

MINUTES OF THE MEETING TO BE REVIEWED

November 19, 2012

Delaware and Raritan Canal Commission

TIME: 10:20 a.m. – 11:55 a.m.
DATE: October 15, 2012
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

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

STAFF: Ms. Marlene Dooley, Ms. Colleen Christie Maloney, Deputy Attorney General Dean Jablonski, Deputy Attorney General Jung Kim

GUESTS: Ms. Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Mr. Bill McKelvey, Canal Society of NJ; Mrs. Linda Barth, D&R Canal Watch; Mr. Robert Barth, D&R Canal Watch; Mr. Bill Wolfe, NJPEER; Mr. John Sieman, Express Times; Ms. Shirley Kessler, Resident of Lambertville.

The meeting opened at 10:20 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.

SCHEDULING OF NEXT MEETING

Due to a conflict in schedules, the November Commission meeting was rescheduled to Monday, November 19, 2012.

MINUTES OF MEETING

Minutes of the Meeting of September 19, 2012

Mayor Marchand noted a correction to page 5, paragraph 2, in which she stated the language should read, " Mayor Marchand stated she did not think it was the time to discuss the Master Plan when an application for Bulls Island was about to come in." Mayor Marchand moved to approve the minutes with that change and Mr. Knights seconded the motion. The minutes were approved unanimously with the change.

REVIEW ZONE PROJECTS

Executive Director Dooley noted that we did not have quorum for project 12-3969C Forrestal Professional Center in Plainsboro.

REVIEW ZONE A

Ms. Mitchell moved to approve the following Review Zone A projects:

- 12-4346 479 West State Street (Trenton)
- 12-4359 480 & 482 West State Street Demolition (Trenton)

Mayor Marchand seconded the motion. The projects were approved unanimously.

REVIEW ZONE B

Mr. Knights moved to approve the following Review Zone B projects:

- 12-666B Gardens at Birmingham (Ewing)
- 12-4173A St. Peter's Parking-How Lane (New Brunswick)
- 12-4184B St. Peter's ER Canopy (New Brunswick)
- 12-2354A Carnegie Center Bldg 508 Parking (W. Windsor)
- 12-4288 Amwell Road Reconstruction (Hillsborough)
- 12-4311 Ryan Administration Building (Ewing)
- 12-4347 Universal Display Addition (Ewing)

Mr. Mulvan seconded the motion. The projects were approved unanimously.

Projects subject to 45-Day Rule:

12-3969C Forrestal Professional Center (Plainsboro). Mr. Knights recused himself from voting on the project due to his work with Princeton University. Vice Chairman Loos noted that, with Mr. Knight's recusal, the Commission did not have quorum and could not take action on the project. He noted that the application, as submitted, will be automatically approved 45 days from the date it was deemed complete. It was deemed complete on September 26, 2012 and would be automatically approved on November 10, 2012. Ms. Dooley noted letters are issued to applicants stating the automatic approval date.

Permit Extension Act Notice:

Ms. Dooley stated that recent amendments to the Permit Extension Act extended the date of approvals to December 2014 and required a notice in the NJ Register. Ms. Dooley provided the DRCC notice. Mr. Knights moved to approve the notice; Ms. Mitchell seconded the motion; it was approved unanimously.

EXECUTIVE DIRECTOR'S REPORT

Ms. Dooley reported on the staff's monthly workload and fees (see attached report).

Potential Bike/Pedestrian Path Connector at I-95/Scudders Falls

Ms. Dooley reported on a meeting with the Delaware River Joint Toll Bridge Commission (DRJTBC) regarding expansion of the I-95 bridge at Scudders Falls which included discussions of a pedestrian and bike lane that would connect to the D&R Canal Park path. There was substantial discussion by all Commissioners and the public. Discussion included Mr. Barth outlining DRJTBC public meetings that he had attended and noted that members of the public from PA and NJ had requested the bike and pedestrian path. The Commissioners expressed unanimous support for linking the PA and NJ paths with a ramp; it will help Park users access

both sides of the river and experience both canals and associated paths. There was also discussion related to issues that need to be addressed during the design phase including responsibility for maintenance, liability, visual impact on the Park, handicap accessibility, potential additional mitigation, and the logistics of the point where those entering the path from the bike/pedestrian ramp and those on the Canal path meet to ensure safety for both users; the ramp at Washington Crossing was discussed as a positive example. Ms. Dooley was asked for clarification regarding the potential mitigation funds for the Swing Bridge.

