

**November 19, 2014 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:05 a.m.

DATE: November 19, 2014

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

ATTENDING:

COMMISSIONERS: Commissioner Julia Cobb Allen, Commissioner Mary Leck, Commissioner Phillip Lubitz, Commissioner Bruce Stout, and Commissioner Mark Texel, Commissioner Ed Trzaska

STAFF: Director Marlene Dooley, Deputy Attorney General Alison Reynolds, Staff Engineer Joseph Ruggeri, 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. Jason Smolinski, E2PM; Mr. Robert Moschello, Gladstone Design; Mr. Bruce Grundlock, Royce Brook Golf Club; Mr. Mitchel Ardman, The Reynolds Group; Mr. Pete Mattos, E&J Equities; Mr. David Soloway

Director Dooley 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. She noted that Chairman Bostock had resigned from the Commission and Vice Chairman Loos was unable to attend the meeting. She noted the membership would need to select someone to run the meeting. Commissioner Trzaska volunteered to run the meeting in the vice chairman's absence.

Administrative Items

Commissioner Trzaska confirmed that next month's commission meeting date is December 17, 2014. There was no discussion.

Commissioner Trzaska noted the 2015 Commission meeting schedule. He asked for a motion to approve the 2015 meeting schedule. Commissioner Stout moved to approve the schedule and Commissioner Leck seconded the motion. The 2015 meeting schedule was approved unanimously.

Minutes of the Meeting

Minutes of the October 15, 2014 Meeting

Commissioner Trzaska asked for comments or corrections on the minutes. Hearing none, he asked for a motion on them. Commissioner Stout motioned to approve the minutes and Commissioner Lubitz seconded the motion. Commissioners Stout, Leck, Lubitz, and Texel voted to approved the minutes. Commissioners Trzaska and Allen abstained. The minutes were approved.

Review Zone A Projects

14-2349 243 North Union Gas Lights (Lambertville)

Director Dooley described the project, which includes the installation of vintage gas-style lights and a window change on the exterior of a commercial building in Review Zone A. Commissioner Trzaska 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 Stout seconded the motion. The project was approved unanimously.

14-3262C Bulls Island Camping Infrastructure Removal (Kingwood/Delaware)

Director Dooley noted that Parks has determined to discontinue camping at Bulls Island. She then described the project, which includes removal of the campground buildings, and will not affect existing trees or roads within Bulls Island. The project was reviewed for visual and stormwater impact. Commissioner Trzaska asked for comment from the commission and the public.

Mr. Barth asked about spending financial resources on the demolition project when the area is not open to the public and Parks resources are so limited. Superintendent Kalleser noted that the buildings had become an attractive nuisance, there is hope that the area will be open to the public in the future, public restrooms are available at the park office, and, with upcoming limits on a funding source, it is an appropriate time to do the demolition. Mr. von Zumbusch noted that he had been involved with the D&R Canal State Park historic and recreation development plan, and at that time, it was found that Bulls Island was not suitable for a campground; however, the Parks at that time insisted on the camping area. Commissioner Texel noted the funding for this project had been encumbered two budget cycles ago. He noted that Parks was exploring potential campground sites along Route 29 in the area. Commissioner Trzaska noted his hope that the park would be open in the future and that through his experience he could confirm the difficulties of security breaches with abandoned buildings. Commissioner Stout asked about the removal of the restroom facility and the restroom availability for the public. Commissioner Texel and Superintendent Kalleser confirmed that the restrooms at the park office are adequate. Commissioner Lubitz noted that he trusts that Parks will bring a plan forward to open Bulls Island to public use again. Commissioner Trzaska asked for further comment. Hearing none, he asked for a motion on the project. Commissioner Lubitz moved to approve the project and Commissioner Stout seconded the motion. The project was approved unanimously.

14-4634 59 Clinton Street Barn/Apt (Lambertville)

Director Dooley described the project, which includes the renovation of a building along the D&R Canal State Park path. Commissioner Trzaska 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 Stout seconded the motion. The project was approved unanimously.

14-4646 River Signs (Lambertville)

Director Dooley described the project, which includes installation of new signs on a commercial building in Review Zone A. Commissioner Trzaska 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 Leck seconded the motion. The project was approved unanimously.

Review Zone B Projects

14-2098B Vaughn Lot Pedestrian Walkway (West Windsor)

Director Dooley described the project, which includes a pedestrian walkway connecting two existing parking lots at the Princeton Junction Train Station area. Commissioner Trzaska asked for comment from the commission and the public. Commissioner Leck asked if the applicant had considered a walkway elevated above the wetland so water and wildlife could move through the existing wetland area. There was discussion about the impact of the project on wetlands, DEP review of wetlands, and the commission's jurisdiction in that area. Commissioner Trzaska asked for further comment. 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.

