

**January 20, 2016 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:10 a.m.
DATE: January 20, 2016
PLACE: D&R Canal Commission Office, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice Chairman John Loos, Commissioner Julia Allen, Commissioner Bruce Stout, Commissioner Mary Leck, Commissioner Phil Lubitz, Mr. Ed Mulvan

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

GUESTS: Superintendent Patricia Kalleser; Mr. Robert Barth, D&R Canal Watch; Mr. Robert von Zumbusch, D&R Canal Commission Advisory Committee; Mr. Don Griffin, Lambertville/New Hope Ambulance and Rescue Squad; Mr. Bob Ortego, Princeton University; Ms. Barbara Ross, D&R Canal Watch, Dr. Theodore Chase, Franklin Township.

Vice Chairman Loos 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

The Commission confirmed the February 17, 2016 Commission meeting date.

Commissioner Lubitz nominated Vice Chairman Loos to remain in the Vice Chairman position for 2016. There were no other nominations. The Commission approved the nomination of John Loos as Vice Chairman unanimously.

Commissioner Stout nominated Commissioner Lubitz as Treasurer. Vice Chairman Loos noted that the treasurer would run the meeting in the absence of the Vice Chairman. There were no other nominations. The commission approved the nomination of Commissioner Lubitz as Treasurer unanimously.

Commissioner Allen entered the meeting at 10:15 a.m.

Minutes

December 16, 2015

Vice Chairman Loos called for corrections on the December meeting minutes. Hearing none, Vice Chairman Loos called for a motion to approve the minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Leck seconded the motion. They were approved unanimously.

Executive Session December 16, 2015

Vice Chairman Loos called for corrections on the meeting minutes. Hearing none, Vice Chairman Loos

called for a motion to approve the minutes. Commissioner Leck made a motion to approve the minutes and Commissioner Lubitz seconded the motion. They were approved unanimously.

Vice Chairman Loos reiterated that the prior month's meeting minutes would not be available on the Commission's website prior to the meeting. He noted that the minutes will be available one-half hour before each meeting.

Review Zone Projects

Zone B Projects

15-4795 Marketplace at North Brunswick

Director Dooley described the project, which included demolition of existing structures on the 9-acre site, and construction of a commercial retail development with stormwater management facilities. Vice Chairman Loos asked for comment. Commissioner Stout and Mr. Ruggeri discussed the stormwater runoff and existing conditions at the site. Vice Chairman Loos asked for a motion on the project. Mr. Mulvan made a motion to approve the project and Commissioner Lubitz seconded the motion. It was approved unanimously.

15-4793 Sampson G. Smith School Additions (Franklin)

Director Dooley described the project, which included construction of two building additions, parking and access drives, sidewalks, and stormwater management features. Vice Chairman Loos asked for comment. Hearing none, he asked for a motion on the project. Commissioner Stout made a motion to approve the project and Commissioner Lubitz seconded the motion. It was approved unanimously.

15-2877A Johnson & Johnson South Building Renovation and Parking Expansion (Montgomery)

Director Dooley described the project, which included a parking lot expansion, gravel drives, walkways and a constructed wetland. The project also included retroactive permitting for a solar array. Commissioner Lubitz and Director Dooley discussed the Commission's review of solar projects. Commissioner Leck and Director Dooley discussed the size of the constructed wetland. Vice Chairman Loos asked for further comment. Hearing none, he asked for a motion on the project. Commissioner Stout made a motion to approve the project and Commissioner Lubitz seconded the motion. It was approved unanimously.

15-3453C Princeton University Child Care Center

Director Dooley described the project which included the construction of a one-story building, with associated playground, sidewalks, bicycle paths, parking, and stormwater facilities. Vice Chairman Loos asked for comment. Hearing none, he asked for a motion on the project. Commissioner Lubitz made a motion to approve the project and Commissioner Stout seconded the motion. It was approved unanimously.

