

**October 15, 2014 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:05 a.m.

DATE: October 15, 2014

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

ATTENDING:

COMMISSIONERS: Chairman Robert Bostock, Vice Chairman John Loos,
Commissioner Mary Leck, Commissioner Phillip Lubitz,
Commissioner Bruce Stout, and Commissioner Mark Texel

STAFF: Director Marlene Dooley, Deputy Attorney General Alison Reynolds,
Ms. Colleen Christie Maloney

GUESTS: D&R Canal State Park Superintendent Patricia Kalleser; Mr. Joseph
Shepherd, NJ Water Supply Authority; Mr. Robert Barth, D&R Canal
Watch, DRCC Advisory Council; Mr. Robert von Zumbusch, DRCC
Advisory Council; Mr. Michael Abramowitz; Mr. Mike Thomas, T&M
Associates.

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 that next month's commission meeting date is November 19, 2014. Vice Chairman Loos stated he would not be able to attend the meeting.

Chairman Bostock announced the safe arrival of a baby boy to Staff Engineer Vince Mazzei and Becky Mazzei.

Minutes of the Meeting

Minutes of the September 17, 2014 Meeting

Chairman Bostock asked for a motion on the minutes. Commissioner Lubitz moved to approve the minutes; Commissioner Leck seconded the motion. Chairman Bostock and Commissioners Leck, Lubitz, Stout, and Texel voted to approve the minutes; Vice Chairman Loos abstained. The minutes were approved.

Minutes of the September 17, 2014 Executive Session

Chairman Bostock asked for a motion on the minutes from the executive session. Commissioner Texel moved to approve the minutes; Commissioner Leck seconded the motion. Chairman Bostock and Commissioners Leck, Lubitz, Stout, and Texel voted to approve the minutes; Vice Chairman Loos abstained. The minutes were approved.

Review Zone A Projects

14-4389A Family Dollar Store (So. Bound Brook Borough)

Director Dooley described the project, which includes construction of a retail store in Review Zone A. Chairman Bostock asked for comment from the commission and the public. Hearing none, he asked for a motion on the project. Vice Chairman Loos moved to approve the project and Commissioner Lubitz seconded the motion. The project was approved unanimously.

14-4433A St. John's Ramp Replacement (Lambertville)

Director Dooley described the project, which includes replacing a handicap ramp at the side entrance of the 1800s church. Chairman Bostock asked for comment from the commission and the public. Hearing none, he asked for a motion on the project. Commissioner Stout moved to approve the project and Commissioner Lubitz seconded the motion. The project was approved unanimously.

14-4415A 53 South Union Street (Lambertville)

Director Dooley described the project, which includes construction of a family room addition to a single-family home, located within the stream corridor of Swan Creek. The applicant seeks a waiver of stream corridor standards for the project. The project is elevated as required by the NJDEP Flood Hazard regulations; this type of project can be accomplished through a NJDEP permit-by-rule. Chairman Bostock asked for comment from the commission and the public. Hearing none, he asked for a motion on the project. Commissioner Texel moved to approve the project and Vice Chairman Loos seconded the motion. The project was approved unanimously.

Review Zone B Projects

Chairman Bostock noted that several projects on the agenda will be reviewed individually, and that the rest would be reviewed *en bloc*, as is the custom of the commission's review of the Zone B projects.

14-3209A MAAC Development Group (Hillsborough Twp)

Director Dooley described the project, which includes a five-lot subdivision. Chairman Bostock asked for comment from the commission and the public. Commissioner Stout asked about previously unapproved work on the site. Applicant Michael Abramowitz responded that he was not involved with the previous work and that he took over the project from a builder who had abandoned the project. Chairman Bostock asked for comment from the public. Mr. Barth asked about maintenance of stormwater features. Director Dooley noted that the commission requires an operation and maintenance manual and enters into a conservation and maintenance easement agreement with the applicant. Also, the commission has begun to request a copy of the maintenance record for manufactured treatment devices annually. Chairman Bostock asked for further comment. Hearing none, he asked for a motion on the project. Vice Chairman Loos moved to approve the project and Commissioner Lubitz seconded the motion. The project was approved unanimously.

Chairman Bostock asked Ms. Dooley to give a brief description of four Review Zone B projects:

14-4575A 147 Harbourton Woodsville Road (Hopewell Twp)

Director Dooley described the project, which includes a large addition to an existing home and stormwater management.

14-3589A Carnegie Center West-Building 804 (W. Windsor Twp)

Director Dooley described the project, which includes construction of a three-story building, parking, and bike paths.

14-2308F Trenton-Mercer Airport Taxiways H, B, & F FAA Phase 1 (Ewing Twp)

Director Dooley described the project, which includes the milling and overlay of pavement on three taxiways at the airport.

14-2945B Hillsborough High School Elevator and Science Bldg. (Hillsborough)

Director Dooley described the project, which includes construction of an elevator and a science classroom at the high school.

Chairman Bostock asked for comment from the commission on the four projects.

