



**Minutes of the Meeting  
Delaware and Raritan Canal Commission  
August 21, 2019**

TIME: 10:10 a.m.  
DATE: August 21, 2019  
PLACE: DRCC Office, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

Vice-Chairman John Loos, Commissioner Bruce Stout and Director of Parks & Forestry Olivia Glenn attended in person; Commissioner Allen and Commissioner Palmer attended via telephone.

**STAFF:** Executive Director John Hutchison; Mr. Joseph Ruggeri; Ms. Colleen Christie Maloney; and Deputy Attorney General Jason Kane.

**GUESTS:** Superintendent Patricia Kalleser; Mr. Marc Brooks, Mr. Paul Harenberg, and Mr. Michael Sellar, New Jersey Water Supply Authority (NJWSA); Mr. Robert von Zumbusch, D&R Canal Commission Advisory Committee; Ms. Lita Sands, Mr. Ken Brower, Ms. Keiren Fox, and Mr. Thomas Schwarz, Keep Lambertville Green; Mr. John Ruschke, Mott MacDonald; Ms. Sophia Jones and Mr. Max Ojserkis, AECOM; Mr. David Zatuchni; Ms. Pamela Vcombe, DRCW; Mr. Craig Zimmermann, Redcom; Ms. Shirley Kessler.

Vice-Chairman Loos announced that this was a monthly meeting of the Delaware and Raritan Canal Commission and that the provisions of the "Senator Byron Baer Open Public Meetings Act" (OPMA) had been complied with in the scheduling of the meeting.

**Administrative Items**

Vice-Chairman Loos confirmed that the next regular meeting of the Commission would take place on September 18, 2019, and that he would be unable to attend.

**Minutes**

Vice-Chairman Loos called for a motion to approve the July 17 meeting minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Palmer seconded the motion. Vice-Chairman Loos asked for comment and, hearing none, he called for a vote. The motion was approved

unanimously.

Vice-Chairman Loos called for a motion on the July 17, 2019 Executive Session minutes. Commissioner Stout made a motion to approve the minutes and Commissioner Palmer seconded the motion. Vice-Chairman Loos asked for comment and, hearing none, he called for a vote. The motion was approved unanimously.

### **Review Zone Projects**

#### **Zone A Projects:**

Vice-Chairman Loos requested a motion on the following four Zone A projects:

- 19-4584C NJWSA Rehabilitation of Embankment at Island Farm Weir (Franklin)
- 19-3755F Laceworks -- Zatuschni Residence (Lambertville)
- 19-5103C NJDOT Alexander Road over D&R Canal Bridge -- Major Modification (West Windsor/Princeton)
- 19-3747B Springhill Suites -- Restaurant Patio (Franklin)

Commissioner Stout moved to approve the projects, and Commissioner Palmer seconded the motion. The vice-chairman called for comment, and, hearing none, he called for vote. The four Zone A projects were approved unanimously.

#### **19-3300B NJWSA Landing Lane Spillway Rehabilitation (New Brunswick)**

Vice-Chairman Loos asked Director Hutchison to give an overview of the project. The director stated the following: The Landing Lane Spillway is a section of the Delaware and Raritan Canal State Park multiuse trail located approximately 108 feet west of the bridge that conveys Landing Lane over the canal, in the City of New Brunswick, and within Commission Review Zone A. The spillway lies between the canal and the Raritan River to the north and appears as a depressed stone area measuring approximately 110 feet in length on the present park multiuse trail.

Director Hutchison further noted that the spillway was constructed during the period of the 1830s and is comprised of an area of dry-laid stones that were depressed approximately one foot below the level of the towpath (i.e. the present multiuse trail). The purpose of the spillway was to act as an outlet for excess flow from the Delaware and Raritan Canal into the Raritan River, thus maintaining the canal's water level and protecting the canal embankment and structures from damage during flood events. The Director noted that the spillway is the last flood control measure prior to the canal's discharge point near N.J. State Highway Route No. 18 in the City of New Brunswick.

