

**November 18, 2015 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:05 a.m.

DATE: November 18, 2015

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

ATTENDING:

COMMISSIONERS: Commissioner Julia Cobb Allen, Commissioner Bruce Stout,
Commissioner Mary Leck, Commissioner Phil Lubitz,
Commissioner Texel

STAFF: Executive Director Marlene Dooley, Mr. Joseph Ruggeri,
Deputy Attorney General Melissa Abatemarco,
Ms. Colleen Christie Maloney

GUESTS: Superintendent Patricia Kalleser; Mr. Joseph Shepherd, NJWSA; Mr.
Robert Barth, D&R Canal Watch; Mr. Andrew Stockton, Eastern Civil
Engineering; Mr. Dennis O'Neal, Ferriero Engineering; Mr. Cliff Sneyers
and Mr. Bill Wardell, Executive Group

Executive 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.

Commissioner Stout moved to select Commissioner Lubitz to run the meeting in Vice Chairman Loos's absence. Commissioner Leck seconded the motion. It was approved unanimously.

Executive Session

Commissioner Lubitz stated he would entertain a motion to move into executive session related to legal matters. Commissioner Stout made a motion to move into an executive session and Commissioner Leck seconded the motion. It was approved unanimously. At 10:10 a.m., the commission moved to executive session.

At 10:45 a.m., the commission resumed public session.

Administrative Items

The Commission confirmed the December 16, 2015 meeting date.

Minutes of the Meeting of October 21, 2015

Commissioner Lubitz asked for comments or corrections on the minutes. Hearing none, he asked for a motion on the minutes. Commissioner Texel motioned to approve the minutes and Commissioner Stout seconded the motion. The minutes were approved unanimously.

Review Zone A Projects

14-4642 152 North Union Street Subdivision

Director Dooley described the project, in which a lot will be subdivided and a new house will be constructed. Commissioner Lubitz asked if the commissioners had comments or questions. Commissioner Texel and Director Dooley discussed the limits of the historic district in Lambertville. Commissioner Lubitz asked for further comment from the commission, and then the public. Hearing none, Commissioner Lubitz called for a motion. Commissioner Stout moved to approve the project and Commissioner Leck seconded the motion. It was approved unanimously.

Zone B Projects

Commissioner Lubitz asked the commission and then the public for comments and questions regarding the following Zone B projects:

15-3969D Forrestal Professional Center II (Plainsboro Twp.)

15-4791 Lawrence Hopewell Trail (Hopewell Twp.)

Hearing none, he called for a motion. Commissioner Stout moved to approve the two projects and Commissioner Texel seconded the motion. Both were approved unanimously.

14-4593 Executive Group (S. Brunswick Twp.)

Director Dooley described the project, which includes construction of a 49,790-square-foot structure with associated drives and parking on a 6.3-acre property in an industrial park. The project will result in 2.2 acres of new impervious surface. A stream corridor bisects the property, and portions of the building, a basin, and graded areas will intrude into the corridor. The application seeks a waiver for the intrusion. The applicant has agreed to purchase land offsite at a ratio of 2 to 1, and had a Green Acres approved appraisal. Ms. Dooley outlined the history of the project including that the applicant has substantially reduced the size of the project and intrusions into the corridor.

Mr. Sneyers, the applicant, described working with commission staff since 2014, reducing the project from the original 60,000-square-foot building to 56,000 square feet, and now 49,000 square feet. He noted that the original encroachment into the stream corridor was 77,665 square feet, and the encroachment has been reduced now to 16,393 square feet. The building has been redesigned from a rectangle into a horseshoe to minimize the intrusion.

Commissioner Lubitz asked for comments and questions from the commissioners. Commissioner Leck asked if the 24 parking spaces would be enough for such a large facility. Mr. Sneyers explained that the company is an equipment distributorship, and the building is largely for storage, and the parking spaces would be adequate for staff. Commissioner Lubitz asked for comments from the public. Hearing none, he asked for a motion. Commissioner Stout made a motion that the project be approved conditioned upon the preservation of 13,282 square feet of stream corridor within the same watershed as the project, subject to approval of executive director of the commission, prior to construction, and with the understanding the director may require that the property be put

in a conservation easement. Commissioner Texel seconded the motion. The motion was approved unanimously.

Executive Director's Report

Director Dooley provided and commented upon the monthly work tally. She reported on activity such as preparing for the November 5 special meeting, preparing a statement of items for a litigation matter, meetings with applicants, and monthly fees.

