

MINUTES OF THE MEETING TO BE REVIEWED

September 19, 2012

Delaware and Raritan Canal Commission

TIME: 10:10 a.m. – 1:05 p.m.
DATE: August 15, 2012
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Mr. David Knights, Mr. John Loos, Mayor Phyllis Marchand, Ms. Alison Mitchell; and Mr. Edward Mulvan.

STAFF: Ms. Marlene Dooley, Ms. Colleen Christie Maloney, Deputy Attorney General Jay Stypinski, Ms. Irene Donne.

GUESTS: Ms. Patricia Kallesser, Superintendent, Delaware and Raritan Canal State Park; Mr. Bill Bogosian, NJWSA; Mr. Joseph Shepherd, NJWSA; Mr. Robert Barth and Mrs. Linda Barth, D & R Canal Watch; Anna Wyman, Head Docent, Prallsville Mills; Lauren Etier, Court Reporter, Guy J. Renzi; Walt Lankenau; Phillip Lubitz, Deputy Mayor, Kingwood Township; Chris Tarr, Stevens and Lee; Susan Corus; Tim Minor, D&R Canal State Park; R. Wunderlich; Theodore Chase, Franklin Township; Robert C. Holmes; Nona Sirbaugh; Tom O'Shea, Van Note-Harvey; Miyuki Kaneko, Stevens and Lee; John Masten, Institute for Advanced Study; Bruce Afran, Princeton Battlefield Society; Karen Herzog, Herzog Associates; Michael J. Crowley, Trap Rock Industries; Dan Whitaker, Lambertville Station; Kathleen E. Klink, Delaware Township; Robert von Zumbusch, Kingston Village Advisory Committee, D&R Canal Coalition, Millstone Valley Preservation Coalition; Diana Evans, Kingwood Township Resident; Jeff Tittel, NJ Sierra Club; Emile DeVito, New Jersey Conservation Foundation.

The meeting opened at 10:10 a.m. Vice Chairman Loos announced that this was a regularly scheduled meeting of the Delaware and Raritan Canal Commission and that all provisions of the Open Public Meeting Law of 1976 had been met.

IDENTIFYING ADDITIONAL COMMISSION MEMBERS TO SIGN DOCUMENTS

Mr. Loos noted that he, as Vice Chairman, signed resolutions. He raised that, in his absence, someone else should be capable of signing documents. Mr. Loos recommended that any Commissioner should be able to sign documents. It was moved and seconded, and approved unanimously.

MINUTES OF MEETING

Minutes of the Meeting of July 16, 2012

Mr. Knights moved to approve the minutes and Mayor Marchand seconded the motion. The minutes were approved unanimously.

REVIEW ZONE PROJECTS

REVIEW ZONE A

12-3683A State House Water Infiltration Repair

Mayor Marchand moved to approve the project; Mr. Knights seconded the motion; the project was approved unanimously.

12-4191A Trap Rock Solar Array-Kingston

Ms. Mitchell asked about the view from the second floor at Rockingham during the winter months and inquired about screening with deciduous trees. Ms. Dooley noted that the evergreen screen to be planted by the applicant is expected to block the view of the array from ground level but the array may be visible from one window on the second floor of Rockingham. Vice Chairman Loos asked if the public had access to that second floor window; Superintendent Kalleser said the public does have access to it. Vice Chairman Loos asked Superintendent Kalleser if Rockingham's block and lot on the Green Acres inventory are part of the D&R Canal State Park; Superintendent Kalleser responded that the property was originally assigned to Washington's Crossing State Park and then it was transferred to D&R Canal State Park. Mr. Knights noted that Rockingham was moved to its present location and is a beautiful setting and pointed out that one strategically placed deciduous tree could block the array from view at the upstairs window at Rockingham. He suggested that the Park Superintendent make a decision on the location of the tree. Vice Chairman Loos asked the Superintendent if she thought this would be a solution; Superintendent Kalleser raised concerns such as maintenance, the turn-in, an entrance to the property, and visibility of Rockingham from the road. Mr. Knights asked if the applicant might be willing to plant mixed deciduous trees on the park property to block the view of the array from the window; the applicant agreed. There was discussion of approving the application with the condition that, once the array was installed, there would be an evaluation of the view from Rockingham's window, and a decision to plant trees so as to block any view of the array. Mayor Marchand motioned for approval of the project provided that if, after it is constructed, the array is visible through the second floor window, and the park superintendent finds it appropriate, the applicant will plant deciduous trees as directed by the park superintendent. Ms. Mitchell seconded the motion.

