

**July 15, 2013 MINUTES OF THE MEETING
TO BE REVIEWED August 21, 2013**

Delaware and Raritan Canal Commission

TIME: 10:05 a.m. – 12:45 p.m.
DATE: July 15, 2013
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Vice Chairman John Loos, Julia Cobb Allen, Robert Bostock, Mary Alessio Leck, Bruce Stout, and Mark Texel

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

GUESTS: Mr. Bill Bogosian and Mr. Joe Shepherd, NJ Water Supply Authority; D&R Canal State Park Superintendent Patricia Kalleser; Mr. Robert von Zumbusch and Mr. Herbert Spiegel, D&R Canal Commission Advisory Committee; Mr. Robert Barth and Mrs. Linda Barth, D&R Canal Watch; Kevin Skeels, DRJTBC; Richard Rash and Timothy Hand, AECOM.

Administrative Items

New Commissioners Join Commission

Deputy Attorney General Kim administered the Oath of Office to Mary Alessio Leck and Robert M. Bostock.

The meeting opened at 10:15 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.

Vice Chairman Loos asked the commissioners and commission staff to introduce themselves and they did so.

Minutes of the Meeting

Minutes of the Meeting of June 19, 2013

Dr. Stout motioned for approval and Mr. Texel seconded the motion. Vice Chairman Loos made a correction on page 9 of the minutes related to his request to go into Executive Session. He noted that he did so “for the purpose of discussing personnel matters.” With this correction, the commission voted upon the minutes. Dr. Leck and Mr. Bostock abstained from the vote. Mayor Allen, Dr. Stout, Mr. Texel, and Vice Chairman Loos voted to approve the minutes. The minutes were approved.

Executive Session Minutes of June 17, 2013

Mr. Texel motioned to approve the minutes and Dr. Stout seconded the motion. Dr. Leck and Mr. Bostock abstained from voting. Mayor Allen, Dr. Stout, Mr. Texel, and Vice Chairman Loos voted to approve the minutes. The minutes were approved.

Review Zone Projects

Review Zone A Projects

13-4453 401 and 401-½ North Montgomery Street Demolition

Mr. Texel asked about the use of the project site after demolition and noted possible benefits to the community, such as a playground or a garden, and the need for maintenance after the demolition. Ms. Dooley noted that the properties are privately owned, the buildings were destroyed by fire, and there was a court order to demolish the properties; the properties may remain vacant after the demolition. Mr. Texel noted his concern that vacant lots along the canal can be problematic and seem to collect trash. Mayor Allen noted her concern that if the property is not seeded, there is no reasonable opportunity for succession. Ms. Dooley noted that she was recommending that the applicant fill the demolition area with clean fill, cover with soil and then seed the area of disturbance to stabilize the area. Mr. Loos agreed with the plan to apply topsoil and then seed. Dr. Stout noted the need to clarify the language as it did not specifically state that topsoil would be placed. Dr. Leck inquired about encouraging community gardening on the vacant lots; Ms. Dooley noted that she believed the project would remain privately owned but she could speak with a representative of the City of Trenton regarding the idea. Mayor Allen motioned to approve the project conditioned upon applying topsoil and the seeding of the demolished area, and asking staff to follow up with appropriate agencies to see if there is opportunity for community gardening. Dr. Leck seconded the motion. During the public comment, Mr. Barth spoke about his concern regarding the visual impact of the demolition. There was discussion of the vacant property creating an attractive nuisance. Superintendent Kalleser noted that Trenton has a method for addressing these types of situations. The commission voted unanimously to approve the motion.

13-2543A ELSA (Ewing Lawrence Sewage Authority) Upgrade Project

Dr. Stout motioned to approve the project and Mayor Allen seconded the motion. Dr. Leck inquired about the stormwater runoff from the project and asked about flooding in the area. Ms. Dooley and Mr. Mazzei discussed the runoff at the site. The project was approved unanimously.

