



**August 19, 2020 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: August 19, 2020
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman John Loos; Acting Director of Parks and Forestry Robin Madden, designee for Commissioner Catherine McCabe; Commissioner Phillip Lubitz; Commissioner John Reiser; and Commissioner Bruce Stout all participated via online platform and teleconference.

STAFF: Executive Director John Hutchison was present in the Commission conference room; Commission Engineer Joseph Ruggeri, Ms. Colleen Maloney, and Deputy Attorney General Jason Kane participated via online platform and teleconference.

GUESTS: Michael Sellar, NJWSA; Robert von Zumbusch, D&R Canal Commission Master Plan Advisory Committee; Robert Barth, Canal Watch; Rikki Massand; Michael Burns, Michael Burns Architects.

Vice-Chairman John 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

Since Commission members were participating via telephonic device pursuant to Article III, Section 4 of the Commission Bylaws, Vice-Chairman Loos directed the Executive Director to take the roll. There being five Commissioners in attendance, the Director indicated that a quorum was present, and that the transaction of Commission business could therefore proceed.

Vice-Chairman Loos welcomed Acting Director of Division of Parks and Forestry Robin Madden to the Commission, who was appointed to serve as designee for Commissioner McCabe pursuant to the provisions of DEP Administrative Order No. 2020-11.

Vice-Chairman Loos confirmed the September 16, 2020 Commission meeting date and stated that, given the ongoing public health emergency and declared state of emergency related to the COVID-19 pandemic, that the meeting would likely be held via online platform and teleconference.

Minutes

Vice-Chairman Loos asked if there were any comments with respect to the July 17, 2020 meeting minutes, and, hearing none, he called for a motion. Commissioner Stout made a motion to approve the minutes which was seconded by Commissioner Lubitz. Acting Director Madden and Commissioners Stout, Lubitz, and Reiser voted to approve the motion and Vice-Chairman Loos abstained on the grounds that he did not attend the meeting. The motion was approved.

Review Zone Projects

Zone A Projects

- 19-2099H 472 Weston Canal Road -- PSE&G Parking Expansion (Franklin Township)
- 20-2181A 21 Clinton Street -- Deck Reconstruction/Expansion & Window Replacement (Lambertville City)
- 20-2349D 243 North Union Street -- Garden Sheds & HVAC Compressor Unit (Lambertville City)
- 13-3042C Mercer County Wildlife Center -- Raptor Flight Enclosure (Hopewell Township)
- 20-3602A Rockingham Historic Site -- Trail Wayside Sign (Franklin Township)

Vice-Chairman Loos requested comments or questions on the Review Zone A projects. Commissioner Stout stated he would recuse himself from discussion and vote on 13-3043C Mercer County Wildlife Center -- Raptor Flight Enclosure project because he is a member of the Board of the Mercer County Wildlife Center Friends.

Commissioner Stout asked Mr. Ruggeri to comment on the stormwater for the DRCC #19-2099H -- PSE&G 472 Weston Canal Road Parking Expansion. Mr. Ruggeri stated that part of the site drains toward the canal, and that new stormwater volume is diverted away from the canal to existing stormwater facilities. Vice-Chairman Loos then asked for clarification on the species of plants selected for the planting plan for the project. Director Hutchison stated that the applicant revised the landscape plan to remove any invasive species from the plan that appear on the New Jersey Invasive Species Strike List.

Commissioner Stout requested clarification on the type of residence that exists at 21 Clinton Street in Lambertville as it related to DRCC #20-2181A. Director Hutchison clarified that the project site is one of three connected townhomes, and that one deck of the three is proposed to be replaced as part of the project. Mr. von Zumbusch commented that in his estimation the proposed new decking material should be the same color as the adjacent townhome units. Mr. Burns, the architect for the applicant, noted that the façade and under side of the deck would be white in keeping with the adjacent townhouse

developments to the south of the site.

Vice-Chairman Loos asked for a motion to approve the Review Zone A projects, with the exception of the Mercer County Wildlife Center Raptor Flight Enclosure. Commissioner Stout motioned to approve the projects as recommended by the staff and Commissioner Lubitz seconded the motion. The Director called the roll:

Vice-Chairman Loos	Yes
Acting Director Madden	Yes
Commissioner Reiser	Yes
Commissioner Stout	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Absent

The motion was approved.

Vice-Chairman Loos called for a motion on DRCC#13-3042C Mercer County Wildlife Center -- Raptor Flight Enclosure. Commissioner Lubitz motioned to approve the project and Commissioner Reiser seconded the motion. The Director called the roll:

Vice-Chairman Loos	Yes
Acting Director Madden	Yes
Commissioner Reiser	Yes
Commissioner Stout	Abstain
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Absent

The motion was approved.