Mr. Conway, Trap Rock, noted that his company is willing to work with the Park staff and do what the Park prefers regarding the planting of trees. Ms. Mitchell asked if the array could be moved elsewhere on the property so that fewer trees would be taken down. Mr. Conway noted that they have tried to minimize the number of trees to be taken down for the project and that, if they moved the array to a different place on the Trap Rock property, many more trees would be cut down. Ms. Mitchell asked Mr. Conway if the electricity generated by the array would be exclusively for use by the quarry; Mr. Conway confirmed the quarry runs almost entirely on

electric power and that power from the array would be for use of the quarry only.

Mr. Chase, Franklin Township Councilman and Planning Board member, noted that the members of the Millstone Valley Preservation Coalition would rather not have the array in the proposed location because the road is a Scenic Byway. He noted that the Franklin Township Planning Board did approve the current location of the array and that one-half of the array is placed further away near the company's operational headquarters. He noted that moving a portion of the project to an alternate location would mean placing the array on steep slopes and involve more tree cutting. Ms. Mitchell asked if the array is visible from the Scenic Byway; Mr. Chase explained in further detail where the applicant is planting trees as a screen.

Mr. Chase noted that a motion for the applicant to plant trees should be more specific, as to whether the trees would be planted closer to the Rockingham building or to the road. Vice Chairman Loos suggested that the applicant be allowed to construct the array and then work with the Park Superintendent to plan the location and type of the trees to be planted.

Superintendent Kalleser noted that Rockingham was donated as part of a land swap and asked what year it was it occurred; a Trap Rock representative noted it was the late 1980s or early 1990s. Vice Chairman Loos asked Superintendent Kalleser if Rockingham is separate from D&R Canal State Park, the same way that Six Mile Run is not part of the Park; he noted that Rockingham is administratively managed by but not part of the D&R Canal State Park. Superintendent Kalleser stated she did not believe there was a separate Rockingham acquisition.

Mr. von Zumbusch spoke. He noted that he was a member of the Kingston Village Advisory Committee, the D&R Canal Coalition, and the Kingston Greenway Association. Mr. von Zumbusch noted that the planting of trees in the Rockingham property is not appropriate to the cultural landscape of the historic site. He acknowledged that Trap Rock has the right to place their array on the designated location and that Franklin Township approved the application, but that he hoped Trap Rock would change the location of the array. Mr. von Zumbusch raised that he had designed and presented an alternative location plan to the applicant. He also noted that PSE&G had recently installed electric poles along the same scenic corridor near Rockingham; this is also an intrusion into the Scenic Byway corridor. He noted that the Commission was involved in the development of the Scenic Byway.

Mr. Tittel, NJ Sierra Club, asked about the screening of the array. Vice Chairman Loos noted that, on the Trap Rock property, the 3-deep evergreen screen would block the view of the solar array from the road and the bottom level of Rockingham. Mr. Knights asked about the appropriateness of having the private sector plant trees on the Park property. Ms. Mitchell noted that the applicant is asking for a waiver and, therefore, making as little visual impact as possible is the goal and that tree planting, by the applicant, should not be seen as onerous.

