Mr. Weyl said the Commission has a statutory prerequisite, whereby municipal approval must be obtained before an application can be deemed complete. He said that until the application is completed, the Commission does not have the authority to issue a decision. He said the Commission may discuss the matters of the fee and conservation easement, but that the discussion can only be conceptual and non-binding.

Mr. Knehr initially said the reason the township had not issued an approval was because they

were waiting for the Commission's approval. He said that with regard to the requirement of a Conservation Easement, he has already "donated" 1.5 acres of his land to Lawrence Township, and does not want a Commission-held Conservation Easement on top of the Township easement. He said the Commission was asking for 60% of his property and felt this was excessive and a "land-grab". He said the Township's easement allowed mowing, but that the Commission's easement would not, thereby taking away the use of his land. Mr. Hahn stated there is significant scientific evidence attesting to the ecological value of prohibiting mowing within stream corridors, which is documented in the Commission's latest rule adoption document. Mr. Knehr stated that he was scheduled to appear before the Lawrence Township Zoning Board for the needed land-use approval on November 18<sup>th</sup>. After further discussion between Mr. Knehr, Director Hahn and the Commission, Mr. Weyl advised the Commission that they could not take a formal position on this matter at this time because it was an incomplete application. Mr. Knehr advised he would pay the required \$500 fee, but would object to the conservation easement. Mr. Weyl said that the issues of fee payment and conservation easement might need to be addressed in the Appellate Division.

#### EXTENSION OF EXISTING LEASE FOR THE COMMISSION OFFICE

Mr. Jessen moved approval of the extension of the existing lease for the Commission's office (\$2,500/year). Mr. Knights seconded the motion, and it passed unanimously.

#### EXECUTIVE DIRECTOR'S REPORT

Mr. Hahn announced that the Commission and he had received Certificates of Appreciation at a ceremony held to celebrate the D&R Canal's 175<sup>th</sup> anniversary and to acknowledge all those who worked to improve the canal as a park, historic resource, and water supply. He reported on the staff's monthly workload, and said that according to Superintendent Kalleser, the Bull's Island access drive would not be repaired until the end of December.

Mr. Payne added that clearing had been completed for the new path section between Old Rose and Mulberry Streets in Trenton. He said the Griggstown Muletenders Barracks was 90% complete, and he expected DOT to begin towpath repair north of Blackwell's Mills soon. He said the Lock One pedestrian bridge was under design and expected construction to begin in the spring.

#### WATER SUPPLY AUTHORITY REPORT

Mr. Bogosian reported that the rehabilitation of the Swan Creek wall would begin tomorrow. He said the Authority was still reviewing bids for the proposed dredging of the canal between Kingston and Amwell Road, and that they were studying maintenance issues regarding the Ten-Mile Pumping Station, which they surmise will be running non-stop for approximately 1½ years while the dredging is taking place. He also reported that the Six-Mile-Run downstream culvert headwall has been repaired.

## PUBLIC FORUM

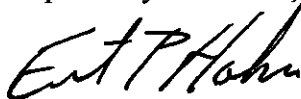
Mr. Barth reported on the excellent event held on November 12, 2009, and told the Commissioners there was a videotape available. He noted that the gate to a side channel at Ten Mile Lock was moved and on its side, and asked Mr. Bogosian whether it would be preserved. Mr. Bogosian said he would check into it. Mr. Barth also asked whether the towpath in Stockton would continue to remain blocked to path users; Mr. Bogosian estimated it would be open in the spring.

Chairman DeVecchio said he was happy to announce that the Garden State Preservation Trust bond referendum had passed.

Mr. Knights then moved that the Commission enter Executive Session. Mr. Payne seconded the motion, and it passed unanimously. The Commission entered Executive Session at 11:10 AM.

At 11:25 AM, the Commission returned to Open Session, and then adjourned.

Respectfully submitted,



Ernest P. Hahn  
Secretary