



## MINUTES OF THE MEETING OF DECEMBER 15, 2010

TIME: 10:00 AM – 1:15 PM  
DATE: Wednesday, December 15, 2010  
PLACE: Canal Commission Office  
Stockton, New Jersey

### ATTENDING:

COMMISSIONERS: Vice Chairman Martin Jessen, Messrs. David Knights, John Loos,  
Ms. Alison Mitchell, Ms. Donna Mahon, and Mayor Phyllis Marchand

STAFF: Mr. Hahn and Ms. Kirkland

GUESTS: Linda Barth, D&R Canal Watch  
Bob Barth, D&R Canal Watch, Canal Society of NJ  
Alex Sarly, Burrego Solar/Orchard Solar Array  
Jon Sarno, Burrego Solar/Orchard Solar Array  
Michael K. Ford, Van Cleef Engineering  
Jamie Herring, Herring Properties  
John Ashcroft, Herring Properties  
Marc Solomon, Pepper Hamilton  
Clem Fiori, Montgomery Township Open Space Commission  
Lauren Wasilauski, Montgomery Township Open Space Commission  
Terry Stimpfel, Self/Sierra Club  
Evan Hill, Innovative Engineering  
Bill Bogosian, New Jersey Water Supply Authority  
Joe Shepherd, New Jersey Water Supply Authority

The meeting opened at 10:08 a.m. 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.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Chris Christie, Governor, Kim Guadagno, Lt. Governor Bob Martin, Commissioner

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## MINUTES OF THE MEETING OF NOVEMBER 10, 2010

Mayor Marchand moved approval of the minutes of the meeting of November 10, 2010; Ms. Mahon seconded the motion and it passed without dissent.

### PROPOSED MEETING DATES FOR 2011

Mr. Loos moved approval of the following 2011 meeting dates, beginning at 10:00 AM:

January 19  
 February 16  
 March 16  
 April 20  
 May 18  
 June 15  
 July 20  
 August 17  
 September 21  
 October 19  
 November 9  
 December 21

The motion was seconded by Mr. Knights and it passed unanimously.

### REVIEW ZONE ACTIONS

#### 10-4033 Lock 1 Stabilization and Pedestrian Bridge

Mr. Barth from the Canal Society of New Jersey raised an objection to the Lock 1 Pedestrian Bridge in Hamilton, NJ. He objected to the fact that it isn't designed as a swing bridge which prevents recreational boaters from navigating under it. A lengthy discussion ensued, resulting in the proposal to consider a resolution at the next meeting requiring the Commission to review navigation issues during the planning stage of bridge projects, and to require that certain navigation standards be met whenever possible. Mr. Hahn agreed to draft a resolution for the next meeting. Mr. Knights moved approval of the application with the following condition:

Because the new pedestrian bridge will eliminate the majority of boat access (with the exception of canoes and kayaks) the Commission urges the Department to explore, during the bidding & construction phases of this project, the possibility of retrofitting this bridge to be moveable in the future.

Mayor Marchand seconded the motion and it was approved unanimously.

Mr. Knights moved approval of the following two "A" zones with the conditions as recommended by staff:

10-3348B Cadwalader Park Picnic Pavilion, City of Trenton  
 10-2092E Lambertville Station Inn Deck Enclosure, City of Lambertville

Mr. Loos seconded the motion and it was approved unanimously.

There was discussion regarding the following "B" zone application:

10-2294G Lawrenceville Solar Farm, Lawrence Township

Ms. Mitchell asked whether any studies have been conducted confirming that there are no stormwater impacts from solar panels. She expressed concern that other natural resources might be sacrificed in order to encourage the use of solar arrays. The Commission's engineer provided information indicating that DEP had determined that if the rows of panels were separated and drained into a "meadow", they would not cause adverse stormwater impacts. It was generally agreed that the solar panels imposed much less impact than agricultural use, because the ground underneath them would be allowed to revert to meadow which is very low maintenance and only needs mowing once a year. Mr. Loos raised the objection that nesting birds might be displaced by yearly mowing.

Mr. Loos moved approval of the application with the condition that mowing be prohibited from March 31 to August 15 which represents their nesting season. Mr. Knights seconded the motion and it passed unanimously.

Mr. Loos moved approval of the following "B" Review zone projects:

10-4041 Garden Solar Energy Field, Kingwood Township  
 10-4034 Senior Star Adult Daycare, Ewing Township  
 10-3006E Peddie School Solar Array, Hightstown Borough, East Windsor Township  
 10-3754 Novel Labs Dehumidification Installation, Franklin Township  
 10-4004 OFS Fitel Facility Expansion, Franklin Township

Ms. Mitchell seconded the motion and it passed unanimously.

Mr. Hahn introduced the following conceptual "B Zone Project":

10-3758B Orchard Solar Array, Montgomery Township

Mr. Hahn stated that this application involves the installation of a solar array and inverters on the larger of two lots to provide electricity for an existing building. The array would cover approximately 5.5 acres, 4.2 acres of which are in the floodplain. Of the 5.5 acres, 1.5 acres is early successional forest (mature red cedars and dogwoods, approximately 25 years old). The remainder is maintained lawn.

The applicant explained that Johnson and Johnson was currently their most profitable tenant, and that they were in danger of losing them because of electrical outages during times of peak demand. It was also explained that the property had been subdivided for residential housing, including some COAH housing. The applicant had not yet been before the Montgomery Township Planning Board but had done a walkthrough with the mayor of the township. Michael Ford, from Van Cleef Engineering, proposed various methods of enhancing water quality to mitigate for the disturbance in the flood hazard area. Two members of the Montgomery Township Open Space Committee were present at the meeting and discussed their concerns over existing easements which might be compromised by the solar arrays, and said that they were

hesitant to set a precedent. The Commissioners discussed strategies for relocating the solar arrays to areas where they would create less of an environmental impact. Each alternative was rejected by the applicant's team for various reasons, including shading from mature trees and the angle of the sun for optimal efficiency. Mr. Herring presented his arguments as to why this project was in the public interest and how it meets the Commission's standard of compelling public need. The Commissioners agreed that the applicant should provide further detail on the various mitigation measures conceptually presented, including water quality improvements, as well as potential offsite preservation and/or enhancement of stream corridor buffers.

#### EXECUTIVE DIRECTOR'S REPORT

Mr. Hahn reported on the staff's monthly workload and incoming revenue. He noted that resolutions had been passed by the D&R Greenway as well as the following municipalities: Stockton Borough, the City of Lambertville, West Windsor, Franklin and Hopewell Townships.

#### WATER SUPPLY AUTHORITY REPORT

Mr. Shepherd reported that work on the Rooster Coop spillway was ongoing and completion was expected tentatively on February 11, 2011. Staging for the Workhouse Spillway had begun and the removal of debris on Mulberry Street was completed.

#### PUBLIC FORUM

Ms. Stimpfel of the Sierra Club advised the group of her work encouraging many municipalities in the D&R Canal Commission Review Zones to offer their support and added that resolutions from Lawrence Township and the Mercer County Board of Chosen Freeholders were anticipated.

Mr. Loos moved approval to enter into Executive Session for the purpose of discussing personnel matters. Mr. Knights seconded the motion and it passed unanimously. The Commission entered Executive Session at 12:40 PM. At 1:15 PM, the Commission returned to the Public Meeting and adjourned.

Respectfully submitted,



Ernest P. Hahn  
Secretary