Vice Chairman Loos noted that there was a balance between the planting of trees to protect the view from Rockingham and not wanting to screen the view of the historic resource, Rockingham, from public view from the road. He suggested carefully placing the trees. If more trees are needed, the state park department could possibly work with Trap Rock or the Franklin Township Shade Tree Commission could take action.

Mr. Barth, D&R Canal Watch, noted that Rockingham is on the register of national historic places. He noted that the purpose of the Scenic Byway is to preserve some of the history and beauty of the area and he reminded the Commission that the road in the front of the Rockingham is a scenic byway. He noted that it is a sad day when an historic resource such as Rockingham is impacted. He noted that it is good that Trap Rock is exploring solar, but hoped the alternative location plan would be further explored.

Ms. Mitchell asked about waiver provisions and fully screening the view. Ms. Dooley noted that the project does not meet the visual standard of screening the winter visual from the second floor of Rockingham. It does however meet the standard when viewed from the canal path, because of a berm. It also meets the standard from the street level of Canal Park because the trees will screen the view of the array. She noted that Rockingham is not referred to in the Master Plan; she noted that the historic site was originally placed by Green Acres under the superintendent of Washington's Crossing State Park and then its supervision was transferred to the D&R Canal State Park superintendent. Vice Chairman Loos noted the screening will block all view from the grounds of Rockingham and the park. The motion would best address the issue of impact.

The motion was approved unanimously. Ms. Mitchell noted that she approves the project with some reservation and does not want to see the project moved into a wooded area on the property that would require extensive removal of trees.

12-2092E Lambertville Station Banquet Facility

Ms. Mitchell asked for clarification as to the location of the addition to the Lambertville Station property. Ms. Dooley noted that the addition to the facility would be over existing impervious surface, specifically, the parking lot. Also, she noted the project was greatly scaled back from an addition previously approved by the Commission. Mr. Tittel asked about lost parking spaces; Mr. Whitaker, Lambertville Station, explained that they have more parking than needed. Mayor Marchand moved to approve the project; Mr. Knights seconded the motion; the project was approved unanimously.

12-4326 1285 Daniel Bray Highway Project

Ms. Dooley showed samples of the brick to be used for the project that were supplied by the applicant. Mr. Knights moved for approval of the project; Mr. Mulvan seconded the motion; the project was approved unanimously.

REVIEW ZONE B

11-3580B Route 518 Widening

There was discussion on the 11-3580B Route 518 Widening. Mayor Marchand asked for clarification on the location of the project. Vice Chairman Loos explained its location. Mr. Chase noted that this was a difficult section of road. Ms. Dooley noted the applicant has sought a waiver from stormwater quantity requirements. Some reasons were outlined. It was noted the applicant will construct a treatment device to address water quality.

Mr. Knights moved approval of the following projects:

11-3580B Route 518 Widening

12-3047B Princeton International Properties
11-4218 Trumpf Photonics

Ms. Mitchell seconded the approval. The projects were approved unanimously.

12-4319 Ukarish Subdivision

Phillip Lubitz, Deputy Mayor of Kingwood Township, spoke regarding the township's request for a waiver of the fee. He noted the project is a COAH project and that Kingwood Township is donating 7 acres of land and obtaining permits; Habitat for Humanity will build and administer the properties. Mr. Lubitz said that the Commission's fees create a hardship for Kingwood Township; he stated that government charging government is just not right. He noted that Kingwood Township had preserved a lot of land with its solar ordinance to protect the Lockatong Creek Greenway. He noted that, by building this project, the township satisfies its affordable housing obligation and the project might help avoid a potential "builders' remedy" lawsuit, which would result in more building. He asked the Commission to offer Kingwood a waiver and reduce the fees to \$2,000.

Mr. Knights noted that affordable housing projects have been few in his tenure as a Commissioner. He noted that he would consider adjusting the fee and approve the project if there was latitude to do so. Ms. Mitchell noted that Kingwood has made progress in recent years in terms of protecting open space and ordinances to protect the environment. She noted, however, that the Commission may not have the authority to waive fees. Ms. Dooley noted that she viewed the waiver provision as only applying to review standards not fees. Mr. Lubitz argued that by waiving the standards for the project, one could waive the fees associated with it.

