



**November 20, 2019 Minutes of the Meeting  
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.  
DATE: November 20, 2019  
PLACE: Prallsville Mills, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

Vice Chairman John Loos; Commissioner Bruce Stout; Director Olivia Glenn; Commissioners Phil Lubitz, Julia Allen and Douglas Palmer via telephone.

STAFF: Executive Director John Hutchison; Commission Engineer Joseph Ruggeri; Deputy Attorney General Jason Kane; Ms. Colleen Maloney.

GUESTS: Superintendent Patricia Kalleser; Mike Sellar, NJWSA; Heather Desko, NJWSA; Kathy Hale, NJWSA; Angela Gorczyca, NJWSA; Robert Barth, D&R Canal Watch; Wayne Petko, D&R Canal Watch; Robert von Zumbusch, D&R Canal Commission Advisory Committee; Judy Detrano, resident of Lambertville; John Geitner, NJ Transit; Eduardo Blanco, NJ Transit; Howard Olarte, BEM; Tom Decker, Jacobs Engineering.

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.

Vice-Chairman Loos announced that the meeting was being taped pursuant to the exception set forth at Section C.(1) of DEP Policy & Procedure 2.85 "Prohibition of Recording in the Workplace" Policy adopted on September 18, 2019.

**Administrative Items**

Vice-Chairman Loos confirmed the December 18, 2019 Commission meeting date.

**Minutes**

Vice-Chairman Loos asked for comment and then a motion to approve the October 16, 2019 meeting minutes. Commissioner Stout motioned to approve the minutes and Director Glenn seconded the motion. The minutes were approved unanimously.

**Review Zone Projects**

Zone A Projects:

- 19-4187A Gaia's Way Farm -- Holcombe House Renovations (Delaware Township)
- 19-5308A 1181 Millstone River Road Single-Family Dwelling (Hillsborough Township)
- 19-5474 72 River Drive -- Proposed Garage & Second-Story Addition (Hopewell Township)
- 19-1841F Janssen Pharmaceuticals -- Community Spaces/Outdoor Activities (Hopewell Township)

Vice-Chairman Loos asked for a motion to approve the four Zone A projects. Commissioner Stout moved that the Zone A projects be approved, which motion was seconded by Director Glenn. Vice-Chairman Loos asked if anyone had any comments or questions regarding the projects.

Commissioner Stout, Vice-Chairman Loos and Director Hutchison discussed the sign at Gaia's Way Farm, which is not compliant with Commission visual, historic and natural quality impact review standards. The Director noted that the applicant had indicated that the present sign was temporary and would be removed in the spring of 2020 and be replaced with a sign that was compliant with the Commission's regulations. The Director noted that the staff report recommended that the project be approved with the condition that the applicant inform the Commission by letter of its removal. Mr. Von Zumbusch observed that the Gaia's Way Farm restoration was a wonderful example of historic preservation contributing to the cultural landscape of the Delaware and Raritan Canal corridor.

Vice-Chairman Loos called for further discussion on the four Zone A projects. Hearing none, he called for a vote. The projects were approved unanimously.

Zone B Projects:

Vice-Chairman Loos called for a motion on the following five Zone B projects:

- 19-5412 Sahill Incorporated -- Parking/Driveway Reconstruction/Expansion (Ewing Township)
- 19-2377A Thomas Grover Middle School -- Proposed Addition/Renovation (West Windsor Township)
- 19-5420A 203 Hamilton Street LLC -- Proposed Apartment Building (New Brunswick City)
- 19-3658E Princeton Forrestal Solar Array Project (Plainsboro Township)
- 18-5002 Amwell Terrace -- Proposed Residential Development Complex (Hillsborough Township)

Commissioner Stout made a motion to approve the projects, which was seconded by Director Glenn. Vice-Chairman Loos asked if anyone had any comment or questions regarding the projects. Hearing none, he called for a vote. The five Zone B projects were approved unanimously.

- 19-5489 D&R Canal State Park -- Aircraft Crash Site Renovation (Manville Borough)

Vice-Chairman Loos suggested that project approval be conditioned upon the planting of native species from the Commission's Native Tree and Shrub Lists and a guaranteed three-year survivability. The

Vice-chairman called for a motion on the project. Commissioner Stout motioned to approve the project with conditions as identified by the Vice-chairman Loos, which was seconded by Director Glenn. Vice-Chairman Loos called for further comment. Hearing none, he called for a vote. The motion was approved unanimously.