Director Hutchison further reported that the repair and rehabilitation of the spillway by the NJWSA has been the subject of prior Commission certificates of approval in 1991 and again in 2014. The Director noted that while the spillway is presently functional, the NJWSA had identified numerous deficiencies with the structure including:

- Dislodged and misaligned stones;
- Erosion at the base of the spillway;
- Deteriorated timber planking and sheeting;

- Infiltration of water into the structure of the spillway;
- Settlement of the mid-span of the spillway; and
- Exposure and erosion of facial stone at the base of the spillway.

The NJWSA proposes to rehabilitate the spillway by replacing the stone on the crest, and the stone on the downstream slope to the Raritan River with a new surface that would be mortared in place.

Director Hutchison noted that staff made recommendation that the Commission approve the project subject to the condition that DEP/SHPO and the NJWSA cultural resource consultant agree to the placement and application of the spillway stone layer in a historically-appropriate manner.

Vice-Chairman asked for a motion. Commissioner Stout moved to approve the project as recommended and Director Glenn seconded the motion.

Mr. Ruschke, the engineer for the NJWSA, offered further information on the project. He reported on historic repairs undertaken at the spillway in 1991. He also noted that the spillway is a functional drainage structure and that the proposed restoration must take into consideration the velocity of waters over the spillway, the structural integrity necessary for maintenance and construction activities, as well as the preservation of the historic appearance and historical components. He stated that the project is designed to minimize limit of disturbance for improvements. Mr. Ruschke described the recommended restoration and repair activities in detail, including actions to control seepage, as well as the hydraulic and erosion issues that were studied as part of the project design.

Mr. Ruschke discussed the process that would be used by the NJWSA and the cultural resource consultant regarding the selection of stone for the spillway. A discussion ensued among the Commissioners regarding the stone selection and installation, with specific emphasis on the width of the gaps and the pattern of the spillway stones, as well as a discussion of how the stone pattern could impact cyclists on the multiuse trail. Vice-Chairman Loos noted the importance of balancing the historic integrity of the structure, while maintaining the recreational use of the trail for everyone, including cyclists. Commissioner Stout stated his interest in keeping the spillway surface accessible to cyclists and commented on past projects and materials used on the multiuse trail that were not always conducive to bicycling. Mr. Brooks, Vice-Chairman Loos and Ms. Jones discussed the stone pattern design and the proposed width of the gaps between the stones once they were put in place on the spillway. Mr. Brooks noted that SHPO has approved the project and that SHPO and NJWSA would review stone model panels to be prepared by the contractor.

Ms. Vcombe stated that, while the discussion focused on the bicyclist's experience, the needs of walkers and hikers must be considered, as well as consideration to the hydrology. Mr. von Zumbusch noted that the historic integrity of the structure is important and that cyclists who encounter a stone pattern on the spillway that was difficult to traverse should dismount and walk their bicycles. He opined that the act of dismounting would allow the cyclists the opportunity to observe and appreciate the historic stonework of the spillway.

Vice-Chairman Loos and Mr. Brooks discussed the process by which the specifications and the mock-ups of the stone would be approved. The vice-chairman requested that a Commission representative review these in addition to DEP/SHPO and NJWSA. Mr. Brooks voiced concern that there would be a

problem in implementing the change to the project design if the Commission and SHPO could not agree on the specifications, materials and design mock-up. Commissioner Stout commented on the conflicting needs to review the project for its historic aspects versus its recreational importance. Director Glenn noted that the trail was both "multiuse" as well as "multi-purpose," and that she was confident that a consensus could be reached by the agencies. Mr. Brooks noted that the design of the proposed project already incorporated feedback from discussions from the previous Commission Executive Director, SHPO and the NJWSA.

Vice-Chairman Loos asked Commissioner Stout if he would consider amending his motion to include the condition that Commission staff would have the opportunity to: review and approve the specifications prepared by NJWSA for the project; and the mock-up sample of the spillway prepared by the contractor at an early stage in the construction process. Commissioner Stout agreed to amend his motion in the manner described by the vice-chairman. Commissioner Palmer seconded the amended motion. The vice-chairman called for a vote and the amended motion was approved unanimously.