Vice Chairman Loos asked for clarification of the fees due for the project. Mayor Marchand noted that fees are sometimes waived at the township level in a community; she is sympathetic to the community's budget issues, but noted that the Commission must consider the implications to future projects.

There was further discussion on fees and the amount of review a project such as this required by Commission staff. Ms. Dooley noted the project had been reviewed for stormwater, groundwater, runoff quantity, and runoff quality of 3-10 acres. Also, the Commission's work included review of the stream corridor on the site and review of a waiver request. Ms. Mitchell noted that the fees are related to the amount of work required for the review.

Mr. Loos asked DAG Stypinski to review the chapter in the Delaware and Raritan Canal Commission rules regarding waiving fees for extreme economic hardship. DAG Stypinski discussed the heightened standard of proof. He noted that the waiver provisions appeared to address more the design standards. Vice Chairman Loos suggested that the applicant supply more details for its argument of a fee waiver. Mr. Knights asked if the 7 acres on which the project will be built was a donation by the township to Habitat for Humanity; he argued that the donation could be considered a hardship. Ms. Mitchell noted that it would be hard to show severe economic hardship for a municipality. Ms. Dooley noted that many municipalities call to ask for a waiver of fees; she was unsure if this situation could be distinguished on the basis that the project is for an affordable housing project.

Mr. Lubitz also noted that the project is good for the canal; it protects the canal from the impact of 400 units which might result from a builder's remedy lawsuit. Mayor Marchand did not agree with this position. She noted that if a project with 400 units was built it might not be built on this site or in the Delaware and Raritan Canal Commission review zone; there could be no impact to the canal.

Vice Chairman Loos noted that the overall disturbance of the project includes removing buildings in a stream corridor and this could be seen as a benefit to the environment. Mr. Tittel noted that the project is a greater benefit because it is affordable housing. Dr. DeVito, NJ Conservation Foundation, noted that this motion for a fee waiver should be considered very carefully. It was suggested that the applicant do further research and return to the Commission to discuss a waiver of fees. The DAG was asked to examine this issue.

Ms. Dooley advised that it would benefit the applicant to have the substance of the project voted upon. She believed the township had mentioned that Habitat for Humanity has limits on the time of year it can do construction. Mayor Marchand moved to approve the project, with the discussing for the fee waiver request deferred to the following month's meeting; Mr. Knights seconded the motion. The motion was approved unanimously. The applicant agreed to return to the following month's Commission meeting to further discuss the fees for the project.

Project subject to 45-Day Rule: 09-3791 Institute for Advanced Study Faculty Housing

Vice Chairman Loos asked that any Commissioner who needs to recuse him or herself from voting on this project identify him or herself and explain the need for recusal.

Mayor Marchand noted that she needed to recuse herself and explained that she was doing so because she had been the Mayor of Princeton Township and a member of the regional planning board and, in both of these positions, she had endorsed the project. The project has been slightly altered since that time; she noted she believes it is a good project for the community.

Vice Chairman Loos noted that the Commission was not in a position to vote on this project as, with one member recused, the Commission lacks quorum to vote on projects. He explained that the Commission is a nine member commission, with four vacancies, which leaves five current Commissioners. With one recusal, four is not enough to vote. Mr. Loos quoted from the Commission rules, "If the Commission fails to take action on an application by 45 days from the date that the application is declared or deemed to be complete, the application shall automatically be deemed to be approved. This default approval is subject to any applicable pre-approval conditions set forth in this chapter for activities covered by the application. The Commission shall not issue an individual approval until the conditions have been met."

