April 17, 2013 MINUTES OF THE MEETING
TO BE REVIEWED May 15, 2013

Delaware and Raritan Canal Commission

TIME: 10:05 a.m. – 12:15 p.m.
DATE: April 17, 2013
PLACE: Canal Commission Office
        Stockton, New Jersey

ATTENDING:

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

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

GUESTS: Mr. Bill Bogosian, NJWSA; Mr. Joseph Shepherd, NJWSA; Mr. Robert Barth, D & R Canal Watch; Mr. Dave Joss, Federal Reality; Mr. Cornelius Brown, Bohler Engineering; Superintendent Patricia Kallesser, D&R Canal State Park; Mr. Timothy Hand, AECOM; Mr. Richard Rash, AECOM; Mr. Robert Von Zumbusch, D&R Canal Coalition & Mapleton Preserve; Mr. Kevin Skeels, DRJTBC; Mr. Richard McClellan, DRJTBC; Ms. Ronica Bregenzer, Architect; Mr. Bill McKeelvey, Liberty Historic Railway; Ms. Caroline Armstrong, Green Acres

The meeting opened at 10:05 a.m. Vice Chairman Loos announced that one member of the Commission would unexpectedly be late therefore the Commission did not have a quorum. So as not to keep applicants and the public waiting, informational items were discussed.

Executive Director’s Report
Ms. Dooley reported on the staff’s monthly work tally and fees for the preceding two months (see attached report).

Ms. Dooley noted three of the meetings from the work list and one issue:

1. GAF Landfill in South Bound Brook: Ms. Dooley stated that she and Superintendent Kallesser conducted a site visit at the GAF landfill to verify the location of fencing and trees on the boundary line between the landfill and path which was required as part of the final approval. Ms. Dooley noted that the path will reopen in May. Ms. Dooley further noted that due to the removal of the trees on the landfill for the capping of the site, the trees and fence not having been placed yet and, because the
will be reduced to one lane during the period of work which is expected to span one year beginning in December 2013. Ms. Dooley stated that the State representatives expressed opposition and concern with closing the entrance; specifically they noted the inability of cars to exit and enter simultaneously at the existing exit which may lead to safety concerns at the blind curve both for cars and pedestrians at the cross walk. Staff explained the high usage of the site for events and parking and race events in the area and the potential for traffic and cyclists waiting to cross the bridge during construction to backup and create hazardous situations. Staff requested that, if closing the entrance was unavoidable, that the entrance be opened on weekends.

There was a brief discussion regarding the level of work on the bridge which included Ms. Mitchell asking for specifics regarding the need to close the entrance and whether a flag person would be present. Ms. Dooley stated NJDOT needed the area for both work equipment and space to conduct the work. A flag person would be in place during the week.

**Superintendent’s Report**

Superintendent Kallesser stated that, on April 7, the body of Mr. Christopher Franz was recovered in the canal by the Lockatong Creek; Mr. Franz had been missing since January and there had been searches for him including within the park property. Ms. Kallesser also noted that the Lumberville-Raven Rock Pedestrian Bridge will remain closed until mid-May. Ms. Kallesser described a cleanup in Trenton and that Ms. Dooley, Mr. White, and representatives of Canal Watch met to discuss the draft engineering designs for the bridge behind the Somerset Diner at Easton Avenue and JFK Boulevard. Ms. Kallesser further stated that she is dealing with an encroachment in Ewing Township for a tree house on state park property south of Wilburtha Road. The Office of Resource Development will be working on resurfacing the towpath between Kingston and Millstone aqueduct, a distance of about 2.2 miles. She noted that the resurfacing near the Port Mercer Canal House cost sixty thousand dollars for one mile; NJDEP is attempting to find a funding source.

There were no questions on the Superintendent’s report

At 10:20, Ms. Marchand joined the meeting. Vice Chairman Loos announced that the Commission had a quorum, 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.

**Minutes of the Meeting**

*Minutes of the Meeting of February 27, 2013*

Vice Chairman Loos asked for comments on the minutes. There were no comments. Mr. Texel motioned to approve. Ms. Mitchell seconded. The motion carried unanimously.
works at the university could not vote on projects relating to the school, even if he has no
involvement with the project. Mayor Marchand agreed with the Vice Chairman. Ms
Mitchell agreed the project is good and it is not controversial but the Commission needs
to look at rules, procedures and precedent the Commission may set for future projects.

There was discussion that the Delaware River Mill Society (DRMS) leases the Prallsville
Mills, obtained a Byway grant for 80% of the funding for the project, and is the
proponent of the project, and whether those facts result in the project not being a NJDEP
Parks project and would not require Mr. Texel to recuse himself. It was determined that
because the building is owned by NJDEP Parks, they provide 20% matching funds and
the project is overseen by NJDEP, Mr. Texel would still be required to recuse himself.

