



**December 16, 2020 Minutes of the Meeting  
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.  
DATE: December 16, 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; Commissioner Bruce Stout; Commission Chris Shoffner; and Commissioner Douglas Palmer; 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: Stephanie Fox, DEP Natural Resource Specialist, Delaware and Raritan Canal State Park; Vicki Chirco, DEP Park Historian; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Rikki Massand; Linda Barth, D&R Canal Watch; Robert Barth, D&R Canal Watch; Robert von Zumbusch, D&R Canal Master Plan Advisory Committee; Tom O'Shea, Van Note Harvey Associates; Noreen Merainer, PSE&G; Mike Ford, Van Cleef Engineering Associates; Ryan Salmon; Ken Kimmel; Kelly O'Such; Patrick Mercogliano; Eugene DeStephano; Kelly Sullivan; Niculae Barlinga.

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 seven Commissioners in attendance, the Director indicated that a quorum was present, and that the transaction of Commission business could therefore proceed.

Vice-Chairman Loos confirmed the January 20, 2021 Commission meeting date and stated that given the ongoing public health emergency and declared state of emergency related to the COVID-19 pandemic, the meeting would likely be held by means of an online platform and teleconference.

**Minutes**

Vice-Chairman Loos asked if there were any comments with respect to the November 18, 2020 meeting minutes. Hearing none, he called for a motion. Commissioner Stout motioned to approve the minutes and Commissioner Riser seconded the motion. Vice-Chairman Loos directed Director Hutchison to call the roll:

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

The motion was approved.

**Review Zone Projects**

Zone A Projects

#20-2091L	New Jersey American Water Company Canal Road Water Treatment Plant -- Flocculation/Basin Sedimentation Upgrade (Franklin Township)
#20-5556	Strand Theatre -- Proposed Redevelopment (Lambertville City)

The Vice-Chairman stated that he would entertain any comments or questions on the Zone A projects from the Commissioners and from the public. Hearing none, Vice-Chairman Loos requested a motion on the Zone A projects. Commissioner Stout made a motion to approve the Zone A projects as recommended by the staff, which motion was seconded by Commissioner Lubitz. Vice-Chairman Loos requested that the Director to call the roll:

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

The motion was approved.

Zone B Projects

- #20-2441CC Princeton University East Campus -- Excavation/Geo-Exchange Bore Project -- Major Modification (Municipality of Princeton)
- #20-5010B Riverside Center -- Warehouse -- Major Modification (Millstone Township)
- #19-5471 1377 Route 206 -- Proposed Garden Apartment Buildings (Montgomery Township)
- #20-5558 16 Heller Park Lane -- Proposed Warehouse/Office Development (Franklin Township)
- #20-5573 PSE&G -- North Brunswick Substation (North Brunswick Township)
- #20-5616A Princeton University -- Biodigester/SCRAP Lab Relocation (West Windsor Township)

Vice-Chairman Loos requested a motion on the Zone B projects. Commissioner Stout moved to approve the Zone B projects, which motion was seconded by Commissioner Lubitz.

The Vice-Chairman requested comment from the Commissioners on the Zone B projects. Commissioner Stout asked Mr. Ruggeri to comment on the stream corridor intrusions for DRCC #19-5471 1377 Route 206 -- Proposed Garden Apartment Buildings. Mr. Ruggeri noted that the proposed intrusions are proposed in areas that were previously disturbed and would be considered grandfathered, and as such, mitigation at a 1:1 ratio was not required.

Vice-Chairman Loos stated that he would entertain any comments or questions on the Zone B projects from the public. Mr. Massand stated that DRCC #19-5471 1377 Route 206 -- Proposed Garden Apartment Buildings would provide walkability and affordable housing for its residents and that the developer had been agreeable in working with the municipality. Vice-Chairman Loos requested that the Director call the roll:

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

The motion was approved.

Executive Director's Report

Director Hutchison reported that in addition to the 8 projects listed on the meeting agenda, the staff completed 25 staff reports with deficiencies, 12 jurisdictional determinations, 2 certificates of approval, and 4 General Permits.