Ms. Dooley noted that the Institute for Advanced Study Faculty Housing project was identified as complete in her July 19, 2012 staff report. Vice Chairman Loos noted that the application, as submitted, will be automatically approved 45 days from that date. Vice Chairman Loos noted that the automatic approval is specific to private projects, not governmental projects. A question was raised related to request for a waiver in the application. He noted that the Commission has received comments from attorneys related to the approval of the project. He noted that the Commission would rely on its legal counsel and not engage in legal discussion.

Mr. Tarr, of Stevens and Lee, attorney for the applicant, noted that he had hired a court reporter to record the meeting discussion related to this project. He discussed the issues to be addressed by the New Jersey appellate division. Mr. Tarr noted that there are no prospects of Commissioners being appointed in the near future. He asked the Commission to join him in requesting an expedited review regarding issues related to the application and recusal by Mayor Marchand. Mr. Tarr does not believe that Mayor Marchand needs to recuse herself.

Vice Chairman Loos noted that the Commission would rely on its counsel related to the issue of seeking expedited review; the Commission would discuss the issue in executive session as the issue involves litigation.

Mr. Tarr noted that his client had preserved 600 acres of open space for public use; the current 70-acre project would plant 300 trees and have 20 acres available for public use. He noted that this is a wonderful project and it is unfortunate that three lawsuits that have been filed.

Mr. Afran, attorney for the objectors of the Princeton Battlefield society and several individuals, noted that his request that Mayor Marchand recuse herself was not meant to infer that she would not have done so on her own. He disagreed with Mr. Tarr and noted that the Mayor Marchand recusal is real and made reference to her work on the planning board. He also noted that he did not realize there would be a quorum issue when he requested that Mayor Marchand recuse herself. Mr. Afran stated the 45-day rule is triggered only when there is intent by the Commission to delay review of a project. He believes there should not be an automatic approval of the project, as the Commission did not have intent to delay review and the Commission did not fail to act due to inattention or through refusal to act. The Commission has not failed to act and it is not legally allowed to act because of a lack of quorum; therefore he does not believe use of the 45-day approval is correct.

Mr. Afran also stated that the Institute for Advanced Study donated 600 acres of land for the right to build 276 homes; later, the Institute received a \$14,000,000 payment from the municipality for the land to not build 276 homes.

Mr. Afran noted that the current project site is associated with the Princeton Battlefield which was designated in June 2012 as one of the 11 most endangered historic sites in the country. The project site is the last remaining open portion of the Princeton Battlefield. He stated that an archeological survey shows that the battle was on the project site and that the site is also environmentally sensitive, with wetlands.

Mr. Afran noted that he was opposed to getting an expedited review by the Appellate Court as there are complex issues to review. He asked that the Commission not join the Institute in asking for an expedited review.

Mr. Tarr asked the Commission to consider the potential conflicts for many Commission applicants and their applications seeking review of their projects. The expedited review would help resolve any questions of quorum.

There was a brief discussion regarding abstentions.

Mrs. Barth, citizen of New Jersey, asked about appointment of new Commissioners. Discussion ensued about criteria required of Commissioners and the appointments of Commissioners. Mr. Tittel noted that citizens can send letters to the Governor's office to request appointments.

At 12:00 p.m., an informal break was taken; at 12:10 p.m. the meeting resumed.

EXECUTIVE DIRECTOR'S REPORT

Ms. Dooley reported on the staff's monthly workload. She noted that staff processed six Deficiency Letters, seven Jurisdictional Determinations, six General Permits 1, nine Certificates of Approval, and nine projects for presentation. Fees resulted in \$19,000 for the month.

Ms. Dooley noted that she had contact with PSE&G regarding the new utility poles placed near Rockingham. She noted that PSE&G is not required to seek local permits for such work, so under the Commission rules, the company was not required to seek approval by the Commission for the work. The Executive Director is planning a meeting with PSE&G and the D&R Canal State Park Superintendent to discuss future work within the Commission review zones.