19-4954A            NJ Transit Delco Lead Storage & Inspection & County Yard Improvement Phase  
2 -- Delco Lead Freight Track (New Brunswick City/North Brunswick Township)

Vice-Chairman Loos asked the applicant to describe the project. Mr. Geitner, from the New Jersey Transit Corporation, gave an overview of the project. Mr. Geitner noted that the present project is part of NJ Transit's resiliency program, and is related to the previous "County Yard" project approved by the Commission. He noted that the purpose of the project was to allow for the storage of trains in a safe setting and in a location that allows a quick return to service in the event of a weather emergency.

Commissioner Stout asked Mr. Geitner to provide details on the alternatives assessment conducted with regard to the project. Mr. Geitner explained that alternatives had been explored, including a study of the Northeast Corridor Line, review of locations which were found to be prone to flooding, and sites that were found to be too far a distance such as New York State and Pennsylvania, and a financial assessment of alternatives. He explained that, with this project, existing infrastructure would be rehabilitated and refurbished to accommodate the approximately 400 cars, or one-third of the NJ Transit rolling train stock.

Vice-Chairman Loos stated that the project is not compliant with the Commission's water quality standards, similar to the related NJ Transit County Yard project that was previously approved by the Commission.

Vice-Chairman Loos noted that Commission regulations state, at N.J.A.C. 7:45-12.6, "If the Commission finds, based on the applicant's submissions, that the proposed new discharge as described at (b) above cannot be treated to meet the water quality at (c) above...and the project will serve a compelling public need, such that a lower treatment standard is appropriate, the applicant shall: ....Include in its project a cash donation to a mitigation bank administered by the New Jersey Water Supply Authority to be used for water quality improvement projects for the Canal with the equivalent mitigation benefits."

Vice-Chairman Loos noted that staff has identified such an improvement project, and therefore, the Commission could approve the project conditioned upon NJ Transit submitting a \$247,000 donation for the Dellwood Lane Stormwater Basin Retrofit project, to be managed by the NJWSA.

Vice-Chairman Loos asked for a motion on the project. Commissioner Stout moved to approve the project and Director Glenn seconded the motion. The Vice-chairman called for further comment. Commissioner Stout stated he would not, under most circumstances, approve such a project but he felt the applicant had clearly demonstrated compelling public need. The Vice-chairman called for a vote. The project was approved unanimously.

## **Executive Director's Report**

The Director noted that the workload for the prior month was considerable, and that Joe Ruggeri has been handling the overwhelming majority of the engineering workload.

Director Hutchison noted that the November deposit of fee collections totaled \$61,650, and that deposits for Fiscal Year 2020 stood at \$240,350.50. He noted that this amount compares very favorably to the same point in the last year, when the Commission had deposited \$160,716.

The Director noted that he had participated in eight pre-application meetings since the last Commission meeting. Having three State Holidays in November has reduced the number of AWP days that the engineering staff can be present in Stockton; this, in turn has caused a back-up for applicants seeking pre-application meetings.

Director Hutchison reported that the nomination of Caryl "Chris" Shoffner, mayor of the Borough of South Bound Brook, to be a member of the Canal Commission, was submitted by the Governor to the State Senate for advice and consent on November 14th, filling the vacancy created by the resignation of Edward Traska.

Director Hutchison reported on a meeting he attended with the State Historic Preservation Office on October 17th to gain a better understanding of their concerns about the proposed Commission/NJDOT Joint Bridge Task Force MOA. SHPO has indicated that they would like to be a signatory to the document; however, they would like to study it and then propose changes. I am awaiting a response from them in order to schedule a follow-up meeting with SHPO/NJDOT and Commissioner Stout to review their concerns.

Director Hutchison stated that he and the Park Superintendent Kalleser met with PSE&G and their landscaping contractor on October 25th to discuss the revegetation project site near Amwell Road in Franklin Township approved at the September 24th Commission meeting. There was a discussion of which species would be preferable to plant in the winter season, as well as the size of the proposed plantings. The contractor is now going to proceed with the project during the winter with the understanding that additional planting the spring may be required.

