



**May 19, 2021 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:15 a.m.
DATE: May 19, 2021
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout; Deputy Director of Parks and Forestry Robin Madden, designee for Acting Commissioner Shawn LaTourette; Commissioner Phillip Lubitz; Commissioner John Reiser; Commissioner Chris Shoffner; all participated via online platform and teleconference.

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

GUESTS: Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Mike Sellar, NJWSA; Linda Barth, D&R Canal Watch; Robert Barth, D&R Canal Watch; Robert von Zumbusch, D&R Master Plan Advisory Committee; Thomas O'Shea, Van Note-Harvey Associates; Brian Atkins; Timothy Holmes, PSE&G; Jelena Balorda-Barone, Collier Design and Engineering; Eugene Porzio, Sargent & Lundy; Thomas Letizia, Troutman Pepper; Karen Jezierny, Princeton University; Paul Christopher, Van Cleef Engineering; Susan Ferrara, Troutman Pepper; Alex Bauman, Stonefield Engineering; Wayne Petko, D&R Canal Watch; Jared Augustine, Burns and McDonnell; Ricki Massand.

Vice-Chairman Stout 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 Stout 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.

Commissioner Shoffner joined the meeting at 10:09 a.m.

Administrative Items

Since Commission members were participating via telephonic device pursuant to Article III, Section 4 of the Commission Bylaws, Vice-Chairman Stout directed the Executive Director to call the roll.

Vice-Chairman Stout	Present
Deputy Director Madden	Present
Commissioner Reiser	Present
Commissioner Lubitz	Present
Commissioner Shoffner	Present
Commissioner Palmer	Absent

Minutes

Vice-Chairman Stout inquired if Commissioners had any comments on the April 30, 2021, meeting minutes. Hearing none, he called for a motion to approve the minutes as prepared by the staff. Commissioner Lubitz made a motion to approve the minutes as submitted, which was seconded by Commissioner Reiser. Vice-Chairman Stout directed Director Hutchison to call the roll:

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

The minutes were approved.

Confirmation of June Meeting Date

Vice-Chairman Stout confirmed the June 16, 2021, meeting date.

Proposed approval of Lease Agreement LE21-18 concerning the development and operation of outdoor recreational facilities at Block 1, Lot 1 in the Borough of South Bound Brook.

Director Hutchison asked Superintendent Kalleser to summarize the provisions of the lease agreement. Superintendent Kalleser stated that the document was a standard lease agreement between the Division of Parks and Forestry and the Borough of South Bound Brook. It allowed the municipality to maintain a portion of the Delaware and Raritan Canal State Park located between the Delaware and Raritan Canal and Canal Street for recreational activities and public enjoyment such as picnicking, along with the adjacent parking lot. She noted that any proposed project to physically alter the lease area would require the approval of the Commission and the State Historic Preservation Office (SHPO).

Vice-Chairman Stout requested comment from the Commissioners and then the public. Hearing none, he called for a motion to approve the Commission as a signatory to the lease. Commissioner Lubitz moved to approve the motion, which was seconded by Commissioner Reiser. Vice-Chairman Stout directed Director Hutchison to call the roll:

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

The motion was approved.

Review Zone Projects

Zone A Project

Vice-Chairman Stout stated that agenda item #20-5099B 21 Kingwood-Stockton Road -- Tilch Residence (Delaware Township) would not be considered for vote, since the applicant was unable to secure the required municipal approval pursuant to N.J.A.C. 7:45-3.2.

Zone B Projects

Vice-Chairman Stout asked the Commissioners if they required any of the eight Zone B projects to be considered separately. As none did, Vice-Chairman Stout requested a motion on the following eight Zone B projects:

- #19-0590B 1165 Route 27 -- Proposed Restaurant/ATM (Franklin Township)
- #21-2441HH Princeton University -- Art Museum (Municipality of Princeton)
- #20-2661A 505 Route 33 -- Proposed Warehouses (Millstone Township)
- #20-3738A Avalon Assisted Living -- Building Addition (Hillsborough Township)
- #20-5494A 336 Applegarth Road Redevelopment (Monroe Township)
- #20-5591 PSE&G -- Texas Avenue Substation Expansion (Lawrence Township)
- #20-5606 PSE&G Mount Rose Substation 69kv Expansion (Hopewell Township)
- #20-5616B Princeton University Lake Campus -- Cross Country Course (West Windsor Township)

Commissioner Shoffner made a motion to approve the eight Zone B projects, which was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comments and questions from the Commissioners and then the public. Hearing none, he asked the Director to call the roll:

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

The motion was approved.

Executive Director's Report

Director Hutchison reported that in addition to the 9 projects listed on the meeting notice, the staff completed 18 deficient staff reports, nine jurisdictional determinations and 8 general permits, and issued 9 certificates of approval.