13-3165 I-95 Scudder Falls Bridge Improvement Project

Mr. Skeels of the Delaware River Joint Toll Bridge Commission (DRJTBC) and Mr. Rash and Mr. Hand (both of AECOM) made a presentation to the commission regarding the project. Mr. Skeels noted the project objectives of alleviating traffic congestion, improving the operation of the intersections and roadway, and improving safety. He described the improvements and process for the environmental assessment. Mr. Bostock and Mr. Texel discussed the operation of the electronic cashless tolls. There was

discussion regarding the pedestrian/bike path across the bridge and the connection it will make between the Pennsylvania canal and the D&R Canal State Park. Mr. Skeels noted that details of the design are not yet completed and will be provided for review and comment to the commission. Mr. Hand discussed the status of various permits for the project. He also discussed the impacts to the canal park and the mitigation for the project, which included discussion of the programmatic agreement and the payment of two million dollars to be administered by SHPO for an interpretative project related to the canal. Mr. Hand also noted that approximately one thousand artifacts were cataloged during a required archeological study. In addition, Mr. Hand noted that some bridge abutments will receive a stone façade to lessen the visual impact and that all stormwater runoff presently entering the canal will be removed. Mr. Hand noted that a Memorandum of Agreement (MOA) for the bike path was developed with the appropriate parties. Mr. Barth asked for a timeline. Mr. Skeels explained that the permitting process needs to be completed, then the design phase may take two years, and the construction may then take approximately four years. Dr. Leck discussed the “no net loss” of the forest and wetlands and long-term monitoring related to invasive species. Mr. Hand explained that DRJTBC will purchase credits in a wetlands mitigation bank. Mr. Hand noted that the DRJTBC had a planting plan to meet “no net loss” and must guarantee survival rates for two years. Dr. Leck noted that two years may not be sufficient. Mr. Bostock moved to approve the project in accordance with the three conditions in the staff report, specifically, the review and approval by staff of the final design to specify the color and type for surface materials for the bridge piers; the review of the drawings for the bicycle and pedestrian lane and ramp from I-95 to the D & R Canal State Park and submission of the final design as an individual application to the commission; and approval by State Historic Preservation Office. Mayor Allen seconded the motion. Mr. von Zumbusch asked about the process to approve the bridge pier design and if SHPO will be involved. Ms. Dooley noted that commission staff will review and SHPO will approve the project separately. The commission voted and the project was approved unanimously.

Zone B Projects

13-2835A Montgomery High School Tennis Courts
13-1773A Towne Center Plaza Improvements
13-3655 Allstar Retail Center
13-3412B 33 Barbertown Point Breeze Road
13-4312A Grosso Minor Subdivision
13-4413 VGS Warehouse Building Addition
13-3814A Leewood Renaissance at Franklin, Phases C2, D1 & D2

Mr. Texel asked that the Chapin School project be discussed separately. Dr. Stout moved to approve all Zone B projects on the agenda with the exception of the Chapin School project; Mr. Bostock seconded the motion; the projects were approved unanimously.

13-4314A Chapin School Expansion

Mr. Texel inquired about the age of the building to be demolished for the project and if the applicant is required to receive approval from SHPO. Ms. Dooley noted that this project was privately owned, not in the canal historic district and that she did not believe

it would require SHPO approval. Mr. Bostock moved approval of the project; Mayor Allen seconded the motion; the project was approved unanimously.

Executive Director's Report

Ms. Dooley reported on the staff's monthly work and fees for the preceding month (see attached report). Ms. Dooley discussed an appropriate signator for timesheets for payroll; Mr. Texel agreed to work with Ms. Dooley to process the timesheets. Ms. Dooley noted that there were ongoing discussions with many parties regarding the use of the Prall House and that she had been informally asked if commission staff would be interested in moving to the Prall House; she will investigate and report back to the commission.

D and R Canal State Park Superintendent's Report

Superintendent Kalleser noted that the park staff is addressing tree damage in the areas of Lambertville, Wilburtha Road, and Lower Ferry Road. She noted that the canal path from Amwell Road to Weston Causeway was reopened. Superintendent Kalleser also noted that debris had been dumped on Duck Island near Lambert Road. Lastly, she reported that the Delaware River is high and that there were two fatalities in the river; there was also an apparent suicide on the main stem of the canal.

NJ Water Supply Authority (NJWSA) Report

Mr. Shepherd noted that the Colonial Park Spillway rehabilitation was complete and that the path in the area was re-opened on July 3. The NJWSA is reviewing bids for work along the west bank of the canal from Bulls Island to Prallsville. A diver will survey the debris and clogging of the Trenton conduit under Route 1. Mr. Bogosian discussed the dredging project from Kingston to Amwell Road. The NJWSA is proceeding with the permit process and hopes to start work in 2014; the project may take three years, partially related to limitations from the various permits. Vice Chairman Loos asked Mr. Bogosian to have the NJWSA make a presentation to the commission about the dredging project. Vice Chairman Loos noted that he would like to tour the access points and staging areas; he recommended September or October and prior to the project being presented.

