

**May 15, 2013 MINUTES OF THE MEETING
TO BE REVIEWED June 19, 2013**

Delaware and Raritan Canal Commission

TIME: 10:05 a.m. – 11:25 a.m.
DATE: May 15, 2013
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Mr. David Knights, Vice Chairman John Loos, Mayor Phyllis Marchand, Ms. Alison Mitchell, and Mr. Mark Texel

STAFF: Ms. Marlene Dooley, Ms. Colleen Christie Maloney, Mr. Charles Stieber, Mr. Vince Mazzei, and Deputy Attorney General Jung Kim

GUESTS: Mr. Kevin Walsh, Stony Brook-Millstone Watershed Association; Dr. Theodore Chase Jr., Franklin Township; Mr. Robert Barth, D&R Canal Watch; Mr. Robert von Zumbusch, DRCC Advisory Council; Superintendent Patricia Kalleser, Delaware and Raritan Canal State Park; Mr. John Sievers, Bucks County Herald.

The meeting opened at 10:05 a.m. Vice Chairman Loos announced that the meeting 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.

Administrative Items

Vice Chairman Loos announced that the Senate confirmed four nominations for the Commission. He stated that they are Ms. Julia Cobb Allen, Mayor Phillip Lubitz, Mayor Ed Trzaska, and Dr. Bruce Stout. He further stated that their appointment would bring the Commission to at least eight members. Vice Chairman Loos noted that because there is still a vacancy on the Commission, it was unclear if Mayor Marchand was replaced. DAG Kim was asked to review the matter and report to the Commission.

Minutes of the Meeting

Minutes of the Meeting of April 17, 2013

Vice Chairman Loos asked for comments on the minutes. There were no comments. Mr. Texel motioned and Ms. Mitchell seconded. The motion carried unanimously.

Review Zone Projects

Zone A Projects

- 13-3480B Gilfeather/Love Barn (Franklin)
- 13-4419 Swanson Improvements (Hopewell)
- 12-4389 South Bound Brook Quick Chek (South Bound Brook)
- 13-3483A Nath Pool (Lambertville)
- 13-3182B Brundage Barn and Fence (Hopewell)

Mayor Marchand moved all five projects; Mr. Knights seconded. Vice Chairman Loos opened the meeting to discussion of the projects.

12-4389 South Bound Brook Quick Chek (South Bound Brook)

Mr. Barth asked for an explanation of a "Jellyfish unit" which was referenced in the staff report. Mr. Mazzei described the manufactured treatment device (MTD). There was substantial discussion regarding day-to-day operations at gas stations and concern that stormwater from the site goes into the canal. Mr. Mazzei discussed the differences between underground versus above-ground stormwater systems and that the filter media in a MTD is capable of removing oil. There was substantial discussion by Mr. Barth, Mr. Mazzei, and Ms. Dooley regarding the manner in which the Commission would ensure that an underground treatment device was working properly and being maintained including maintenance plans, recorded maintenance easement agreements, and township oversight. Vice Chairman Loos asked whether monitoring could detect poor maintenance. Mr. Mazzei noted that, if the system is not maintained, it will backup and be noticeable. Mr. Knights noted that the gas station stormwater will be flowing into the municipal system before it reaches the canal; the municipality is responsible for the discharges from their system, and therefore the municipality has an interest in the device working properly. Vice Chairman Loos asked if the municipality monitors the site's stormwater and Mr. Mazzei noted the municipal approvals match the Commission's requirements regarding oversight. Vice Chairman Loos asked about current reporting requirements and whether additional reporting to the Commission would be unduly burdensome. There was substantial discussion including Mr. Mazzei and Mr. Knights stating that operators already have to retain maintenance information at their facilities. Vice Chairman Loos proposed a simple reporting requirement to the Commission. Mr. von Zumbusch agreed. Ms. Dooley noted that creating a new reporting obligation might require a rule change. Mr. Knights stated it could be a condition of approval and that the Commission can examine whether it requires a rule change subsequently. Mr. Knights suggested beginning with an annual monitoring report.