14-2119B Royce Brook Golf Course/Verizon Wireless (Hillsborough)

Director Dooley described the monopole and telecommunications facility project and the 1994 commission approval of the Royce Brook Golf Course. She noted that, in reviewing the Verizon project, staff found that the stream corridor easement related to the 1994 golf course approval was never filed by the golf course owner. Director Dooley noted an additional intrusion into the stream corridor and the 1:1 mitigation for intrusion proposed by the golf course. She noted the current owners of the golf course agree to record the conservation easement with the additional area of mitigation. For the current project, the commission would be approving the monopole, with the condition that the conservation easement be recorded. Commissioner Lubitz noted his concern that the conservation easement had not been recorded, as agreed to when the golf course project was approved in 1994; he suggested not approving the project until filing of the easement is completed. There was discussion about the process of recording easements and issuing approvals. Mr. Barth noted his concern about the visual impact of the project on the park and the conditions of removing the tower and facility when it becomes obsolete. Director Dooley noted that the project is in Review Zone B, and there is not a visual impact review done on projects in Zone B. Commissioner Trzaska described the heavily wooded areas and residential development between the golf club and the park. Mr. von Zumbusch noted the past policy of the commission had been to specify removal conditions of towers in Zone A only. Mr. Soloway, attorney for Verizon, requested that the commission grant a conditional approval so his client can proceed with the Verizon project as soon as the easement is recorded and would not have to go through another commission review and meeting. Commissioner Stout noted the possibility that the golf course may, again, not record the easement. Ms. Dooley noted that the applicant would not get a certificate of approval until the golf course presented proof of recording the easement to commission staff. She noted that the new golf course owner is present at the meeting, has hired an engineer, and has agreed to recording the easement. There was discussion about requesting that the Hillsborough Township Construction Office not issue a construction permit until the conservation easement is recorded. Commissioner Trzaska asked for further comment. Hearing none, he asked for a motion on the project. Commissioner Stout moved to accept the proposed project and that a letter be sent by

commission staff to the Hillsborough Construction Office requesting that that office not issue a construction permit for the project until commission staff issues the Certificate of Approval. Commissioner Leck seconded the motion. Commissioners Trzaska, Allen, Leck, Texel, and Stout voted to approve the project as conditioned; Commissioner Lubitz abstained. The project was approved.

14-3017C E&J Equities (Franklin)

Director Dooley described the project in which the applicant is seeking to come into compliance by obtaining retroactive approval for two culverts at stream crossings and a driveway, and to remove an internal roadway. Commissioner Trzaska asked for comment on the project. Mr. Ardman noted that the applicant has been developing the project site for years and always pursued appropriate permitting. There was an error in not getting permitting for this project and, with the commission's approval, the project will be in compliance with current regulations, including a stream corridor agreement with 2 to 1 mitigation on the site. Commissioner Trzaska asked for further comment. Hearing none, he asked for a motion on the project. Commissioner Texel moved to approve the project; Commissioner Lubitz seconded the project. The project was approved unanimously.

14-3085 Koyal Realty (North Brunswick)

Director Dooley described the project, which includes construction of a hotel with associated improvements. Commissioner Trzaska asked for comment on the project. Hearing none, he asked for a motion on the project. Commissioner Stout moved to approve the project; Commissioner Lubitz seconded the project. The project was approved unanimously.

14-3198A The Woods at East Windsor (East Windsor)

Director Dooley described the project, which includes construction of three buildings of multi-family units, a clubhouse, a pool and associated improvements. There is no intrusion into the previously recorded commission stream corridor. Commissioner Trzaska asked for comment on the project. Hearing none, he asked for a motion on the project. Commissioner Lubitz moved to approve the project; Commissioner Stout seconded the project. The project was approved unanimously.

Executive Director's Report

Director Dooley discussed the monthly work tally. Director Dooley reported on the active month, which included work on several retroactive action and easement matters related to Culver Estates, Cranbury Brickyard, Carnegie Center West, and the NJ Turnpike Widening Project mitigation. She shared information on the Permit Extension Act and its impact on the commission's permitting, and a copy of the pending extension of the act, which had been forwarded by Commissioner Texel.

D&R Canal State Park Superintendent's Report

Superintendent Kalleser noted a recent \$5,000 grant from retailer REI, which will be put to towpath surface improvements in the Princeton area. D&R Canal Watch may assist with renting equipment for the project. For Lambertville, she noted that more detour signage was placed in the vicinity of the Swan Creek bridge and the December 1 work date to begin canal bank repairs near Lilly's, resulting in a detour of park pedestrian

traffic on to Lambert Lane at Finkle's. She noted the new acquisition of 116 acres of property in Kingwood Township, near County Route 651 and Stompf Tavern Road, the November 23 book signing for canal historian Linda Barth's new book, and the December 6 walk on the bluffs in Bordentown, led by Park Historian Vicki Chirco and Park Naturalist Stephanie Fox.