Director Hutchison gave a report on the installation by DEP OIRM of an 80-inch monitor and computer in the conference room, and the removal of the 1970s vintage motion picture screen. The monitor/computer cost was \$5,095 and provides the following benefits that were not possible until now: the PC and monitor will easily permit Commissioners to attend future meetings using the DEP Skype for Business account; the screen will allow staff to display in large format architectural/engineering and site photos of pending projects, rather than relying on 11"x17" print-outs of those documents or tacking them to a whiteboard, which was a generally unsatisfactory arrangement; and the large screen will facilitate Commission staff using tools like NJ-Geoweb and allow staff to participate in remote meetings, webinars, etc.

Director Hutchison gave an update on the accession of the Commission 35mm photographic slides to the Division of Archives and Records Management (DARM) in the Department of State. He also provided Commissioners with a copy of a typical Records Transfer Acknowledgment Form.

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

Superintendent Kalleser reported on park path resurfacing in the vicinity of Route 27 and Rockingham. She reported that bridge work at Alexander Road, in Princeton, closed parking areas, but allowed park trail passage. She reported on the NJDOT planting plan in the Titusville area of Route 29 in Hopewell Township. The Superintendent reported that the Delaware and Raritan Canal State Park would host for a watershed ambassador starting in January, who will assist with education and outreach. Finally, Superintendent Kalleser reported on a small Delaware River clean-up attended by Raritan Valley Community College and Delaware Township School students.

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

Mr. Sellar reported that the dredging on the main canal in Franklin Township was complete for the 2019 season, with materials being hauled starting December 2nd. He reported on the progress of trucking material from the Route 202 site north of Lambertville, which will be followed with demobilization of equipment and site cleanup, and that the project included removal of a total of 70,000 tons of materials.

Mr. Sellar reported that bids on the Landing Lane rehabilitation project are under permit review, and that a DEP Permit Coordination meeting was scheduled for early December for the restoration of the Stockton embankment. He reported that bids, which were higher than expected, were under review for the Six Mile Run Culvert restoration project, and that bids were received and being evaluated for Cedar Grove Brook Watershed project. Finally, Mr. Sellar reported that there would be a meeting to discuss repair by Transco of a pipeline in Ewing Township.

Ms. Detrano stated she was confused about the Transco Pipeline of which Mr. Sellar made reference. Mr. Sellar explained that the pipeline, located in Ewing Township, has undergone several repairs over the decades. She asked for clarification on the Transco Pipeline repair in Ewing Township. It was explained that leaks and failure resulted in the need for repair. Ms. Detrano asked if the Transco Pipeline is related to the PennEast Pipeline. She was informed that the two pipelines were unrelated.

### **Old Business**

#### **Commission resolution honoring the service of former-Commissioner Mary Alessio Leck**

Vice-Chairman Loos reported that Director Hutchison prepared a draft resolution regarding the service of former-Commissioner Mark Alessio Leck. He read the conclusion:

#### **NOW THEREFORE, BE IT RESOLVED:**

1. The Delaware and Raritan Canal Commission fondly thanks Mary Alessio Leck for her service to the Commission, conveys its heartfelt admiration for the important work she has done preserving the natural environment on behalf of the people of the State of New Jersey, and offers its best wishes as she continues her many academic and artistic pursuits in the years ahead.
2. That a copy of this resolution, signed by the Chairman and attested by the Secretary, be transmitted to Mary Alessio Leck.

Vice-Chairman Loos requested a motion to approve the resolution. Commissioner Stout moved to

approve the motion and Director Glenn seconded the motion. The motion was approved unanimously.

Discussion of proposed alternative uses of the balance of monies deposited in PSE&G/D&R Canal Pole Line" Commission mitigation account (#4875-009) collected as compensation for the 2005 PSE&G project to construct a transmission pole in the D&R Canal State Park in Franklin Township (DRCC #05-3250)

Vice-Chairman Loos stated he would reach out to Franklin Township to discuss improvements to the Demott Lane park access entrance. He stated the subject, if there were no objections, would be tabled until a future Commission meeting, after he meets with township officials.