Old Business

There was no old business.

New Business

Dr. Stout noted his interest in visiting Bulls Island in anticipation of NJDEP submitting an application for a project on the island. There was discussion as to when NJDEP might submit the application. Mr. Texel noted that he believed an application may be submitted within the next two months. Ms. Dooley noted that the Indiana bat season may affect the schedule of the project; she confirmed she had not received an application from the NJDEP for the project. Dr. Stout noted he would like to see what impact the project would have on the trees. Vice Chairman Loos would like to know the scope of the proposed project before the site visit.

Next Month Meeting Date

Vice Chairman Loos confirmed that August 21, 2013, was the next scheduled meeting

date. All attending commissioners were available.

Public Forum

Mr. Barth noted that the next D&R Canal Watch hike would be Saturday at 10 a.m. from Scudder Falls to Ellarslie in Cadwalader Park. He reported positively about the new spillway at Colonial Park and said the project embodies the intent of preserving the look of the spillway. Mr. Barth noted his concern about a mile marker post which he believed had not been properly placed after the project. He would like it reinstalled, possibly by the spillway construction team, in its correct place. He reported that he voiced his concern about the marker to the NJWSA director. Mr. Barth also noted his concern about mile marker #1, in the Bordentown area, which was lying on the path. There was further discussion regarding the placement of mile markers. Mr. von Zumbusch noted that the mile markers along the canal in this area may have been moved during a previous project and may not be the original location. Vice Chairman Loos suggested that SHPO might be concerned about the marker locations. Dr. Leck motioned for the commission to ask SHPO to investigate and take appropriate action regarding the placement of the mile markers of concern; Mr. Bostock seconded the motion. Mr. Bogosian suggested that the commission give NJWSA an opportunity to review the situation at Colonial Park before taking action; he agreed to report back. Mr. Texel moved to table the motion until next month's meeting; Mr. Bostock seconded the motion, it was approved unanimously that the original motion be tabled for discussion until the next meeting.

Mr. Barth inquired about the availability of reviewing executive session minutes; Vice Chairman Loos responded that executive session minutes would be available after the commission determines that the possibility of litigation related to issues discussed in the sessions had passed.

Mr. Barth asked about SHPO approvals and the need for them before the commission approved a project; Ms. Dooley explained that, in the past, approvals have been conditioned on SHPO approval. Commission regulations state that county and municipal approvals are needed before the commission reviews a project.

Mrs. Barth noted that the D&R Canal Watch would give tours to any commissioner who would like to learn more about different sections of the canal. Vice Chairman Loos asked Ms. Dooley to contact the commissioners and determine their interest in areas of the canal to tour and potential dates.

Executive Session

Vice Chairman Loos called for a motion to go into Executive Session. Mr. Bostock moved the motion to go into Executive Session for the purpose of discussing personnel matters and Mr. Texel seconded the motion. It was unanimously approved. Vice Chairman Loos noted to the public that the commission would resume the public portion of the meeting after Executive Session.

At 11:50 a.m., the commission went into Executive Session.

Public Session

At 12.35 p.m., Mr. Loos called the public meeting back to order.

Mr. Texel made a motion that Charles Stieber's services are no longer needed as of the close of the business day of July 15, 2013; Mayor Allen seconded the motion; the motion was approved unanimously.

Dr. Stout motioned that the commission authorize Executive Director Marlene Dooley to move staff member Colleen Christie Maloney into a professional title with a salary not to exceed \$47,000 per year; Mr. Bostock seconded the motion; the motion was approved unanimously.

Mr. Bostock motioned that the commission authorize the Executive Director to hire a temporary employee for the administrative position; Mayor Allen seconded that motion; it was approved unanimously.

Dr. Stout motioned that the commission authorize Executive Director Marlene Dooley to recruit a new paraprofessional with a salary not to exceed \$37,000 per year; Mayor Allen seconded the motion; the motion was approved unanimously.

Dr. Stout motioned to adjourn the meeting; Mayor Allen seconded the motion; the motion was approved unanimously. The meeting adjourned at 12:45 p.m.

Respectfully submitted,



Marlene Dooley
Secretary