

**January 15, 2014 MINUTES OF THE MEETING
TO BE REVIEWED February 19, 2014**

Delaware and Raritan Canal Commission

TIME: 10 a.m.

DATE: January 15, 2014

PLACE: D&R Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Chairman Robert Bostock and Commissioners Julie Cobb Allen, Mary Alessio Leck, John Loos, Phillip Lubitz, and Bruce Stout, and Director Mark Texel

STAFF: Mr. Vince Mazzei, Ms. Colleen Christie Maloney, Deputy Attorney General Lisa Daglis

GUESTS: Ms. Patricia Kalleser, D&R Canal State Park; Mr. Joe Shepherd, NJ Water Supply Authority (NJWSA); Mr. Bill White, NJDEP; Dr. Theodore Chase, Jr., Franklin Township and D&R Canal Commission Advisory Council; Mr. Robert Barth, D&R Canal Watch and D&R Canal Commission Advisory Council; Mr. Robert Von Zumbusch, D&R Canal Commission Advisory Council; Mr. Tom O'Shea and Mr. John Ryder, Van Note-Harvey Associates; Mr. Jerry Hurwitz, Ms. Kip Cherry, Ms. Margaret Delaney, Ms. Betty Curtiss, Mr. William Murdock, and Bill and Sara Tozzo, Princeton Battlefield Society; Mr. Bruce Afran; Ms. Miyuki Kaneko, Mr. Bradley Mitchell, and Mr. Chris Tarr, Stevens and Lee; Mr. John Masten, Institute for Advanced Study; Mr. Mickey Fagan, Issues Management; Ms. Amy Greene, Amy Greene Env.; Mr. Russ Smith, Hopewell Valley Engineering, PC.

Chairman Bostock announced that this was a regularly scheduled meeting of the D&R Canal Commission and that all provisions of the Open Public Meeting Law of 1976 had been met in the scheduling of the meeting.

Administrative Items

Chairman Bostock confirmed the next month's meeting date with the commissioners as February 19, 2014.

Minutes of the Meeting

Minutes of the Meeting of December 17, 2013

Chairman Bostock asked for comments on the minutes. Director Texel noted a correction to be made on pages 3 and 6 of the minutes. Chairman Bostock asked for a motion on the

minutes as amended. Commissioner Stout moved approval, and Commissioner Leck seconded the motion. Chairman Bostock, Commissioners Leck and Stout, and Director Texel voted to approve the minutes; Commissioners Loos, Lubitz, and Allen abstained from vote. The minutes were approved.

Review Zone Projects

Review Zone A Project carried forward from December Meeting:

13-3791A Institute for Advanced Study Faculty Housing

Chairman Bostock noted the project was carried forward from the December 2013 meeting and asked Mr. Tarr, the applicant's attorney, if he would like to speak to the commission about the project.

Vice Chairman Loos noted that he had reviewed the entire transcript from the previous month's meeting.

Mr. Tarr introduced the project, and referred to section N.J.A.C. 7:45-12.4(a)2 of the commission regulations related to stream corridor impact being waived from strict adherence. He noted that the proposed project complies with each of the two elements of section N.J.A.C. 7:45-12.4(a)2.

Chairman Bostock noted that Mr. Afran, attorney for the objectors, asked to present for two hours to have their professionals make statements. Chairman Bostock noted that this was not an adjudicatory hearing. He noted the DEP has issued a letter of interpretation (LOI) related to any wetlands on the project site. He asked Mr. Afran to keep his presentation on point with issues related to the Commission authority.

The chairman opened the discussion for public comment and recognized Mr. Afran. Mr. Afran noted that his presentation is focused on the environmental issues, not historic issues.

Mr. Afran noted that the proposed project could be redesigned as to not intrude into the commission stream corridor. He noted that with the current plan, the institute could not comply with commission regulation N.J.A.C. 7:45-12.4(a)1.