Discussion of the status of the proposed mission statement regarding the reopening of the northern portion of the Bulls Island Recreation Area

Director Glenn reported that the DEP has given support to the addressing the closure of the northern portion of Bulls Island Recreation Area, and anticipates that a mission statement setting forth goals and a process to reopen the northern area would be available to share with stakeholders in 2020.

Distribution and discussion of proposed amendments to the "Delaware and Raritan Canal State Park Law of 1974."

Vice-Chairman Loos stated that a draft document would be shared with commissioners and discussion would be held at a later meeting, perhaps December or January.

At 11:00 a.m., Commissioner Lubitz joined the meeting by phone.

Director Glenn requested clarification of the Commission's process to review the draft of proposed statutory amendments. The Vice-chairman explained that, after the commissioners had a chance to review the draft document, the Commission would discuss the proposed elements of the statute to be amended. The Vice-chairman noted that perhaps the DEP would share the document with the DEP Office of Legal Affairs and the department legislative liaison. Director Glenn stated she will raise the matter to the legal affairs team.

**New Business**

NJWSA Delaware and Raritan Canal Hydrilla Program Update

Ms. Desko of the NJWSA presented an update of the NJWSA hydrilla treatment program. She provided an overview of the plant, its potential impact to the canal, the history of the treatment program, and treatment alternatives considered by the authority. She offered data which proved a high degree of success of the program and noted that NJWSA anticipated continued treatment activities into 2020 and 2021.

**Public Session**

Ms. Detrano commented on vegetative management by NJWSA along the canal in Lambertville. She stated that NJWSA continues to spend money by sending staff out to recut areas along the canal and she noted branches had been pushed into the canal. She noted her disappointment that there seems to be consistent push back from NJWSA on implementing the vegetation management and planting plan.

Director Hutchison responded that he had been in communication with NJWSA Director Gates who informed him that the City of Lambertville had submitted an alternative planting plan suggesting

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additional species for planting. He noted that NJWSA was in the process of examining the plan including exploring the commercial availability of the some of the species. Director Hutchison described language proposed by the City of Lambertville which may suggested that the city has the authority to exercise administrative control over such the tree trimming and vegetative planting plan within the Delaware and Raritan Canal State Park. The Director reminded Ms. Detrano and all others present that the approval of any project proposing a physical alteration to the Delaware and Raritan Canal State Park lies solely with the Commission. He also noted that the annual maintenance plan would address the entire length of the 65-mile long park, not just the park located within the City of Lambertville.

Ms. Detrano noted her appreciation for this information and expressed her “great concern” as she “represents” Lambertville, but has not received full disclosure on the vegetation management and planting plan from city officials.

Mr. Barth reported that the D&R Canal Watch activities are being planned for the 2020 year.

Commissioner Lubitz left the meeting at 11:30 a.m.

#### **Executive Session**

Vice-Chairman Loos stated that he desired the Commission to enter into executive session to discuss personnel matters. He called for a motion to do so. Commissioner Stout moved to enter into executive session for the purpose expressed by Vice-Chairman Loos; Director Glenn second the motion. The motion was approved unanimously. The Commission entered executive session at 11:30 a.m.

#### **Public Session**

At 12.10 p.m., the Commission returned to public session. Vice-Chairman Loos reported that the Commission had discussed personnel matters.

Deputy Attorney General Kane reported on the status of the PennEast pipeline litigation. The Third Circuit Court of Appeals denied the company’s request for a rehearing of the Court’s earlier decision, which held that the 11th Amendment of the United States Constitution prohibits PennEast Pipeline Company from suing the State of New Jersey in Federal Court. DAG Kane then provided procedural information and potential timelines relating to how the PennEast Pipeline Company would request the United States Supreme Court to review the decision. This is a positive development as the State will not have to use resources unnecessarily in the DC Circuit for this part of the case.

Mr. Von Zumbusch noted his appreciation to Director Glenn and the Division of Parks and Forestry as it related to a meeting at the Monmouth Battlefield, which was attended by park staff and volunteers.

#### **Adjournment**

There being no other business, Vice-Chairman Loos entertained a motion to adjourn. Commissioner Stout moved to adjourn, which motion was seconded by Director Glenn. The motion was approved unanimously.

The meeting adjourned at 12:15 p.m.

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Respectfully submitted,

  
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John Hutchison, Secretary