Ms. Dooley noted that the GAF landfill recapping project in South Bound Brook will resume September 4, 2012.

Ms. Dooley noted that the Commission received approximately 75 emails from citizens concerned about the tree work to be done on Bulls Island. The NJDEP has not submitted an application to the Commission for a project on Bulls Island.

NEW JERSEY WATER SUPPLY AUTHORITY

Mr. Shepherd noted that the Authority was addressing the clean up of trees along the canal.

D & R CANAL PARK REPORT

Superintendent Kalleser noted that there was much storm damage and related trees to clean up. She met with historic architect Holt/Morgan/Russell regarding the interior kitchen restoration at the Port Mercer Canal House, which needs work related to Hurricane Irene damage. The exterior of the canal house is being refurbished. Superintendent Kalleser has met with representatives of Kingwood Township regarding a newly executed Memorandum of Agreement, which will allow Kingwood Township to manage a special hunt on Flagg, Kirkland, and Horseshoe Bend properties. August 31, 2012 is the lottery submission deadline; the drawing will be September 5, 2012. On September 4, the South Bound Brook GAF project will resume.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

SCHEDULING OF NEXT MEETING

No Commissioners reported a conflict related to the September 19, 2012 meeting.

PUBLIC FORUM

Mr. Barth asked if the Commission's counsel had provided more information on the 45-day rule. DAG Jay Stypinski noted that DAG Jablonski is reviewing the issue. Vice Chairman Loos noted that the review and decision will have an impact on other Commissions and therefore the review is taking additional time. Mr. Barth distributed a flyer about D&R Canal Watch activities, including hikes. He noted his meeting related to the Easton Avenue Pedestrian Bridge project and his participation in the design aspects of the project.

Mr. Wolfe, NJPEER, asked about the status of Bulls Island. He was informed that there is not an application submitted. He noted the previous month's minutes, where Vice Chairman Loos addressed his comments regarding the Executive Director of the Commission not sharing correspondence with the Commission. He noted the importance of keeping a correspondence log. Mr. Wolfe noted copies of correspondence he had obtained related to the NJ Water Supply Authority from the Army Corp of Engineers and the Hunterdon County Soil Conservation District with respect to violations and enforcement actions. He submitted copies of letters from the Army Corp and the Hunterdon County Soil Conservation District.

Vice Chairman Loos noted that the Executive Director has discretion and has historically gathered information related to an application to present as appropriate to the Commission. Vice Chairman Loos noted that all Commission members must keep an open mind and review the project in totality at the time an application is submitted. Mr. Wolfe commented that the Executive Director should not be given discretion; there needs to be transparency and a chronology log is a good tool to help do so.

Mr. Wolfe commented that the NJ Water Supply Authority is having permit and compliance issues with the Army Corp that are affecting the dredging operations. Vice Chairman Loos encouraged Mr. Wolfe to continue to provide materials he finds important.

Mr. Tittel suggested that the Commission should have a factual hearing at the next meeting with all interested parties invited. If so, the public will understand that the Commission is being deliberative in its review of projects. He is concerned about historical, visual, and environmental impacts.

Vice Chairman Loos noted that the NJDEP was asked to attend a public forum to discuss the issue but cannot be compelled to do so. If the NJDEP files an application for such a project, the Commission will have a public meeting on the issue.

Mr. Tittel asked that the Corp of Engineers and other parties be invited to a public meeting to discuss the project. Vice Chairman Loos noted that the Commission does not yet have an application. Ms. Mitchell noted that the NJDEP cannot cut the trees without a permit from the Commission. Mr. Tittel noted his concern that the Commission may not get an application. Vice Chairman Loos noted that even if there is not a quorum, through the Doctrine of Necessity the Commission may be able make a quorum and vote to approve or not approve a project. Mr. Tittel noted that the NJDEP might try to block the jurisdiction of the Commission or try to make the Commission not function, and that could be frustrating for the public.