### **Zone B Projects:**

Vice-Chairman Loos requested a motion on the following Zone B projects:

- 19-5362 520 Jersey Avenue -- Proposed Warehouse (New Brunswick)
- 19-4677A Somerville Depot Remediation Project (Hillsborough)
- 19-4829C NJDOT US/NJ Route 1 Southbound Roadway and Drainage Improvements (Lawrence)
- 19-1027B Princeton Walk -- Promenade Blvd. Pond Dredging (South Brunswick)
- 19-3589B Carnegie Center Bldg. 302 Solar (West Windsor)
- 19-3589C Carnegie Center Bldg. 701 Solar (West Windsor)
- 19-3589D Carnegie Center Bldg. 101 Solar (West Windsor)
- 19-3589E Carnegie Center Bldg. 510 Solar (West Windsor)
- 19-5354 JMJ-4 at 16 Abeel Road (Monroe)

Commissioner Stout moved to approve nine of the projects and Commissioner Allen seconded the motion. The vice-chairman asked for further comment. Comments were made as follows:

#### 19-5354 JMJ-4 at 16 Abeel Road (Monroe)

Mr. Zimmerman and Vice-Chairman Loos discussed the size of the proposed area being offered for the mitigation of stream corridor impacts, noting that the proposed ratio of 2.3:1 would be employed for the off-site undisturbed area. Commissioner Stout noted that since the mitigation area was not located on the project site, that the applicant be required to erect Commission conservation easement signage as a condition of the Commission's certificate of approval. Mr. Zimmerman did not object to the proposed condition.

#### 19-4677A Somerville Depot Remediation Project (Hillsborough)

Commissioner Stout and Mr. Ojserkis discussed the stone access road areas and native plantings for the project.

#### 19-1027B Princeton Walk -- Promenade Blvd. Pond Dredging (South Brunswick)

Vice-Chairman Loos and Mr. Ruggeri reviewed a map of the project site and discussed the mitigation

area for the project.

The vice-chairman called for further comment on the nine projects, and, hearing none, he called for a vote. The motion was approved unanimously.

19-2789T TCNJ – Basketball Court Installation (Ewing)

Commissioner Stout stated that he would abstain from voting on the 19-2789T TCNJ -- Basketball Court Installation project as he was previously employed as a member of The College of New Jersey's faculty. The vice-chairman called for a motion. Director Glenn moved to approve the project and Commissioner Allen seconded the motion. Commissioners Allen and Palmer, Vice-Chairman Loos and Director Glenn voted to approve the motion. Commissioner Stout abstained. The project was approved by a vote of 4-0-1.

Commissioner Palmer left the meeting at 11 a.m. A quorum was no longer present.

**Executive Director's Report**

Director Hutchison provided the Commission with an overview of the prior month's workload and noted that the staff was generally quite busy. This level of activity was confirmed by the fact that July fee deposits totaled \$54,100, and that staff were holding a considerable amount in fee checks in order to confirm that the applicant's had paid the correct amount.

The Director noted that he participated in 11 pre-application meetings since the July Commission meeting.

Director Hutchison noted that the first phase of the plans for the Commission office exterior building project were approved by Division of Property Management and Construction in the Department of the Treasury, and that they had gone out to public bid. Mr. White from DEP would be visiting with the architects in the next few weeks to prepare plans for the second phase of renovations.

Mr. Hutchison informed the Commission that DEP Management and Budget approved the expenditure of \$4,850 in Commission mitigation monies for the restoration of the 22/22 mile marker near Rocky Hill. A Commission permit application was filed by the Superintendent for a General Permit No. 1 to approve the in-kind repair.

The Director reported on the meeting he attended with the Deputy State Historic Preservation Officer on the deliberations of the joint Commission/NJDOT Bridge Task Force. Mr. Hutchison reported that SHPO had decided they would like to be signatories to the MOA that was circulated earlier in July. SHPO believed this would be helpful because they were concerned by the potential for divergence between the Commission and the Historic Site Council on the approval of canal bridge projects. The Director said he would schedule a meeting to come to an agreement within DEP on common design elements before going forward.

The Director reported on the August 4, 2019 NJDOT rockfall mitigation project briefing he attended at Bulls Island Recreation Area. The meeting centered on the various stages of the project and the proposed mitigation strategies. NJDOT had not yet reviewed the project for whether it falls within the

Commission's Review Zone, although a portion of the project appears to be proposed for the park. Mr. Hutchison noted that he strongly suggested that the NJDOT file for a jurisdictional determination. NJDOT was amenable to this approach.