15-4333A Senior Housing (Hillsborough)

Director Dooley described the project, which included demolition of existing impervious surface and construction of an assisted living facility. She also discussed the request for a waiver for impacts to the stream corridor for removal of structures within the corridor, associated grading and native plantings. She noted that the outfall is a permitted use in the stream corridor.

Commissioner Lubitz stated for the record that the project engineer, Van Cleef Engineering Associates, is the Kingwood Township engineer. He stated that it would not affect his ability to make a sound judgment and he would therefore vote on the project. Vice Chairman Loos called for motion to vote on the project. Commissioner Stout made a motion to approve the project and Commissioner Leck seconded the motion. The project was approved unanimously.

Presentation: Lake Carnegie Dam Repair Phase II

Mr. Ortega, facility manager for Princeton University, discussed the Lake Carnegie Dam repair. Last June, the applicant commenced with the Phase I repair, and it is now complete. Mr. Ortega presented information on the second phase of the Lake Carnegie Dam repair, which would start in the spring. The presentation included photographs of the construction of the original dam in 1905. It is planned that Phase II would be complete by the end of the summer. It was noted that the repair will not require access or a lay down area within Review Zone A. The park superintendent will issue a special use permit for the applicant to access the park path to install a fence and sign on Princeton University property.

Mr. von Zumbusch asked Mr. Ortega to consider facilitating portaging from the lake to the mill pond below the dam. Mr. Ortega noted he would follow up with the university and respond to the commission with a letter. There was a discussion regarding fencing.

Executive Director's Report

Director Dooley provided and commented upon the monthly work tally. Commissioner Lubitz asked the status of staff's discussions with DEP regarding the FY 2017 budget and asked for an update at the February meeting. Director Dooley noted the office had been without water for two weeks related to a broken pipe in a near-by building. She thanked park staff and NJWSA for assisting with a project to obtain additional file cabinets and reorganize the historic file area.

Director Dooley discussed the rulemaking process, a plan to readopt the 2009 Commission rules without change, and a subsequent stakeholder process, in which stakeholders could offer comment for a subsequent rule proposal. Director Dooley outlined a list of rulemaking issues raised by the regulated community and public. There was substantial discussion of the rule and potential changes including fees, a fee waiver provision, permits by rules and general permits. Vice Chairman Loos requested that staff provide the Commission the list of potential changes to the rule. Commissioner Lubitz asked that each provision reference the statute and Vice Chairman Loos asked that it also reference the regulation.

Director Dooley presented a letter she prepared regarding the formation of a task force to consider the policies for replacement of bridges across the canal and pedestrian crosswalks. The letter included a proposed list of stakeholders. Vice Chairman Loos noted that once the content of the letter was approved, he would seek a volunteer from the Commission to serve on the task force. There was substantial discussion about the structure, participants, size and goals of the task force. Commissioner Stout suggested additional language for the first sentence of the last paragraph which outlined the goals of the task force. He suggested including "It is anticipated that the task force's recommendations will inform and guide the commission's future review of proposals to modify or repair existing bridges." Commissioner Lubitz agreed with the word "inform" but not "guide."

There was substantial discussion regarding stakeholders. Commissioner Lubitz commented that the

representation on the group seemed weighted toward county concerns. Ms. Dooley noted recent issues raised by counties related to crosswalks, that the stakeholder list was draft, and the location of the 13 bridges scheduled for replacement. Commissioner Lubitz discussed examining whether those with more limited interests should speak to the task force but not be members of the task force. Mr. Barth raised concern that the D & R Canal Watch had not been and should be included. Commissioner Leck agreed and noted the insights that Canal Watch provides on a regular basis to the Commission. Mr. Chase noted that the person listed for Franklin Township was actually a County representative. There was discussion of including a representative from Franklin Township given the large number of bridges in the township and previous meetings with Parks and Commission staff regarding bridge issues. It was recommended that Robert Vornlocker or his representative be included.