New Jersey Water Supply Authority (NJWSA)

Mr. Shepherd noted that on-going removal of debris in the canal resulted in the recent recycling of 400 tires and the repair required at the Kingston Lock center feed gate, which had failed. Commissioner Stout inquired about the project schedule in Lambertville for the area on the canal near Lilly's and trees which many need to be removed in Lambertville. Mr. Shepherd noted that the project would begin within a couple of weeks. Director Dooley and Mr. Shepherd noted that four trees would be removed, two of which are affecting the structural integrity of the canal.

Old/New Business

Mr. von Zumbusch asked Mr. Shepherd about a fairly large hole on the right bank in Kingston. Mr. Shepherd noted that it is part of the DOT wing wall and NJWSA had asked DOT to address it.

Commissioner Lubitz noted his interest in the matter of the proposed PennEast pipeline. DAG Reynolds noted that on October 10, the Federal Energy Regulatory Commission (FERC) gave PennEast approval to enter the pre-filing process. PennEast is proposing to file the application with FERC in July 2015. During the pre-filing process, stakeholders can be involved and there have been a few open houses to discuss the project with the public. Next, PennEast would issue a notice of intent to prepare an environmental impact statement report. The public would review it to see potential alternatives and impacts. DAG Reynolds noted the commission can submit a comment to FERC voicing its concerns about the project. PennEast must provide FERC a list of stakeholders, and the commission is not listed on the stakeholder list. DAG Reynolds noted she can submit to Director Dooley what PennEast has filed with FERC thus far. One thing the commission would review is to see if the proposed pipeline would go through any existing commission stream corridors easement areas and, if so, the commission would require mitigation to offset the impact on the stream corridor.

Commissioner Lubitz noted that the proposed pipeline would cross the Lockatong Creek several times. The original route had been through a solar facility, but in an effort to avoid that, the pipeline was rerouted, resulting in it crossing the Lockatong Creek, which drains into the canal, two times. The proposed pipeline goes through wetlands and then crosses under with the Wickecheokee Creek. Commissioner Texel noted that the pipeline passes near state park holdings.

There was further discussion about the proposed pipeline. DAG Reynolds further discussed FERC's approval process, the National Gas Act, and landowner rights and condemnation. DAG Reynolds noted the opportunity to become an "intervener." Commissioner Trzaska noted that his municipality was an intervener on a similar project. Commissioner Leck noted her concern that the proposed pipeline was not being routed along existing utilities, such as high tension wire or existing pipeline easements and she

noted that project in this pipeline will be exported and not be used in the United States. Commissioner Allen noted the condemnation of Green Acres and other preserved farmland.

Director Dooley noted that she had met recently with Sunoco about an existing pipeline which crosses under the canal through a culvert at Jacob's Creek. She noted that commission regulations do not prohibit pipelines, and that the commission does not review projects for which no local approval is required. Mr. von Zumbusch recommended that the commission try to become a stakeholder and he noted his concern that the proposed pipeline is routed through many areas of preserved land.

Commissioner Texel brought up new business. He moved that the Commission pass a resolution in which they thanked recent Chairman Robert Bostock for a year of steady leadership, thoughtful and fair conduct, and wit. Commissioner Lubitz seconded the motion. It was approved unanimously.

Mr. Barth noted Linda Barth's book signing for The Millstone Valley, to take place Sunday at the Millstone Valley Scenic Byway Visitor Center, at the Griggstown Bridgetenders House. He noted the video he wishes to share with the commission in the near future. Mr. Barth asked the status of canal areas covered with a tarp in Stockton. Mr. Shepherd noted that the NJWSA is awaiting schematic designs for repairs and the costs for the areas. Mr. Barth asked about dates of planting for the berm area at Zaraphath. Director Dooley noted that the church community plans to plant the area with a mix of native plantings.

Mr. Barth suggested the commission consider a policy related to cell phone towers. There was discussion about towers near the park. Commissioner Texel noted that Parks does not allow the towers, but, given budget and revenue concerns, some Parks have considered certain utilities as sustainable sources of revenue, that allowed Parks to revive programming and hire staff. Commissioner Trzaska noted the need for 911 emergency service has become greater as people are retiring their landlines, the towers become more of necessity, and past policy on towers may not be practical for current and future needs. Commissioner Allen noted that, in her municipality, antennas are placed on existing structures such as silos and high tension towers. Director Dooley noted that the commission's authority on tower projects is related to view shed standards in Review Zone A, including height of a project, and that there is only a visual impact review by the commission in Review Zone A, not in Review Zone B.

Mr. von Zumbusch noted the December 6 opening of the Griggstown Bridgetenders house with another book signing.

Commissioner Trzaska confirmed there was no need for executive session.

Adjournment

Commissioner Trzaska noted he would entertain a motion to adjourn the meeting.

Commissioner Lubitz motioned to adjourn and Commissioner Texel seconded the motion. The motion was approved unanimously. The meeting adjourned at 11:45 a.m.

Respectfully submitted,



Marlene Dooley
Secretary