Mr. Chase asked about the status of the Terhune project in Franklin Township. Ms. Dooley

noted that it is not finalized as she is working with the applicant's attorney to conclude the stream corridor easement.

Mr. Chase asked about the bridge replacement at DeMott Lane. Mr. Mulvan noted that NJDEP is in the process of hiring a consultant and proposals had been reviewed.

Dr. DeVito introduced himself as Manager of Science and Stewardship for New Jersey Conservation Foundation, with a PhD in Ecology with a specialty in forests of the eastern United States. He noted his participation with other environmental groups. Dr. DeVito noted his concern about the Bulls Island issue and the importance of an education process for the Commission so it can be informed of the issues. He noted his concern that the plan of the NJDEP to cut trees at Bulls Island did not go through an internal review process at the NJDEP. He noted that every proposal related to management of resources in a park should go through a thorough internal review process at NJDEP so that all the different departments can comment. Vice Chairman Loos asked about the process of review; Dr. DeVito noted that at a recent Endangered Species Advisory Meeting, the process was not begun. Information related to the tree plan was in the newspaper before any review was started. He noted the presence of the Cerulean Warbler and a subspecies of the Yellow Throated Warbler that are found on Bulls Island. He explained that the Yellow Throated Warbler should be considered an endangered species, and was not labeled as such because of a technical issue of it being a subspecies. He described the plan to cut six acres of trees that have old growth forest characteristics as an ecological travesty. He noted that the Japanese Knot Weed will proliferate with the clearing plan. He noted that no restoration plan will survive with the flooding, shifting gravel and sand. He noted that trees are falling everywhere and they are falling no faster on Bulls Island. He urged the Commissioners to educate themselves about the forest ecology and implications of the tree removal plan. Dr. DeVito offered to take meeting participants on a tour of the open section of Bulls Island after the meeting to learn about floodplain forest. He pointed out that the lower end of the island is a natural area and pointed out that the upper end of the island was labeled as recreational years ago because of camping, and could as well have been labeled as a natural area.

Vice Chairman Loos noted that the NJDEP may be posting a survey on its website asking for public opinion on the future use of the north end of Bulls Island. He also pointed out that, until the Commission has an application for the project, it would not know what the final proposed plan might be. Vice Chairman Loos suggested that the Commission perhaps set a day to learn about the project once the application is submitted. Vice Chairman Loos commented that this potential project is perhaps the most controversial he has seen in his tenure as a Commissioner at the Delaware and Raritan Canal Commission.

Mr. Wolfe discussed materials he had received by submitting OPRA requests. He noted that an email dated July 7, 2011 from an assistant commissioner involved directing staff to put a bid together for logging on Bulls Island, which is a week before the tree survey was completed by Bartlett Tree Service. He noted that materials from July and February of this year gave no consideration to review of the plan by the Commission or DEP Land Use permits. He agrees that a public hearing would be beneficial.

Mrs. Barth, D&R Canal Watch, asked why a consultant was needed for the bridge at DeMott Lane when it is identical to the original. Mr. Mulvan explained that engineers, plans and

specifications are needed to build the bridge; it must be certified and have structural integrity and proper design.

At 12:45 p.m., Mr. Mulvan moved to go into executive session; Mayor Marchand seconded the motion. The motion was approved unanimously. The Commission went into executive session.

At 12:55 p.m., the Commission reconvened to public meeting. Mayor Marchand moved to make an offer to Charles Stieber for Review Zone Officer at a salary range of \$40,000 - \$50,000. Also, it was suggested that, if the job applicant accepts the position, the Commission bring him on to the staff at a per diem rate as soon as possible. Mr. Knights seconded the motion. It was passed unanimously.

Mr. Knights moved to adjourn the meeting; Mr. Mulvan seconded the motion. It was approved unanimously. The meeting adjourned at 1:05 p.m.

Respectfully submitted,


Marlene Dooley
Secretary