Commissioner Lubitz noted that the task force's work would inform the Commission's decision making but asked if it would be possible to have it also inform the DOT's decision making. There was substantial discussion regarding DOT's level of participation and whether the task force should be a joint DRCC/DOT task force. It was determined that Director Dooley should contact the DOT to discuss, show the list of stakeholders, ask the DOT to jointly establish the task force and inform them that it would be the Commission's preference to have a joint task force.

Commissioner Stout made a motion to ask the Executive Director to modify the letter and stakeholder list based on the discussion and proceed with formation of the task force. Ed Mulvan seconded the motion. The motion was approved unanimously.

Director Dooley distributed a news article regarding rumble strips on Route 29 in West Amwell Township. Vice Chairman Loos asked that the matter be put on the agenda under "Old Business" for the February meeting so that the commissioners could discuss the general policy issue.

Park Superintendent's Report

Superintendent Kalleser noted a planned pre-bid meeting for removal of Bulls Island infrastructure and a meeting related to the site remediation of the GAF property in South Bound Brook. She also noted the ash tree count in high use areas of the park related to the emerald ash borer and grants related to the biological control options for the problem.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Shepherd discussed development of a plan with DOT related to cleaning and dewatering the canal conduit that runs under Route 1 in Trenton.

Old Business

Vice Chairman Loos called for a volunteer to participate in the joint task force proposed to address bridge replacements within the park. Commissioner Stout volunteered. Mr. von Zumbusch expressed his interest in participating on the task force. Executive Director Dooley was asked to reach out to the Advisory Committee members not present regarding the task force.

Mr. Mulvan discussed the removal of buildings on Bulls Island, which would start at the end of the month.

New Business

Commissioner Lubitz and Director Dooley discussed the flood hazard rules recently reviewed by the legislature.

Public Forum

Ms. Ross, D& R Canal Watch, and Mr. Griffin discussed a study of paddler's facilities on the canal including measuring the clearance of every bridge. It was noted that last Spring all bridges were passable and in the fall two were no longer passable. There was a discussion about bridge clearances with a focus on Weston bridge and on bridge repair and replacement projects which might impede clearance and water levels. Ms. Ross asked that future permits require the DOT to maintain a 24-inch clearance for paddlers. There was discussion about water levels. Director Dooley noted that the issue could be considered with future permits, future rule making, and the task force. Vice Chairman Loos noted that the issue should be included for review by the task force. Vice Chairman Loos asked Ms. Ross to submit the measurements for all the bridges and the dates the measurements were taken. Vice Chairman Loos noted the commission would follow up on the issue at Weston bridge.

Mr. Barth discussed D&R Canal Watch activities and the April 16, 2016 canal symposium.

Executive Session

At 11:40 a.m., Vice Chairman Loos called for a motion to enter executive session to discuss personnel and legal matters. Mr. Mulvan made a motion to enter executive session and Commissioner Lubitz seconded the motion. It was approved unanimously.

Public Session

At 12:10 p.m., the commission returned to public session.

Vice Chairman Loos called for a motion regarding rulemaking. Commissioner Lubitz made a motion to direct Director Dooley to readopt the rules without change and file it with the NJDEP. Dr. Leck seconded the motion. The motion was approved unanimously.

There was discussion about members who seldom attend the commission meetings and the resulting difficulty in taking action. Commissioner Lubitz made a motion to authorize Vice Chairman Loos to send a letter to all members of the Commission requesting Commissioners to attend the meetings or, if they are unable to attend meetings, to tender a resignation. Commissioner Stout seconded the motion. It was approved unanimously.

Adjournment

Vice Chairman Loos called for a motion to adjourn. Commissioner Stout moved to adjourn and Commissioner Lubitz seconded the motion. It was approved unanimously. The meeting adjourned at 12:15 p.m.

Respectfully submitted,

Marlene Dooley, Secretary