Commissioner Leck asked about 14-3589A Carnegie Center West and the treatment of water at a site which drains into the canal. There was discussion about commission water quality standards. Commissioner Lubitz asked about the applicant meeting its water quality obligation by treating stormwater from a neighboring site and asked what would happen if one of the properties is sold. There was discussion about existing facilities, lot ownership, maintenance of the stormwater facility should one property change ownership, deed restrictions, and required operation and maintenance easements. Commissioner Leck asked if the runoff from the asphalt is tested; it was stated that the run off is not required to be tested. Mr. Thomas stated that the treatment of impervious surfaces meets current regulatory standards of the NJDEP. He indicated the water would have 95% TSS removal.

Discussion on Carnegie Center was held as Chairman Bostock called for a motion to approve two of the projects: 14-4575A 147 Harbourton Woodsville Road (Hopewell Twp) and 14-2308F Trenton-Mercer Airport Taxiways H, B, & F FAA Phase 1 (Ewing Twp). Commissioner Lubitz motioned to approve the two projects; Vice Chairman Loos seconded the motion. The two projects were approved unanimously.

14-2945B Hillsborough High School Elevator and Science Bldg. (Hillsborough)

Several commissioners asked for a copy of the staff report; staff noted that the report had been sent by email. Chairman Bostock asked the commissioners to take time to review the project before a vote. The commissioners reviewed the report. Chairman Bostock asked for comment from the commission and then the public. Hearing none, he asked for a motion on the project. Commissioner Lubitz moved to approve the project and Vice Chairman Loos seconded the motion. The chairman asked for further comment. Commissioner Texel asked about the existing stormwater management features. Director Dooley noted that staff reviewed the existing features to confirm they are properly sized and requested maintenance records from the applicant to confirm the facilities were maintained. Chairman Bostock asked for a vote. The project was approved

unanimously.

Chairman Bostock asked for a motion on 14-3589A Carnegie Center West-Building 804 (W. Windsor Twp). Commissioner Lubitz motioned that the approval be conditioned upon recording of a conservation and maintenance agreement that incorporates the treatment of stormwater from the neighboring property. Commissioner Stout seconded the motion. The project was approved unanimously with the condition.

13-3033B Culver Estates Modification (So. Brunswick Twp)

Director Dooley described the project, which includes the development of six lots on a 50-acre site. A stream corridor had been obtained by the Commission in 2005, but the project was not built. The home lots back up to a commission stream corridor.

As required by the commission, the project is designed to include twenty-five feet of usable yard between the home and the stream corridor buffer line. Ms. Dooley noted that the project had earlier substantively met the commission requirements, and had recently submitted evidence of local approval to the commission. She recently requested that the applicant place a fence and “no mow” signs along the edge of the conservation buffer line to prevent homeowners from encroaching into the easement boundary. The applicant declined this request.

Ms. Dooley recommended that it be a condition of approval to put a fence and signs along the buffer line to preserve the stream corridor. There was discussion about encroachment into stream corridors by homeowners, such as mowing and installation of play equipment, and the strategies to prevent encroachment, such as markers, fencing, signage, and enforcement and the difficulties created by the changing of home ownership.

Vice Chairman Loos noted that there had been encroachments into commission stream corridors in the past, including mowing and he suggested adding the condition of fencing and “no mow” signage to the easement, so the obligation would pass from property owner to property owner. Commissioner Lubitz suggested posting signage every 20 feet or so. There was discussion about fencing and the responsibilities of continued maintenance of it. Mr. von Zumbusch noted that staff should know the type of fence and that maintenance of the fence should be a condition of an approval. Vice Chairman Loos recommended that an easement could include language to require the owner to “maintain a fence which prevents mowing.”

Chairman Bostock noted that he was disappointed the applicant would not voluntarily agree upfront to install a fence and signage along the buffer line, but that the matter had engendered a useful discussion. DAG Reynolds asked that the motion be clarified. Chairman Bostock clarified the motion stating the commission approves the application with the condition that the existing easement be amended to provide for installation and maintenance of a fence, in perpetuity, sufficient to prevent mowing in the easement area. Vice Chairman Loos moved to approve the motion; Commissioner Lubitz seconded the motion. Commissioner Texel offered a friendly amendment that the language include another word than “fence”, such as the word “barrier”. The motion was amended as follows: the commission approves the application with the condition that the existing

easement be amended to provide for installation and maintenance of a fence or a barrier, in perpetuity, sufficient to inhibit mowing in the easement area. Chairman Bostock called for a vote on the motion. The project, as conditioned in the motion, was approved unanimously.