Zone B Projects

20-0837I	Bloomberg Business Park -- Solar Collector Project (Montgomery Township)
19-2058C	Unitarian Universalist Church at Washington Crossing -- Building Addition (Hopewell Township)
18-5197	219 Wyckoff Mills Road -- Proposed Warehouse/Office (East Windsor Township)
20-5441B	1217 Route 206 -- Proposed Rain Garden Major Modification (Montgomery Township)
19-5485	1607 Reed Road -- Proposed Warehouse/Office Building (Ewing Township)
20-5529	Skillman Park Pathway -- Phase 1 (Montgomery Township)

Vice-Chairman Loos requested comments or questions on the Zone B projects.

Vice-Chairman Loos and Director Hutchison discussed the change in delineation of the stream corridor located within the Bloomberg Business Park property (DRCC #20-0837I). Director Hutchison

explained that the flood hazard area -- into which the applicant had proposed an intrusion in the form of an additional pole to convey a power line from the solar array -- had changed due to a change in the rainfall data, and that the stream corridor was therefore re-delineated, resulting in a larger Commission stream corridor area than was the case with previous projects at the site.

Vice-Chairman Loos commented, parenthetically, that he read of a large solar project in South Jersey where sheep were to be deployed for grazing, that the sheep would be moved to different areas of the site at different times, and that this practice would result in a beneficial increase in pollinators.

Vice-Chairman Loos requested a motion to approve the six Review Zone B projects. Commissioner Stout moved to approve the projects as recommended by the staff, and Commissioner Reiser seconded the motion. The Director then called the roll:

Vice-Chairman Loos	Yes
Acting Director Madden	Yes
Commissioner Reiser	Yes
Commissioner Stout	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Absent

The motion was approved.

Executive Director's Report

Director Hutchison noted the workload for the period encompassing July 15 to August 17. In addition to the 11 projects on the meeting agenda, the staff completed 13 deficient staff reports, 9 jurisdictional determinations, 5 certificates of approval, and 3 general permits.

The Director reported that fee deposits for the month totaled \$51,900. This amount tracks closely with Fiscal Year 2019, when \$54,100 was deposited, and was slightly more than Fiscal Year 2018, when \$41,153 was deposited. Mr. Hutchison noted that total deposits for Fiscal Year 2020, which was extended to September 30, 2020 pursuant to the provisions of P.L. 2020, c. 19 now stood at \$700,538. Using the revised anticipated annual appropriation of \$450,000, the Commission had exceeded its anticipated appropriation by \$250,538.

Director Hutchison reported that he issued an emergency after-the-fact General Permit No. 1 to the Department of Transportation (NJDOT) for in-kind maintenance repair work on the bridge which conveys Interstate Highway Route No. 287 over the Raritan River, Delaware and Raritan Canal and Easton Avenue (Somerset County Route No. 527) between Interchanges 9 and 10 in Franklin Township, Somerset County and within Commission Review Zone A. The bridge was constructed in 1959 utilizing a concrete and steel stringer design. The bridge conveys I-287 across the Raritan River, connecting Franklin Township with Piscataway Township in Middlesex County. A recent NJDOT inspection revealed spalled and loose concrete on the bridge beam ends, as well as large incipient spall in the south pier wall adjacent to the Delaware and Raritan Canal State Park multiuse trail. NJDOT

August 19, 2020

addressed the defects by removing the loose concrete from the beam ends and repairing the deteriorated and loose concrete on the bridge piers.

The Director reported that as a result of Tropical Storm Isaias, the Commission office lost electrical power on August 4th, which was not restored until the evening of August 10th. The power outage terminally damaged one of the air conditioner thermostats, which was replaced on an emergency basis by Custom Cooling of Stockton on August 12th.

Director Hutchison reported that, using remote meeting technology, he was able to hold nine pre-application meetings from July 15th through August 17th.

Director Hutchison reported that Tammy Romsdahl had returned to work in the office, following the end of the State-CWA furlough agreement. He noted that she would be working in the office in the mornings performing filing, project inputting and phone coverage, then working remotely in the afternoons doing project document transfers and meeting scheduling. He also reported that the park maintenance staff constructed a protective plexi-glass shield for the office front desk, in the event that the Commission is directed to resume in-person operations, securing the necessary materials from Jos. Finkle & Son of Lambertville for a cost of \$181.00.