In order to place the workload in perspective, Director Hutchison noted that in the 17 State working days since the November Commission meeting, the staff had completed 50 documents related to the Commission's land use regulation program. The Director stated that while this total was extraordinary, it was likely also not sustainable. He noted that the staff was performing the best it could under the circumstances, especially since the Commission lacked that legal and technical means to require the electronic submission of documents or fee collections. Because of the COVID-19 pandemic, Mr. Hutchison noted that the Commission had less administrative support due to the fact that Ms. Romsdahl was working almost entirely from home in order to remote school her children. Because of the long-standing human resource issue related to engineering compensation, Mr. Friebel was only working about once a month on his AWP day.

The Director noted that as a result, all other Commission work, such as finalizing the Bridge Task Force memorandum of understanding, completing and issuing the mitigation grant money application form, the completion of the statutorily-mandated 2020 Annual Report, and the investigation of reported encroachments on Delaware and Raritan Canal State Park property had been put on indefinite hold, so that all of the staff's limited resources could be focused on the obligation to meet Commission's statutory and regulatory 30- and 45-day deadlines for the review of project applications.

Mr. Hutchison reported that application fee deposits for the month totaled \$30,600. In addition to the \$28,500 deposit made in January, total deposits for the current fiscal year stood at \$59,100.

The Director reported that the commencement of work on the project to repair the exterior of the Commission offices had been delayed until January/February due to the contractor's commitments at other ongoing projects.

The Director reported that the main Commission telephone line (609-397-2000), which was inoperative for a significant portion of December, had been repaired by the DEP General Services staff.

The Director reported that the Commission's vehicle had been fitted with flashing strobe lights on the front grill and rear lift gate, which would allow it to be better seen on the multiuse trail, as well as the Commission seal on the doors, so that it would be easily recognized by other government agencies and the public at-large.

Mr. Hutchison reported that additional meeting minutes had been posted to the Commission website. Meeting minutes dating back to the year 1987 were now available for the public's perusal.

Commissioner Lubitz commented that the Commission was placed at a disadvantage as a result of being omitted from the Executive Order which tolled various DEP program application deadlines. He suggested that the Commission communicate the workload situation with the DEP leadership and the larger Administration, and noted that the combination of the Commission's ongoing human resource issues and the COVID-19 pandemic had created great difficulty for the staff in carrying out the Commission's statutory mission. Director Hutchison stated that the appropriate request was made to the DEP Office of Legal Affairs to have the Commission 30- and 45-day deadlines tolled. Deputy Attorney General Kane stated that he was unaware of the existence of an executive order which granted an extension to statutorily-mandated review deadlines. Acting Director Madden stated that she would confer with Deputy Attorney General Kane to confirm that no other DEP regulatory programs were provided an extension of that nature.

Commissioner Stout stated that Director Hutchison, Ms. Maloney, and Ms. Romsdahl had been doing a “yeoman’s job” of managing the Commission’s work during a very difficult situation. Director Hutchison stated that a great measure of credit should go to Commission Engineer Ruggeri, who had managed to perform almost all of the required engineering work, thus allowing Mr. Friebel to concentrate on attending pre-application meetings. Director Hutchison reported that unfortunately, due to the human resource issues plaguing the Commission, there was now a lag time of six to eight weeks before prospective applicants could obtain a pre-application meeting with the Commission engineering staff.

Vice-Chairman Loos stated that while he understood that the COVID-19 pandemic had created problems for the Commission staff, the real problem was attributable to the special project blanket overtime rate imposed on the Commission by the DEP Human Resources Office, which critically and negatively impacted the engineering staffing. The hourly rate limit of approximately \$35/hour was a marked reduction when compared to compensation previously provided to the Commission’s engineers, and that it directly conflicted with a \$50/hour approved in 2017. The Vice-Chairman noted that the Commission had discussed this matter repeatedly and he had reached out to the Governor’s Office and the Legislature in order to resolve this matter without a satisfactory result. Vice-Chairman Loos stated that lack of attention to this issue by the DEP Human Resource Office had been a contributing factor in his resignation from the Commission.

#### **Park Superintendent’s Report**

Delaware and Raritan Canal State Park Naturalist Fox reported that work had commenced at the northern section of the Bull’s Island Recreation Area relating to tree removal. Additionally, she met with the DEP Forest Service to identify trees which would be removed and milled for future projects to benefit the Delaware and Raritan Canal State Park, such as the fabrication of new park benches and furniture.