Vice Chairman Loos asked if there were any other Zone A projects that need to be discussed. There was no further discussion. Mayor Marchand moved the Zone A projects for approval and Mr. Knights seconded. The motion carried unanimously.

Zone B Projects:

- 13-4310A Stony Brook-Millstone Nature Center Modification (Hopewell Township)
- 12-3530A Hidden Pond (Monroe Township)
- 13-2945A Hightstown HS and Stadium Upgrades (Hightstown/East Windsor)
- 13-3582F Rider Heat and Power Plant (Lawrence Township)
- 13-3349B Institute for Advanced Study Archives Building Addition (Princeton)
- 13-2448B Wilf Campus Office Building (Franklin Township)

12-3530A Hidden Pond (Monroe Township)

Ms. Mitchell noted that a yard for one of the residential lots is partially in the stream corridor, the Commission rules require 25 feet of usable yard and the staff report also recommends a sign identifying the easement area. Ms. Mitchell asked about Commission experience with such situations: Do homeowners respect the line or do they mow into the easement area? Ms. Dooley stated that easements in backyards do cause conflict. The rules were changed to address the situation by ensuring a minimum amount of backyard. Also, signs are placed to ensure it is clear to the homeowner that an easement exists and the area is to remain natural. But, after a period of time, there are instances of homeowners mowing the area. Ms. Dooley noted several recent situations where homeowners mowed and placed play equipment in the easement area. Homeowners have attempted to place solar panels in the easement area. Some homeowners contact the Commission about their neighbor's activities. Homeowner situations are difficult to address. In the present situation, the applicant could have averaged the buffer and eliminated the easement in the yard but did not.

There was substantial discussion regarding the use of fencing, in addition to signs, as a way to clearly mark the easement area and deter mowing in the area. Mr. Mazzei noted that the NJDEP has similar issues with freshwater wetlands transition areas and fencing is used. Dr. Chase noted that even a one-foot-tall fence marking the easement line would deter mowing. Vice Chairman Loos asked if the Commission could require fencing and Ms. Dooley stated the Commission has. Vice Chairman Loos and Ms. Mitchell noted that fencing need not be expensive. Mr. Knights noted that the burden should be placed on the builder so it would be in place prior to purchase of the property. Vice Chairman Loos stated monitoring would need to continue.

Vice Chairman Loos suggested hiring a summer intern to identify homeowner easement areas, review compliance in the field, and present a report to the Commission. Mayor Marchand agreed.

Vice Chairman Loos requested a motion that for any projects utilizing an MTD, an annual maintenance report is required. Mr. Knights moved to approve the projects with the condition that applicants submit annual maintenance reports for any MTD. Ms. Mitchell seconded the motion. The projects were approved unanimously.

Projects subject to 45-Day Rule

13-3395B 20 Washington Road (Princeton)

Mr. Loos stated that Mr. Knights had to recuse himself from voting on the project and, therefore, the Commission did not have quorum to take action. The project will be subject to the 45-day rule and automatically approved 45 days from the date the staff deems the application to be complete.

Executive Director's Report

General Report

Ms. Dooley reported on the staff's monthly work tally and fees for the preceding two months (see attached report). Vice Chairman Loos asked if the amount of fees collected was the average amount. Ms. Dooley stated that there had been a slight increase over the past year and that present fee collection is similar to the average amount collected in the prior years. Ms. Dooley noted that staff is seeing a number of projects from before 2009 that had been under review but were never completed and need approvals, or that received approval but were not built and need a modification to downsize the project. Since the Commission rules were substantially amended in 2009, applicants are not expecting and some are having difficulty meeting new requirements such as the use of nonstructural methods.

New Commissioners

Vice Chairman Loos asked Ms. Dooley to discuss outreach to the new Commission members. Ms. Dooley outlined a briefing packet that would be created and provided to all new members.

Delaware River Tubing

Ms. Dooley noted that she had received a large number of emails from the public regarding the Delaware River Tubing operation in Kingwood. Ms. Dooley noted that the Delaware River Tubing had submitted a jurisdictional determination to the Commission regarding their property on Route 29. It was determined that the project was outside the Commission's Review Zones.