The Director reported that additional meeting minutes had been uploaded to the Commission website. Meeting minutes dating back to 2012 are now available for public review.

Director Hutchison reported that he received an email from a resident of Lambertville regarding graffiti in the park at the Black River and Western Trestle over the canal in the northern part of the city. The graffiti covers a wooden cartoon-like face on the side of the bridge and the words “nifti” which have been there at least since the photographs of the bridge were taken for the Delaware and Raritan Canal State Park Historic Structures Survey in 1982. The bridge was vandalized with the spray painted adolescent lament, “Get Rich or Die” -- the significance of which was known only to the perpetrator. He reported that he contacted the superintendent regarding whether the park service or the railroad might be able to take some action. Mr. Hutchison stated that if anyone had any insight regarding the origins of the cartoon face, and others like it, and how they came to be applied to bridges along the canal, he would appreciate it greatly.

Park Superintendent’s Report

Director Hutchison noted that Superintendent Kallesser was on vacation until the end of the week, and that in her absence he would read a summary of an email report that she submitted before her departure.

The Superintendent reported that an internal meeting was held on August 7th to discuss the conditions report prepared by HMR Architects on the East Millstone Bridgetender’s Station, which was attended by the Park Service, Office of Resource Development, the DEP State Historic Preservation Office (SHPO), the NJWSA, and Commission staff.

He noted that the Superintendent wished to report that the park staff was heavily engaged in preparations for, and the subsequent recovery from, Tropical Storm Isaias. She wished to report that park trails are still being evaluated and re-opened using chainsaws.

The Superintendent reported that park attendance remained busy this summer; so much so that she is engaged in discussions with municipal governments along the Delaware River on strategies to best handle the large groups which are patronizing the Delaware and Raritan Canal State Park.

Vice-Chairman Loos asked the Director to describe in broad terms, the internal discussion about the condition of the East Millstone Bridgetender's Station. Director Hutchison reported that there was consideration that the cost of such a project might be different than the cost noted in the conditions report. The Director noted that the station sits precariously close to Amwell Road (Somerset County Route No. 514) and this fact raised the question of whether prudence demanded the relocation of all the historic structures in the area of the bridge. The Director also noted that NJDOT planned on replacing the bridge at some point in the future, and that there may be a possibility that Somerset County could choose to realign Amwell Road.

The Director offered the opinion that the situation at East Millstone was more complicated than the fate of one historic -- albeit dilapidated -- shelter. He noted that there were a number of administrative and engineering "moving parts" to the situation, which included: the possible future realignment of Amwell Road; the design and location of any future Amwell Road replacement bridge; the possible relocation of the utility lines presently attached to the bridge structure; the perilous location of the East Millstone Bridgetender's house; the deteriorated bridgetender's shelter; and the potential use of the former-East Millstone First Aid Squad building which is located on the opposite side of Amwell Road from the shelter and occupies the site of a filled canal basin.

Director Hutchison expressed the hope that a "global solution" which could be agreed to by all the impacted government entities would be the best way to proceed. This would necessarily involve NJDOT, Somerset County, Franklin Township, the Commission, and various program elements within the DEP. Commissioner Stout noted that securing the necessary funding for any plan must be a consideration as well. Director Hutchison noted that a project before the Commission involving the area near the shelter, such as bridge replacement, could result in the need for mitigation, and this in turn could defray the costs associated with the relocation of any buildings. Commissioner Stout asked if the Scudder Falls Bridge mitigation funds could be used to relocate the structures. Director Hutchison stated that the Commission was not a signatory to the agreement which gave rise to the swing bridge project, and that any decision to repurpose those monies was not the Commission's to make.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that the dredging project to for the main portion of the Delaware and Raritan Canal in the area known as "Reach No. 5" would conclude within approximately three weeks. Mobilization to dredge the area denoted as "Reach No. 6" would commence. Dredging of the "Reach No. 6" area would occur from September 16th until mid-November, after which time dredging operations would halt and removal of dredge material would commence.

Mr. Sellar reported that the surveys of canal areas treated for Hydrilla revealed no new plant growth to date. In addition, a survey of the canal area from Bulls Island Recreation Area to the City of Lambertville revealed no plant growth. He reported that the herbicide injection continues at a target dosing rate of 3 parts per billion.

August 19, 2020

Mr. Sellar reported that the NJWSA and the Division of Parks and Forestry were working to remove fallen and damaged trees from Tropical Storm Hurricane Isaias along the canal embankment and within the canal.

Commissioner Stout asked Mr. Sellar for an update on the status of the western canal embankment repairs in the Borough of Stockton. Mr. Sellar reported that the plan specifications were nearly complete, and that a construction target date was set for the spring of 2021.