Ms. Fox reported that the Lower Delaware Wild and Scenic Committee is conducting an online survey related to its Recreational River Use Capacity Study and invited residents and river users to participate in the survey at: [www.lowerdelawarewildandscenic.org](http://www.lowerdelawarewildandscenic.org).

Ms. Fox reported that the DEP State Historic Preservation Office was seeking a special meeting of the Historic Sites Council to consider the proposed plan to replace the failed septic system at the Port Mercer Bridgetender’s House in Lawrence Township.

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

Mr. Sellar reported that the dredging project for the main portion of the Delaware and Raritan Canal was completed on December 5, 2020, and that the demobilization of equipment was underway. Removal of dredge material would take place from mid-January to the end of March 2021. Site restoration would then commence after that date.

Mr. Sellar stated that the Island Farm Weir embankment repair was underway.

Mr. Sellar reported that proposal requests are being made for the Cedar Grove Brook watershed project.

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Mr. Sellar reported that canal maintenance dredging was completed at the Prallsville Mills in Stockton and the NJWSA has moved on to dredging work on a culvert above the lock at the Bull's Island Recreation Area.

Mr. Sellar reported that on December 2, 2020 a severe leak of approximately 60 gallons per minute was discovered in the canal at Griggstown between the Farmers Bridge and the Griggstown Spillway. He reported that the NJWSA had relined part of the canal embankment with clay and excavated a portion of the path in order to insert a new clay liner. He noted that the river embankment would also be repaired and followed-up by restoration of the path and embankment

Mr. Sellar reported that a leak and sinkhole were uncovered at the Brookville Waste Gate, located south of Stockton Borough. He stated that the water level in the Feeder would need to be lowered in order to analyze the problem, and that a dye test would be conducted to determine the precise location of the leak.

### **Old Business**

No old business.

### **New Business**

Vice-Chairman Loos noted that as in past years, new Commission officers would be elected at the January 20, 2021 meeting. He stated he would not accept re-nomination for the position of Commission Vice-Chairman. He noted that while the responsibility to appoint a Chairman rested with the Governor under the Commission's enabling statute, the Commission membership was authorized to annually elect the Vice-Chairman and Treasurer. He stated that Commissioner Stout had agreed to serve as the Vice-Chair if the other members of the Commission supported such a proposal, and that he intended to nominate Commissioner Stout for the position of Vice-Chairman at the January meeting.

Commissioner Lubitz thanked Vice-Chairman Loos for his years of service to the Commission and for serving as a mentor to him and the other Commissioners, and that he has enjoyed the Vice-Chairman's guidance.

Commissioner Palmer commended Vice-Chairman Loos for his leadership and stated that it was the Vice-Chairman's dedication and passion which encouraged him to continue to serve on the Commission for so many years after his tenure as mayor of the City of Trenton had ended. He thanked the Vice-Chairman and stated it was unfortunate that circumstances had brought the Vice-Chairman to such a point of resigning.

Vice-Chairman Loos stated that he would recommend a person to the Governor's Office to serve on the Commission from Franklin Township, and that leaders within that community agreed with his proposed replacement. He stated that it was important to recruit a new generation of citizens to become involved in the work of the Commission.

### **Public Comment**

Mr. Barth offered his thanks to the Vice-Chairman for his service and stated that he had made a positive impact upon the Commission during his tenure.

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Mr. Massand thanked the Vice-Chairman for sharing his considerable knowledge of the canal with the public, for being a good listener at the public meetings, and demonstrating leadership.

Mr. von Zumbusch thanked the Vice-Chairman for his service over the years and his efforts at fulfilling the Commission's mission.

Vice-Chairman Loos thanked the group for their remarks and stated that his service on the Commission and working with fellow Commissioners and the members of the Master Plan Advisory Committee had been one of the highlights of his life.

**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 motion was seconded by Commissioner Stout. Vice-Chairman Loos called for a vote on the motion to adjourn, which was unanimously approved by voice vote.

The meeting adjourned at 10:40 a.m.

Respectfully submitted,



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John Hutchison, Secretary