Lambertville Request for a Special Meeting

Ms. Dooley informed the Commission that the City of Lambertville is requesting a special meeting to review a road project on South Franklin Street in Review Zone A; the project is partially financed with funds from DRJTBC. Because DRJTBC funds must be expended by December 31, 2012, work must begin in November and DRCC approval at the regularly scheduled November meeting would be too late to accomplish the required work.

There was substantial discussion regarding the specifics of the project including the reasons and concerns for the project by the township and neighbors, the timing of documents presented to the Commission, meeting with Commission staff and engineers for the City and the funding. There was discussion related to the specifics of the project including that the existing road is dirt and in Zone A, the project includes curbing, would expand the road slightly, would include the collection of stormwater, would include a discharge point close to a tributary that discharges to the Canal, and that the City of Lambertville may seek waivers. There was also discussion regarding the rules including the waiver and stormwater requirements.

Vice Chairman Loos outlined the two options that the applicant wait until the next meeting or that the Commission consider a special meeting by conference call. There was discussion with the DAG as to the requirements for a special meeting including public notice, the need for a location for the public to be available to attend and the ability of Commissioners to attend by telephone. The Commissioners all noted the importance of assisting a municipality so it did not lose funding. However, the logistics of obtaining a meeting date when the Commission was having difficulty identifying a regularly scheduled meeting, not being able to review documents and maps with the engineers in a conference call, the necessity not to rush a project with direct impact to the Canal and the high burden of a compelling public need waiver were raised. Several Commissioners were not persuaded that the project would qualify for a waiver, that it is a high standard to prove "compelling public need," and those waivers are therefore infrequently given.

There was substantial concern raised by members of the public which included Mr. Barth noting that a complete application was not before the Commission or available for review, Mr. Wolfe noting the unique environmental sensitivity of the area and Mr. McKelvey registering opposition to additional storm water discharging to the Canal; it was noted new discharges are prohibited and that a full application would be submitted and available for review.

Mayor Marchand asked if the City of Lambertville had requested an extension from the DRJTBC. Ms. Dooley was not certain. The Commission directed Ms. Dooley to determine if a request for extension had been made and, if not, to have Lambertville make such a request prior to agreeing to a special meeting. Ms. Dooley should assist the applicant including participating in any discussions with DRJTBC to outline the environmental issues.

Procedures for Amending the Master Plan

At the September meeting, Ms. Dooley was asked to present the procedures for reviewing the Master Plan at the October meeting. Ms. Dooley noted the Statute stated, in part, that the Commission shall prepare, adopt, and implement a master plan for the physical development of the Park. Mr. Wolfe noted that the language specifically included the review of a portion of the Park. Ms. Dooley noted that the plan was first adopted in 1977 and there was a second revision in 1989. She stated that the Master Plan states that the draft plan was distributed to municipalities within the Canal regions, environmental planning groups, historic groups and interested parties with a request for their input. The files indicated there was extensive public involvement. Mr. Barth and Mr. Knights noted additional meetings in Trenton related to the Development plan in 2003 or 2004. DAG Jablonski noted that neither the Statute nor regulations outlined a specific process. The Commission should then follow the previous process.

Vice Chairman Loos noted that with only one staff person, a new staff person to be trained, new Commissioners being appointed, and the large undertaking of extensive public outreach in revising the Master Plan, that he did not believe it was the time to amend the Master Plan. Vice Chairman Loos suggested examining the plan in the New Year. The Commissioners discussed and there was consensus that this was not the time to undertake such a review.

Mr. Barth noted his strong disagreement. Mr. Barth noted the importance of the present Commissioners' institutional knowledge in reviewing and revising the Master Plan and that it would be valuable to the new Commissioners.

Mr. Wolfe agreed with Mr. Barth. Mr. Wolfe encouraged the Commission to review the statutory language in its entirety; he noted the Commission's ability to comprehensively review and revise the Master Plan or review and revise it in a site-specific way and encouraged the Commission to amend the Master Plan for Bulls Island perhaps preserving it in perpetuity as a natural area. There was substantial discussion including Mr. Knights noting that such a process could occur with the new Commissioners and Vice Chairman Loos noting that he believes the DEP is carefully deliberating the Bulls Island project. Mr. Wolfe raised concerns. Mr. Barth noted that his recommendation was to review and revise the Master Plan related to the entire Canal and not directed to Bulls Island.