12-4348 NJ Buddhist Vihara & Meditation Center (Franklin Twp)

Director Dooley described the project on a nine-acre property which includes the demolition of a building and construction of a new building, the addition of substantial walking trails and parking and intrusion into a commission stream corridor. A meditation path is to be constructed through the woods and the pathway will be constructed within areas of a stream corridor. The applicant seeks a conditional use for the bridge and walking trail, and requests a waiver for the portion of septic system and grading in the stream corridor. The applicant stated in the waiver request that soil testing was done throughout the property and the septic system could not be placed elsewhere on the property. There was discussion about materials used to create trails and the impact of trail materials on a stream corridor. Commissioner Stout asked for clarification on the impact areas of the septic system. Director Dooley noted the section of the system and associated grading. Vice Chairman Loos noted that the commission should be doing everything within its power to get the best environmental solution possible when there is an impact to the stream corridor, including examining materials used for a pathway or trail. There was discussion about handicap accessibility, potential use of grass pavers, that grass pavers require a stone base and other potential path materials. Chairman Bostock asked that staff engineers review the use of grass pavers for future projects in the review zone which intrude into the stream corridor. Chairman Bostock asked for comment from the commission and the public. Hearing none, he asked for a motion on the project. Commissioner Lubitz moved to approve the project and Commissioner Texel seconded the motion. The project was approved unanimously.

Executive Director's Report

Director Dooley discussed the monthly work tally. Director Dooley gave a presentation on the commission's budget, providing information on the historic funding of the commission and present day funding. She discussed the status of the commission funding as a line item within the State's budget, then funding of the commission within the DEP's budget, and then funding through a fee-based regulatory program in 2009. She discussed historic and current staffing levels, the operating budget, and statutory requirements. There was discussion about the budget, fringe and indirect costs, and budget planning. Vice Chairman Loos and Commissioner Stout offered to assist Director Dooley with meeting with DEP representatives regarding budget matters. There was discussion related to the fees supporting a permitting program, the master plan, and enforcement, and planning a budget for the 2016 fiscal year. Vice Chairman Loos read from the commission's statute: "On or before December 31 in each year the commission shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. Each such report shall set forth a complete operating and financial statement covering its operations during the year, all as more fully provided..." and "the commission may, in addition, at any time request the Governor and the Legislature to appropriate funds for commission purposes..." and "the commission shall cause an audit of its books and accounts to be made at least once in each year." There was discussion about staffing, projecting revenue, and fees, and the expiration of

the rules in 2016. Chairman Bostock noted the importance of the commission meeting all its varying obligations and performing them well.

D&R Canal State Park Superintendent's Report

Superintendent Kalleser noted the completion of the Prallsville Restrooms, the plan to re-tar and chip the Prallsville Mills complex parking lot, the recent tours of the Saxonville Tavern at Ravens Rock, a grant-funded native planting program at the Bulls Island Natural area led by Park Naturalist Stephanie Fox and that also addressed removal of invasive species, the upcoming application to demolish several structures on Bulls Island, the Kingston Fall Foliage Walk on October 19, and Canal Fest in East Millstone on October 18. She further noted that park staff removed 60 cubic yards of vegetative debris which had been discarded in Franklin Township, and thanked Canal Watch for bringing a safety matter to the park's attention.

Commissioner Lubitz noted that he had observed that some work was performed in Byram, as requested by residents. Commissioner Texel noted that the funding was very limited for the work at Byram. Commissioner Lubitz asked when the plan for Bulls Island would be available to review. Commissioner Texel noted that the Department expected to have an application before the commission next month for removal of some infrastructure; the project would be for demolition, only. The public access plan will be presented at a later date.

Commissioner Texel left the meeting at 11:50 a.m.

New Jersey Water Supply Authority (NJWSA)

Mr. Shepherd noted that the stone caps were repaired at the Five-Mile Spillway area. And the NJWSA had begun discussion with NJDOT over the cleaning of the Trenton conduits of the canal.

Old/New Business

Commissioner Leck noted that the education center at the Abbott Marsh was dedicated and an Abbott Marsh Stewardship Council Report is available on line. There are many events planned related to the marsh, one of which is an October 24 concert at Ellarslie in Trenton.

Vice Chairman Loos noted the Canal Fest in East Millstone from 12 – 5 pm on Oct. 18, at Amwell Road and Market Street.

Commissioner Lubitz noted that the Penn East Pipeline is a matter of importance. The pipeline will go under the Lockatong Creek, which feeds into the canal. He asked what the commission's interest would be in the FERC-regulated project. DAG Reynolds noted that she would follow up to get more information and follow up on the timeline for comments.

Vice Chairman Loos noted that Mr. Barth would like to show a movie, "The D&R Canal," after the conclusion of a monthly meeting. He suggested that the movie be shown after next month's meeting, if the meeting does not run late. Chairman Bostock noted that the director should work with Mr. Barth to find the best time to see it, perhaps

in the new year.

The chairman opened the meeting to public comment. Mr. Barth spoke about the movie he wishes to present to the commission in his effort to educate the commission about the sites along the canal. He also noted that the last Canal Walk hike of the season is November 8 at 10 am in Trenton. There was discussion of additional ways to make the movie available. Mr. von Zumbusch stated alternative ways to reach varied audiences would be positive, such as U-Tube or the website.

Adjournment

Chairman Bostock noted he would entertain a motion to adjourn the meeting. Vice Chairman Loos motioned to adjourn and Commissioner Leck seconded the motion. The motion was approved unanimously. The meeting adjourned at 12:05 p.m.

Respectfully submitted,


Marlene Dooley
Secretary