Director Dooley noted that the NJWSA had submitted the Cherry Tree Lane spillway application, which would likely be processed as a General Permit 1, for repair and replacement in kind. The NJWSA made a presentation previously to the commission and received conceptual approval of the project from the commission.

Director Dooley discussed a meeting and a project at Cadwalader Park in which handicap access paths and platforms will be constructed, some of which are on state property, and some will connect to the D&R Canal State Park.

Director Dooley described a scheduled meeting in Lambertville at which the Army Corp would discuss a flood wall that may be constructed toward the north end of town. The project would have visual impact to the D&R Canal State Park. There was discussion about the project, including its location and flooding in Lambertville. Mr. Ruggeri discussed the project, the study of flooding along the Delaware River, and the Army Corp criteria.

Director Dooley noted a complaint the commission received regarding the noise created by a NJDOT-installed rumble strip in the middle of Route 29 immediately north of the Golden Nugget Flea Market. She discussed DOT's policy and the concerns raised.

Park Superintendent's Report

Superintendent Kalleser noted that it is hunting season in areas of the park, specifically bow hunting. She noted there were altercations between hunters and hunters and hunters and cyclists. She noted that hunting is allowed in some areas, with proper permit through a lottery system. Hunting hours are dawn to dusk but not on Sundays.

Mr. Barth expressed concern about the visual impact of the Cadwalader Park improvements on the D&R Canal Park user. There was discussion about handicap accessible paths and a pad adjacent to the bridge, ownership, a proposed playground and plantings.

Superintendent Kalleser noted she would attend a meeting in South Bound Brook in which there is interest in making improvements near the canal. There may be flood plain issues and SHPO may need to review the potential project. Director Dooley noted she had met with representatives of South Bound Brook and described her meeting.

The superintendent noted that on Saturday, November 28, there would be a book signing at the Griggstown visitors center.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Shepherd noted that maintenance dredging near Whitehead Road is complete and the NJWSA is managing annual leaf and debris removal.

Public Forum

Commissioner Lubitz opened the meeting to public comment.

Mr. Sneyers, the applicant for Executive Group, asked if they could get permission to proceed with their project by posting a bond as it may take time to find property for mitigation. Commissioner Lubitz noted that one suggestion would be to work with a nonprofit which may have a potential purchase in the pipeline.

Mr. Barth asked for clarification as to why mitigation for such a project could not be in the form of a project to benefit the canal, rather than land preservation. He asked if the commission has a list of projects to be used for mitigation. Commissioner Lubitz explained that, in this case, the commission was looking for a project to enhance water quality. Mr. Barth noted that if the commission does not have a list, it has a problem. Director Dooley responded that the commission is aware of projects. She noted that the the commission seeks to have mitigation that has a nexus to the provision being waived. Therefore, the intrusion into the stream corridor will be mitigated by the addition of stream corridor. If there were a visual impact, there may be mitigation in a different way.

Old/New Business

Commissioner Lubitz asked for an update on Bulls Island. Commissioner Texel discussed the DEP's plans which include meeting soon with DEP forestry professionals to discuss the project, allowing time for public comment, a possible question and answer meeting with the public and possible tours of Bulls Island for the commissioners in order to observe the current conditions. The proposed project could be presented in January or February. All work would need to be complete by April 1st timing restriction. Commissioner Texel noted that an attorney general's written opinion considering liability and risk will be requested.

Commissioner Texel noted he is now the director of both parks and forestry in the state.

Public Forum

Commissioner Lubitz recognized Mr. von Zumbusch. Mr. von Zumbusch noted the Kingston Historical Society will host an open house at the Locktenders House on December 6 with a tree lighting and music. He also noted that the Locktenders House is open from 10 to 4 on weekends.

Executive Session

At 11:30, Commissioner Lubitz noted he would entertain a motion to enter into executive session to discuss legal matters. Commissioner Stout motioned to enter into executive session and Commissioner Leck seconded the motion. It was approved unanimously.

At 11:55 a.m., the commission resumed public session.

Adjournment

Commissioner Lubitz noted he would entertain a motion to adjourn the meeting. Commissioner Stout motioned to adjourn and Commissioner Leck seconded the motion. The motion was approved unanimously. The meeting adjourned at 11:55 a.m.

Respectfully submitted,



Marlene Dooley
Secretary