Advisory Council

Ms. Dooley stated that the Commission had established the Advisory Council at the April Commission meeting. Ms. Dooley sent letters formally notifying the council members of the establishment of the council and seeking dates for the first meeting. Vice Chairman Loos noted that some members of the council were in attendance: Dr. Chase, Mr. Barth, and Mr. von Zumbusch.

Delaware and Raritan Canal State Park Superintendent's Report

Superintendent Kalleser stated that horses are now allowed on the feeder path north to Alexandria Township; signs will be installed to reflect this change. She also noted that the Lumberville Pedestrian Bridge was reopened, the Bridge Tender's House reconstruction is ongoing and the South Bound Brook towpath was reopened to the public following the completion of the GAF landfill capping project. She also noted that the Frenchtown Preserve parking lot was completed at Horseshoe Bend Road and park

staff would seek to create a link from the parking lot to the trail at the intersection of Route 12 and Horseshoe Bend Road as part of an Eagle Scout project. Superintendent Kalleser thanked Canal Watch for their work on the history fair. She noted that the Stony Brook-Millstone Watershed Association appeared before the Historic Sites Council regarding the Blackwells Mills Dam removal; the decision was postponed for further investigation including review of other dams in the area and possible core samples of the Blackwells Mills Dam to see if a wooden dam is underneath. Ms. Mitchell asked about the impact if a wooden dam was identified. Mr. Texel stated that there is concern that the dam is older and more significant than previously thought. If the dam has significant historical value, it could be an historical feature of the mill and require mitigation. Vice Chairman Loos asked if it could prohibit removal and Mr. Texel stated that, if the dam is significant, it could prohibit removal. Lastly, Superintendent Kalleser noted that staff had identified a violation involving the leveling and the placement of gravel on 0.28 acres at the Frenchtown Preserve. The area is now being replanted and an eight-foot-high deer fence installed.

New Jersey Water Supply Authority (NJWSA)

It was noted that representatives from the New Jersey Water Supply Authority (NJWSA) were not able to be in attendance. They asked Ms. Dooley to note that they had received complaints that work was occurring at Bulls Island. The work on the pedestrian bridge, which was reviewed by the Commission and park staff, was occurring at the time. Ms. Dooley also noted that the NJWSA held a public meeting in Franklin Township regarding the dredging project.

Old and New Business

Vice Chairman Loos noted that he attended the NJWSA May 14 public meeting on the dredging project in Franklin Township. He noted that, as part of the dredging project, the NJWSA will need to have certain points of access. There was substantial discussion as to whether, when the work is completed, these areas could be left in a manner that would improve access for park users for canoe, kayak, and boat launching. Vice Chairman Loos noted that there are long standing issues regarding the problem of portage of canoes and kayaks around structures; this area should be examined. In addition, the North Brunswick water treatment plant, East Millstone, and the potential dewatering site were discussed as areas that could be enhanced for park patron access. Vice Chairman Loos noted that the NJWSA agreed to discuss the issue of improved access points. He stated that the Commission should continue to examine the issue as a possible no-cost improvement to the park.

Vice Chairman Loos expressed concern that the NJWSA needs to consider any activities that occur in canal areas during the time period of the dredging process, such as the Canal Fest which is presently being planned.

Vice Chairman Loos asked Ms. Dooley and Superintendent Kalleser to follow up with NJWSA Executive Director Patterson regarding these issues. Ms. Dooley noted that the Canal Quarterly is a quarterly meeting including SHPO, Parks, and NJWSA staff and a good place to discuss these types of issues. She also noted that the NJWSA will attend a

Commission meeting to discuss the dredging project.

Summer Intern

Vice Chairman Loos suggested a motion for Ms. Dooley to obtain an intern for the summer. Mayor Marchand moved and Ms. Mitchell seconded it. There was discussion as to whether the intern would be paid or unpaid and it was determined to attempt to have an unpaid intern with potential compensation for mileage if field work is involved. The motion passed unanimously.