Mr. Afran introduced Mr. Smith, of Hopewell Valley Engineering. He presented illustrations and discussed the proposed development and its diversion of stormwater flow related to the stream corridor. He concluded that the project cannot meet N.J.A.C. 7:45-12.4(a)1. Mr. Smith discussed N.J.A.C. 7:45-12.4(a)2 and illustrated another potential layout for the project which would comply with commission stream corridor rules. Mr. Smith concluded that the stream corridor waiver should not be granted.

Mr. Afran introduced hydrologist Amy Greene, Amy Green Environmental Consultants. Ms. Greene noted the proposed plan's activities in the stream corridor and commission's regulations at N.J.A.C. 7:45-9.3. Ms. Greene noted that the project did not result in greater ecologically beneficial affect than would compliance with the stream corridor

standards.

Mr. Afran introduced Ms. Cherry, a professional planner and a member of the Princeton Battlefield Society. She presented testimony from Mr. Rodrigues, who could not attend the meeting. Ms. Cherry stated, in part, that the project can be redesigned so that no waiver is required.

Chairman Bostock noted that Mr. Tarr would speak next, after which the commission would hear from the public.

Chairman Bostock called for a five-minute break at 12:25 pm. The meeting resumed at 12:30 p.m.

Mr. Tarr introduced Mr. O'Shea, Van Note-Harvey Associates. Mr. O'Shea discussed the project with a slide presentation, including the benefit of cluster development, the stormwater management, the 1:1.5 mitigation, and buffer averaging.

Chairman Bostock asked for public comment on the project. The following members of the public spoke to the commission about the project:

Ms. Cherry, a volunteer with the Princeton Battlefield Society
Mr. Hurwitz, President of Princeton Battlefield Society
Mr. Von Zumbusch, Princeton Historic Preservation Commission
Mr. Barth, D&R Canal Watch

Chairman Bostock closed the public comment.

Chairman Bostock noted he would entertain a motion. Commissioner Leck moved to approve the project. Commissioner Lubitz seconded the motion. Chairman Bostock called for comments from the commissioners.

Vice Chairman Loos spoke against the motion.

Commissioner Stout asked for clarification of the motion; Chairman Bostock and Commissioner Leck noted the motion was to approve the project with the 25,000-square-foot (1/2 acre) mitigation.

Chairman Bostock spoke in favor of the motion.

Commissioner Allen spoke against the motion.

Chairman Bostock called for a vote. Chairman Bostock and Commissioners Lubitz and Stout voted to approve the project. Vice Chairman Loos, Director Texel, and Commissioners Leck and Allen voted against the project. The application was not approved.

Review Zone A Projects

13-4507 31 Prospect Street Demolition

Chairman Bostock asked Mr. Mazzei to give brief overview of the Review Zone A project. Mr. Mazzei noted that the project is a home in extreme disrepair and in danger of collapsing. The City of Trenton will demolish the home and replace the structure with topsoil and seeding. Chairman Bostock called for comment from the commission, and then the public. Hearing none, he called for a motion on the project. Commissioner Stout moved to approve the project and Commissioner Lubitz seconded the motion. The application was approved unanimously.

Review Zone B Projects

Chairman Bostock asked Mr. Mazzei to give an overview of each Review Zone B project.

13-3264A Bear Tavern Greene

Mr. Mazzei noted the project includes the construction of 207 garden apartments in 22 buildings in Ewing Township near the airport and near I-95.

13-4483 Navinta

Mr. Mazzei noted the project is a warehouse addition in Ewing Township.

13-2441N Princeton Parking Lot 17

Mr. Mazzei noted the project will replace tennis courts with a parking area at Princeton University.

13-4383 Belle Meade Tire

Mr. Mazzei noted the project includes demolishing a single-family home and building a tire center, associated drives and parking in Hillsborough.

13-3062C Federal Express Distribution Center

Mr. Mazzei noted the project will construct parking next to a warehouse in South Brunswick.

Chairman Bostock called for comment from the commission, and then the public. Hearing none, he called for a motion on the Review Zone B projects. Vice Chairman Loos motioned to approve the Review Zone B projects and Commissioner Lubitz seconded the motion. The projects were approved unanimously.