There was discussion regarding ways in which to ensure institutional knowledge was retained. Mr. Barth suggested that the Commission members read through the Master Plan and note what they feel is working within the plan and what is in need of improvement. Mr. McKelvey commented that an oral history project could preserve institutional memory and suggested interviewing people such as former Chairman Jessen and former Executive Director Jim Amon. Such a project would allow future Commissioners the opportunity to hear the thoughts and perspectives of those who had served on the Commission.

Ms. Mitchell noted her original thought in raising the Commission's role in developing a Master Plan. She stated the Commission had some knowledge about a significant proposal for Bulls Island and she agrees the Commission should not talk about a potential project that may come before the Commission for review without an application before it; however, she was asking whether the Commission was also charged with a different role related to Bulls Island proposal.

She encouraged a thoughtful and deliberative look at Bulls Island and that part of the Master Plan.

Vice Chairman Loos suggested that the Commissioners read the Master Plan and the Development Plan and be prepared to discuss it, in general, at the November meeting. The Commissioners agreed.

Updates

Easements

Ms. Dooley reported on a meeting with representatives of SADC and Franklin Township at which issues related to the impact of the varying entities' jurisdiction, particularly each entity's use of easements, was discussed.

Ms. Dooley informed the Commission that Conservation Resources has identified a new property as off-site mitigation related to stream corridor impacts from project DRCC# 08-3334 Walgreens (formerly CVS), Route 206 in Hillsborough; she anticipates the proposal will be presented at the November meeting.

Ms. Dooley noted that there was agreement related to the easement for DRCC#11-4101 Terhune Barns.

Fees

Ms. Dooley reported that the final fee for the DRCC#12-4319 Ukarish Subdivision project in Kingwood Township would be \$4,000 and discussed the specifics of the calculation.

Complaints

Ms. Dooley noted she had received information from Lambertville related to the trash cans and trash along the Canal near Carvallo Park. The Commission will likely get an application from Lambertville related to a structure to contain the trash cans. Ms. Kessler, a Lambertville Resident, presented photos she had taken that morning and described the food and trash along the Path. The Commission discussed the issue, including whether the placing of the cans or a structure is a permitted use, ownership of the property, trash washing into the Canal, and the practicality of the proposed structure. The Commissioners opposed the trash can or container in this location. Commissioners asked Ms. Dooley to determine if this is State property, contact Lambertville to register our objections and discuss with the DAG to address this situation.

Personnel

Ms. Dooley noted that the Commission received a start date of October 22, 2012 for new staff member, Charles Stieber.

Ms. Dooley noted that DAG Jablonski would no longer represent the Commission. DAG Jablonski introduced DAG Jung Kim as the new DAG assigned to the Commission. Vice Chairman Loos thanked DAG Jablonski for his excellent service to the Commission and welcomed DAG Kim.

D & R CANAL PARK SUPERINTENDENT'S REPORT

Superintendent Kalleser noted that West Hanover Street Canal House renovations are complete, the Park was installing signs in Trenton from grant money it had received, brush removal and clean up was done by volunteers in the Bordentown area the previous Saturday, and she had attended the I-95 bridge meeting to discuss impact of the bike lane to the Park. Superintendent Kalleser also thanked the D&R Canal Watch group for staffing at the Canal Fest. She thanked the present Commissioners for their support of the Park.

NEW JERSEY WATER SUPPLY AUTHORITY

There was no report from the NJ Water Supply Authority.

OLD BUSINESS

Vice Chairman Loos noted that the preparation of the meeting minutes was well done.

NEW BUSINESS

Vice Chairman Loos noted that an appeal had been filed by the Princeton Battlefield Society regarding the Institute for Advanced Study Faculty Housing project. There is no need for the Commission to discuss at this time.

PUBLIC FORUM

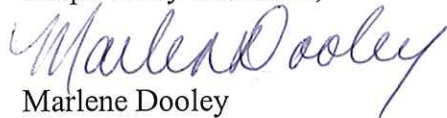
Mrs. Barth inquired about the use of the West Hanover Canal House. Superintendent Kalleser responded that no groups were using the building at this time.

Mr. Barth inquired about determining when an "application is complete." Ms. Dooley noted that the Executive Director determines completeness and the final staff report contains language informing the applicant that the application is deemed complete.

Mr. Wolfe noted an area of the path near Bordentown which needs maintenance because of overgrowth. Mr. Wolfe also asked that the Commission be aware of the Senate confirmation process of nominees.

Mr. Knights moved to adjourn the meeting; Ms. Mitchell seconded the motion. It was approved unanimously. The meeting adjourned at 11:55 a.m.

Respectfully submitted,



Marlene Dooley
Secretary