Mr. Texel asked whether the Doctrine of Necessity would be applicable to this project
and allow it to proceed. Vice Chairman Loos stated that the Doctrine of Necessity is only
available in cases of real emergencies. Mr. Knights agreed. There was discussion
regarding the grant and whether the grant could be in jeopardy due to the delay. It was
noted that the project has been ongoing since 2009 and that there were no current
deadlines to put the project in jeopardy.

Vice Chairman Loos ruled, as the chair, that Mr. Texel has a conflict requiring recusal
and, therefore, there is not a quorum to vote. He noted that a majority of Commissioners
can override the chair.

Ms. Mitchell expressed concern with the larger issue that the Commission does not have
a quorum if one Commissioner has to recuse him or herself. Vice Chairman Loos noted
that if this was a private project, it could be automatically approved after 45 days, but the
rules do not provide the same authority for State projects. Vice Chairman Loos agreed it
was extremely problematic if Mr. Texel must recuse himself from voting on NJ State
Park projects. Superintendent Kalleser said this issue will come up again and that these
are all important projects. Vice Chairman Loos and Mr. Knights agreed. Vice Chairman
Loos stated that, while it is terrible that important NJ State Park projects cannot move
forward, the Commission cannot bend the rules or law to prevent it.

There was general discussion regarding the need to fill the vacancies on the Commission
to allow important government projects to move forward and private projects to move
forward expeditiously. There was general concern that the Governor’s Office, Senate
Judiciary Committee and NJDEP need to understand the impact of having only five
sitting Commissioners and not filling vacancies.

Mr. Knights motioned to move the Zone A projects, except for the Prallsville Mills
Restroom project. Mayor Marchand seconded the motion.

Vice Chairman asked if there were any questions from the public. Mr. Barth asked what
aspect of the State Police Campus project would be visible from the park. Staff stated
that the guard booth will be visible but is partially glass, a distance of 400 feet, and other
aspects of the existing campus are visible. Mr. Barth asked if the applicant can screen the
were people in the room who objected to the project, they would not have a voice because the Commissioners cannot hear the matter. Ms. Dooley also noted that applicants state that they appreciate that their project can be approved, however, the extra 45-day delay is often problematic.

Mayor Marchand noted that the Merwick-Stanworth staff report incorrectly listed “Princeton Borough.” Mr. von Zumbush noted that the correct reference for the newly merged Princeton Borough and Princeton Township is “Municipality of Princeton.”

New Jersey Water Supply Authority (NJWSA) Report
Mr. Shepherd stated that the repairs to Colonial Park Spillway continue and are expected to be completed in June. NJWSA requested proposals for the bank repair from Prallsville to Brookville and from Prallsville to Bulls Island. Dredging is still scheduled for the first quarter of 2014.

Old Business
Meeting Date: The May 15 date for the next Commission meeting was confirmed.

Crosswalk in Lambertville: There were no comments related to the letter from the Commission to Mayor DelVecchio regarding establishing a crosswalk in Lambertville where the path crosses Bridge Street.

10:55 a.m. – 11:05 a.m. There was a break in the meeting. At 11:05 a.m. Vice Chairman Loos called the meeting to order.

Scudders Falls I-95 Bridge Presentation
Representatives for the Delaware River Joint Toll Bridge Commission (DRJTBC) and their consultant, AECOM, (hereinafter “presenters”) gave a presentation on plans to widen and improve Route I-95 at Scudders Falls in the areas of Lower Makefield Township, Pennsylvania, to Bear Tavern Road in Ewing Township, New Jersey, in order to relieve traffic congestion, improve traffic flow, and address increased traffic needs, obsolescence of structures, and safety. There is no application presently before the Commission; the presentation was in anticipation of submitting an application in May or June 2013. The presenters noted that they have been working with the Commission staff since 2008 on issues related to stormwater, stream corridors, and mitigation. The discussion specific to the Commission’s jurisdiction included the bicycle and pedestrian path which is envisioned to connect to the D & R Canal Park Path, visual impact of the piers and structures adjacent to the canal, handling of stormwater from the roadway, impacts to stream corridors and mitigation for visual and stream corridor impacts. Some specific items noted, related to the project, were that stormwater would not be discharged to the canal, a pier presently in the canal would be removed, there will be aesthetic treatments on the abutments and the bridges, and mechanisms would be put in place to ensure park
**Public Session**
Mr. Barth announced that Canal Watch will be sponsoring a bus trip on Sunday, April 21. In addition, on June 9, Archeologist and Professor Richard Veit will speak on the canal from New Brunswick to East Millstone in 1970.

**Additional Note**
Mr. Texel announced that May 11 is the New Jersey State History Fair at Washington Crossing State Park.

Respectfully Submitted,

Marlene Dooley
Secretary