Director Texel left the meeting at 1:50 pm.

Update: Design Estimates for Canal Bridge at Easton Avenue

Chairman Bostock recognized Mr. White, NJDEP, who reported on the feasibility of constructing a moving swing bridge on the proposed site behind the Easton Avenue Diner. Mr. White noted that the construction for such a bridge would be approximately \$2.9 million. Vice Chairman Loos moved to approve going forward with the fixed-place bridge which would cost approximately \$600,000 in construction; Commissioner Leck

seconded the motion.

Chairman Bostock asked for comment from the commission and then the public. Vice Chairman Loos commented on the benefits of creating further public access to the park. Mr. Barth and Dr. Chase spoke to the commission about the project.

Chairman Bostock called for a vote. The motion to approve proceeding with the fixed-place bridge design was approved unanimously.

Executive Director's Report

There was no report from the executive director due to her unexpected absence.

D&R Canal State Park Superintendent's Report

Mr. White read a prepared report from Superintendent Kalleser as she had to leave the meeting. He reported that park staff had met with the executive director Charles Waaben of the VAST (Vocational, Arts, Science, Training) Center to discuss opportunities for volunteerism along the towpath and greenway in Trenton. Park staff met with Watershed Ambassadors for three upcoming Park Blitz's along the various watersheds in March. Thus far, locations for clean-ups include Weston Causeway, Landing Lane, and Bulls Island. Superintendent Kalleser is meeting with representatives of Thomas Edison College as the Office of Leases is in the final stages of establishing a lease with the college for use of the West Hanover Street Canal House. Trenton and area staff met with Kingwood Township representatives regarding the on-going issues on the Horseshoe Bend LLC acquisition.

New Jersey Water Supply Authority

Mr. Shepherd, NJWSA, reported that work was being done at the right bank of the canal at Whitehead Road and Basin Road. The work involved two culverts needing maintenance and improving access to the area for NJWSA.

Old/New Business

There was no old or new business discussed.

Public Forum

Mr. Von Zumbusch asked about fencing installed at a drainage project near Mapleton Road.

Mr. Barth noted the schedule of upcoming D&R Canal Watch events and spoke about the reconstruction of the Weston Causeway Bridge.

Executive Session

Chairman Bostock noted the commission would enter into executive session to discuss personnel and litigation. Commissioner Lubitz motioned to enter into executive session and Commissioner Stout seconded the motion; the motion was approved unanimously. The commission entered into executive session at 2 p.m.

Public Session

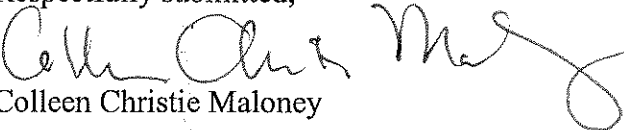
Chairman Bostock called the public session back to order at 2:20 p.m.

Commissioner Allen left the meeting. Commissioners present at the meeting at 2:20 p.m. were Chairman Bostock and Commissioners Lubitz, Stout, Leck, and Loos.

Chairman Bostock noted that he would accept a motion. Vice Chairman Loos motioned that, in the event that the DEP has not facilitated a way to 1) move the staff person from the secretary position to the professional position, 2) temporarily fill the executive director's position, and 3) assist with hiring an administrative assistant, that two weeks from today, that the commission authorize the chairman under N.J.A.C.13:13A-12.g to petition the legislature for specific direction or appropriation to accomplish commission objectives in the event of a substantial disagreement between the commission and the department. Commissioner Stout seconded the motion. Chairman Bostock asked for discussion and, there being none, he called for a vote. The motion was approved unanimously.

Chairman Bostock noted he would entertain a motion to adjourn the meeting. Commissioner Lubitz motioned to adjourn and Commissioner Stout seconded the motion; the motion was approved unanimously. The meeting adjourned at 2:25 p.m.

Respectfully submitted,


Colleen Christie Maloney