Old Business

Vice-Chairman Loos asked Commissioner Stout to update the Commission on contact with the Delaware River Joint Toll Bridge Commission (DRJTBC) about the vehicle storage site at the Route 202 Bridge in Lambertville. Commissioner Stout reminded the Commission that he and Director Hutchison met with the Joseph Resta, Executive Director of the DRJTBC, to discuss an area north of Lambertville and south of the Route 202 Bridge on which the DRJTBC was storing vehicles and equipment in a disorderly fashion in an area directly adjacent to the canal and park. Commissioner Stout described the conditions of the area as an eyesore with negative impact upon the park. Commissioner Stout reported that, subsequent to the meeting with the Executive Director, the DRJTBC moved the equipment to the northern area and placed it in an orderly fashion, thus making a significant improvement to the view. He suggested that a screen of trees be planted between the storage yard and the park. He stated that Director Hutchison was exploring a possible mitigation related to a future PSE&G project in the area. Commissioner Stout thanked Director Hutchison and Executive Director Resta of the DRJTBC for engaging in the discussion.

Vice-Chairman Loos opened a discussion about the remaining mitigation funds deposited in the "PSE&G/D&R Canal Pole Line" mitigation account (#4875-009) collected as compensation for the 2005 PSE&G project to construct a transmission pole in the canal State Park in Franklin Township (DRCC #05-3250). He reminded the Commission that the mitigation funding was, at one time, considered for the construction of a pedestrian bridge across the canal in Franklin Township, and that the project was found to be impracticable for several reasons. He noted that in February 2020, the Commission approved a motion for Commission staff to solicit proposals for projects from county, municipality, private non-profits, and other entities that would improve the park, so as to make an informed decision on how best to use the balance of the mitigation fund, which totals approximately \$100,000.

Director Hutchison stated that since February, staff had found that any project the Commission embarked upon that would result in an expenditure of \$17,000 or more, would require a request for proposal (RFP) and written bids. Given the Commission staffing situation, he believed that this would constitute a considerable undertaking and require expertise not within staff competence. He stated that Mr. Mulvan and his staff at the DEP Office of Resource (ORD) possess the expertise in project management and preparation of RFPs, and that the office was authorized to expend up to \$71,000 on a project using its delegated purchasing authority.

Vice-Chairman Loos then presented a draft resolution which proposed to authorize the Commission to transfer the remaining mitigation funding to an account which would allow ORD to manage and administer a mitigation project selected by the Commission. Vice-Chairman Loos stated the

August 19, 2020

Commission would notify interested parties that the Commission was interested to reviewing proposals for a project or projects using the mitigation monies which could benefit the park. Director Hutchison noted that notice would be uploaded to the Commission website. Proposals would be capped at \$71,000, with a total of \$100,000 to be allocated.

Vice-Chairman Loos called for further comment from the Commissioners and then the public. Mr. von Zumbusch stated his approval of such a motion. Vice-Chairman Loos called for a motion to approve the Resolution 2020-02. Commissioner Lubitz motioned to approve the resolution and Commissioner Reiser seconded the motion. The Director called the roll:

Vice-Chairman Loos	Yes
Acting Director Madden	Yes
Commissioner Reiser	Yes
Commissioner Stout	Yes
Commissioner Lubitz	Yes

The motion was approved.

New Business

Vice-Chairman Loos initiated a discussion regarding the long-standing desire of the Commission to update and revise the 1989 Delaware and Raritan Canal State Park Master Plan. Vice-Chairman Loos reported that following informal conversations on the topic with Commissioners, the Executive Director and others, he proposed that the Commission avail itself of the expertise and resources of the Bloustein School of Planning and Public Policy at Rutgers University to research the issue of which areas of the current plan were in need of revision.

The Vice-Chairman noted that Jeanne Herb, adjunct member of the Bloustein School Urban Planning & Policy Development Program, and who directs its Environmental Analysis & Communications Group, had agreed to allocate one semester of the Spring 2021 “studio” course of the Master of City and Regional Planning (M.C.R.P.) degree program to be dedicated to researching and assessing current conditions within the Commission’s jurisdiction and changes that have occurred since the Master Plan was last updated in 1989.

Vice-Chairman Loos noted that since the Master Plan was last updated in 1989, the canal region had undergone significant changes, including changes in land use patterns, climate and environmental conditions, recreational use, demographics, and the condition of the canal’s historic and cultural resources. The studio course project could prepare a report which would in turn be used as a guiding document for a Master Plan revision and update, and possibly lay the groundwork for potential funding from philanthropic sources.