Mr. Hutchison also reported on his meeting with representatives from the Mohawk Canoe Club, which is seeking a widespread expansion of the number of canoe and kayak launches within the Delaware and Raritan Canal State Park. The Director reported that he would assist the club with their research on the location of past launch sites, but that it would be wise for the club to bring the Superintendent of the Park and the NJWSA into their deliberations. Commissioner Stout observed that the canoe club would be better served by having a conversation with the DEP Division of Parks and Forestry.

### **Park Superintendent's Report**

No report.

### **New Jersey Water Supply Authority (NJWSA) Report**

Mr. Sellar reported on the status of the canal dredging project along the main canal, the installation of the temporary bridge at the Route 202 stockpile site, the Hydrilla treatment program, and draft specifications for the Six Mile Run culvert project.

Mr. Sellar reported on a canal leak near the Transco Pipeline that crosses the Delaware River and the Delaware and Raritan Canal in Ewing Township. He noted that a previous leak at the site was repaired with sheet piling, and that the current leak was the result of a void that developed. NJWSA addressed the void temporarily while Transco worked on the permanent repair for the issue.

Mr. Sellar reported on tree and vegetation removal in the City of Lambertville, and that the NJWSA informed the city administrator two weeks prior to the beginning of work and again on the day the work commenced. He reported progress on the engineering design related to the canal embankment repairs in the Borough of Stockton and noted that he anticipated April 2020 start date for the repair project.

### **Old Business**

Director Hutchison informed the Commission of a resolution received by the Commission staff from D&R Canal Watch which expressed that organization's viewpoint on the means by which Moores Creek swing bridge project could be completed. Vice-Chairman Loos asked that the documents be emailed to commissioners.

### **New Business**

None.

### **Public Forum**

Ms. Fox of Lambertville stated she was representing a group of residents concerned about the resumption of railroad activities in the City of Lambertville by the Black River and Western Rail Road (BR&WRR). She inquired whether the stormwater impact of any future rail project would be reviewed and whether the Commission would regulate a proposed parking lot near the Lambertville Municipal Utilities Authority wastewater treatment plant.

Director Hutchison responded that the BR&WRR was the holder of an easement to conduct railroad activities, and that the boundaries of that easement generally conformed with those of the former-Flemington Branch of the Belvidere Division of the Pennsylvania Railroad. Mr. Hutchison noted that the Commission possessed the so-called "roll maps" prepared in 1934 by the Pennsylvania Rail Road in his office and that they were difficult to copy but always available for public inspection. The Director described the jurisdiction of the Commission's land use regulation program, including thresholds for the review of projects for stormwater and water quality impacts, visual historic and natural quality impacts, and for stream corridor impacts.

Director Hutchison noted that the Commission could potentially have jurisdiction over a future railroad project. He described the stormwater regulations with reference to the threshold of cumulative impervious surface in Commission Review Zone A and Zone B, and that "in-kind" repair and replacement projects were eligible for a General Permit No. 1, which was issued by the Executive Director pursuant to N.J.A.C. 7:45-6.1, and not by the Commission in the manner that individual approvals were issued. Mr. Hutchison cautioned the members of the public that the Commission staff was actively monitoring the activities of the BR&WRR, and that while the railroad was not above the law, nor is it beneath it either. He also observed that any future railroad restoration project that could impact the integrity of the transmission complex of the canal or affect the canal as a water source would draw the interest of the NJWSA.

Ms. Kessler asked to what degree the railroad could cut vegetation and impact habitat within Lambertville. Director Hutchison observed that the BR&WRR had the right to conduct vegetation maintenance activities within the boundaries of its easement.

A member of the public asked Director Hutchison if there had been any analysis of the question of whether the BR&WRR had relinquished its easement through non-usage of the railroad. Director Hutchison stated that the question of whether the easement could be forfeited was a legal issue that as a non-attorney he was not competent to remark upon.

### **Executive Session**

No executive session was held.

### **Adjournment**

There being no other business and no quorum present, Vice-Chairman Loos concluded the meeting at 12:10 p.m.

August 21, 2019

Respectfully submitted,

  
John Hutchison, Secretary