Next meeting Date

The June 19, 2013 date for the next Commission meeting was confirmed.

Open Discussion

Canal Watch

Mr. Barth announced that the next Canal Watch hike will be on May 18th in Trenton. In addition, on June 9, in Lawrence Township, there will be a presentation by Richard Veit, a noted New Jersey archeologist, whose father wrote a book in the 1960s about the canals in New Jersey. Mr. Veit will be discussing the canal from New Brunswick to East Millstone during the 1970s. Mr. Barth noted that the history fair went very well, but unfortunately due to the weather, they were unable to use their boat in the canal.

Mr. Barth noted that access to the canal is needed to allow boating. He requested a committee be formed or that during Commission meetings it should be discussed. Vice Chairman Loos asked Mr. Barth about meetings that Canal Watch was having to discuss boating on the canal. Mr. Barth stated that Canal Watch is working on a white paper. Vice Chairman Loos stated that the Advisory Council could examine the issue. Vice Chairman Loos said he carefully examined the Master Plan and did not find anything that recommends boats. Mr. Barth said there are two separate issues: boats in the canal which was part of the original master plan and making the canal more kayak and canoe friendly. Mr. von Zumbusch stated that there are other Master Plan documents that specifically call for a canal boat ride and portage facilities. For example, the Historic and Recreation Development plan specifically calls for a boat ride and portage around locks and dams. He also noted that there were docks in the canal around locks and bridges several years ago, and the docks were subsequently removed, and there is a book with dock designs.

Ms. Dooley noted that in reviewing the Master Plan and related documents, she saw that the Development Plan referenced a boat ride in Lambertville. It was referenced in connection with the swing bridge. Vice Chairman Loos noted he does not feel a boat ride would be limited to that location. He noted that the additional Master Plan documents need to be placed on the website. Ms. Dooley noted that most documents had been scanned in order to be placed on the website.

DeMott Lane and Easton Avenue Bridges

Dr. Chase asked the status of the rebuilding of the DeMott Lane Bridge and the creation of a bridge off of Easton Avenue near the Somerset Diner. Superintendent Kalleser said the department developed and examined three designs for the DeMott Lane Bridge, one

has been selected, it will be a replacement in kind, and the bridge is in the approval process at the DEP. Regarding the Easton Avenue Bridge, Ms. Dooley stated that the Commission staff negotiated an agreement through a permit application related to the bridge. Specifically, Somerset Diner will give land to Franklin Township that would allow a path to and area behind the diner for footings for the bridge. Franklin Township has agreed to maintain the area. Once the State locates the placement for the footings, Franklin Township will transfer a portion of the property to the State to allow the footings to be on state property. Parks issued a Request for Proposals for an engineer to develop a design for the bridge. Three designs were developed including several for moveable bridges and the designs were presented at a meeting in April that Superintendent Kalleser, Ms. Dooley, and Mr. and Mrs. Barth attended. Vice Chairman Loos asked if bridges that allow for navigation were more expensive. Superintendent Kalleser said yes but the designs were a first round and the designs are being revised; there are no final costs. Vice Chairman Loos stated that before the final decision is made, he wants the final designs brought to the Commission to see the options and comment on them. Ms. Dooley noted that SHPO would also need to review any designs.

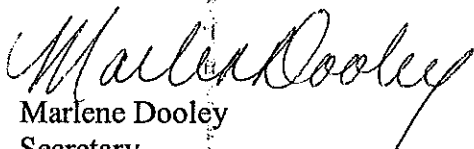
Summerfields Project

Dr. Chase asked about the Summerfields project which included proposed athletic fields on Weston Canal Road. Ms. Dooley stated that the Commission had an easement on the site. Commission staff and Franklin Township representatives had met because the location of the fields and entrance was different in the documents presented to the town and Commission. All parties are working to resolve the issue.

Motion to Adjourn

Mr. Texel moved to adjourn the meeting and Mr. Knights seconded. The motion passed unanimously. The meeting ended at 11:25 am.

Respectfully Submitted,


Marlene Dooley
Secretary