Commissioner Stout expressed his support for the project and noted that without an updated Master Plan, the Commission faces challenges conducting regulatory reviews that are consistent with current conditions in the Review Zone. He noted that the Commission’s review of a recent project in the City of Lambertville to construct an artist studio in close proximity to the canal highlighted the disconnect between the provisions of the current Master Plan, which may have adequately reflected the situation in

1989, and the conditions as they currently exist in the canal region.

Mr. Barth asked if the Commission’s stakeholders would be involved in the process. Vice-Chairman Loos noted that the Master Plan Advisory Committee could be involved with the project in some way, but that the details would need to be worked out in consultation with the Bloustein School. Mr. von Zumbusch expressed his support for the idea and recommended including the advisory committee in the discussions and to include a review of the other documents which form the basis of the Master Plan, such as the 2013 Delaware and Raritan Canal State Park Development Plan, in any future conversations.

Vice-Chairman Loos called for a motion to authorize Commission staff to work with the Bloustein School of Public Policy and Planning, specifically a studio class project, which would result in a report on issues related to the proposed update and revision of the 1989 Delaware and Raritan Canal State Park Master Plan. Commissioner Stout moved to approve the motion as described by Vice-Chairman Loos, which was in turn seconded by Commissioner Lubitz. The Director called the roll:

Vice-Chairman Loos	Yes
Acting Director Madden	Yes
Commissioner Reiser	Yes
Commissioner Stout	Yes
Commissioner Lubitz	Yes

The motion was approved.

Public Session

Mr. Massand identified himself as the Montgomery Township liaison to the Commission and a resident of Belle Mead. He commended Commission staff on creating straightforward staff reports, especially those for the Bloomberg Solar Project (DRCC #20-0837I) and the Route 206 bank (DRCC# 20-5441B) projects. He stated his concern that the Montgomery Promenade retail development was not noted in the staff report with consideration to stormwater. He stated his concern of safety issues on Amwell Road and would like to see discussion with Somerset County and the Commission on these concerns. He also expressed the desire to speak with the park superintendent regarding parking at East Millstone. He reported heavy use of the park including swimming in the park and alcohol consumption. He also stated he found the proposed rain garden for DRCC# 20-5441B -- 1217 Route 206 to be a nice addition to the project from an environmental perspective.

Mr. von Zumbusch stated that he agreed with Director Hutchison that the issues at East Millstone are sufficiently complex so as to require a “global” approach, and that the moving of structures should be a last resort with realignment of the road preferred. Director Hutchison stated that his previous comments did not suggest that SHPO endorsed moving any structures. Acting Director Madden stated that the Historic Sites Council would be required to participate in any proposed project to move historic structures, and that there would be a very high bar for such activity to be permitted. Vice-Chairman Loos stated that resiliency planning is important with consideration to historic structures, and that he was not inclined to endorse funding a project to restore structures such as the East Millstone Bridgetender’s shelter, only to see them washed away by climate change-induced floods. Mr. von Zumbusch stated that structures can be retrofitted to survive flood events so that they could be cleaned up quickly and relatively easily, using his own home as example.

August 19, 2020

Commissioner Lubitz welcomed Acting Director Madden to the Commission and looks forward to her working with the Commission going forward.

Mr. von Zumbusch wished former-Director Glenn success in her new position as Deputy Commissioner.

Mr. Barth commended the Commission on the two motions adopted at the meeting regarding the potential revision and update of the Master Plan, and that on the administration of the PSE&G mitigation monies. He also agreed with Mr. von Zumbusch's comments on the East Millstone Bridgetender's Station. He requested an update on the status of the plan to reopen the northern portion of the Bulls Island Recreation Area. Acting Director Madden noted that the plan devised by the Commission and Division of Parks and Forestry staff which had been under consideration during Ms. Glenn's tenure as Director has been reviewed, has generated support within the Department, and that she would follow up with Director Hutchison.

Vice-Chairman Loos noted that as stated in the meeting notice, the Commission would accept written comments from the public, which will be included in the written copy of the Commission meeting minutes.

Written Public Comments

None.

Executive Session

None.

Adjournment

There being no other business, Vice-Chairman Loos entertained a motion to adjourn. Commissioner Lubitz moved to adjourn the meeting, which was seconded by Commissioner Reiser. Vice-Chairman Loos called for a voice vote on the motion to adjourn, which was approved unanimously.

The meeting adjourned at 11:25 a.m.

Respectfully submitted,



John Hutchison, Secretary