Director Hutchison reported that in addition to preparing the above documents, staff organized 8 pre-application meetings for proposed projects within the Commission Review Zone, all of which occurred in the 12 business days from the April 30 meeting. Fortunately, the Director noted that the workload had lessened slightly, with 35 active projects undergoing review.

Director Hutchison reported that fee deposits for the month totaled \$15,400, and that deposits for Fiscal Year 2021, which began on October 1, 2020, totaled \$471,763, which was \$21,763 more than the Fiscal Year 2021 anticipated appropriation.

Director Hutchison reported that, on May 7, he participated in a site visit with Commissioners Stout and Lubitz and D&R Canal Watch to the area around the Lambertville Lock, where Mr. Barth provided an informative discussion on the history and engineering of the feeder canal lock and in particular the outlet lock from which a cable ferry to New Hope, Pennsylvania, was operated until 1913.

Director Hutchison reported that, on May 18, he participated in a remote meeting with various program elements of the DEP and Public Service Electric and Gas (PSE&G) to discuss the implementation of the mitigation projects that were approved as a condition of the Commission's approval of the Roseland-Pleasant Valley Electric Transmission Line project (DRCC #20-5560). He reported that the meeting indicated that no significant regulatory impediments existed to advancing the projects, which include the in-kind replacement of the damaged Delaware and Raritan Canal State Park ADA-ramp at the Lambertville restroom building; the rehabilitation of the Moore's Creek access area, and the removal and replacement of standing dead and dying trees in the park along N.J. State Highway Route 29 from Moore's Station south to the so-called "Canal House" (Harbour House) at the entrance to the Baldpate Mountain Trail in Hopewell Township, Mercer County.

Director Hutchison introduced a new member of the Commission's staff. Darlene Yuhas joined the Commission staff to assist with Communications policy, media relations and social media outreach, areas where the Director noted the Commission had not seen any significant activity in recent years.

Director Hutchison reported that Mrs. Romsdahl has resumed a regular office work schedule, enabling the Commission to maintain telephone coverage during regular business hours and ensuring that there will be a staff member in the office to accept deliveries.

Park Superintendent's Report

Superintendent Kalleser reported she met with Commission staff to discuss park mitigation projects related to the Lambert Road Widening project under review with the Commission (DRCC #20-2903I). Division of Parks and Forestry staff recommended the following as mitigation: development of a

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parking area, hazardous tree removal, demarcation and clearing of vegetation around the historic structures at Lock No. 1 at Bordentown and the foundations of the former-canal buildings that were once present there, and restoration of the historic 1/43 mile marker.

The Superintendent reported that park staff and Assistant Director Texel met with an interested party at the Lambertville Locktender's House to view the site and discuss its potential future uses. Assistant Director Texel will explore the potential to create a Request for Expression of Interest for the house, which was last occupied by NJWSA staff. Two different groups have demonstrated interest in the property. The Superintendent noted that despite not being used, the house had been well-maintained by the NJWSA.

Superintendent Kalleser reported that Delaware and Raritan Canal State Park Resource Specialist Fox and the NJWSA were contacted by concerned Princeton residents regarding inappropriate mowing around sensitive monarch butterfly habitat. She reported that park staff will post habitat signage and that the NJWSA would cease mowing along the canal bank in that area during the summer butterfly season.

The Superintendent reported that seasonal staff for the Delaware and Raritan Canal State Park were being onboarded and trained for what she anticipated would be a busy Memorial Day weekend holiday.

The Superintendent reported that the New Jersey Department of Transportation (NJDOT) will begin the tree planting mitigation project at the northern section of the Bulls Island Recreation Area Day Use Area on May 20, 2021. The proposed planting included approximately 30 trees.

Deputy Director Madden reported that the Division of Parks and Forestry would issue notice of award for a river tubing operation and shuttle services concession.

Deputy Director Madden also reported that approximately three letters were received by the division expressing concerns about the Riverview Parking Area presently under construction in Kingwood Township, Hunterdon County. The Deputy Director stated that the division had communicated with Kingwood Mayor Richard Dodds on this topic. The Deputy Director stated that the area had been used over the years by persons who parked on the grass in order to access the Delaware River. The Deputy Director stated the new parking area project would be a positive development for the Delaware and Raritan Canal State Park, and the lot offered protection for adjacent monitoring wells. Deputy Director Madden also stated that when the Department of Environmental Protection acquired the land from Kingwood Township, it was understood that the department would use the area as a park public access area.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar stated that the dredging project on the main portion of the Delaware and Raritan Canal had been completed, and site restoration of the de-watering area was in progress.

Mr. Sellar reported that bids for the Landing Lane Spillway Repair project (DRCC #19-330B) were received that week and were being reviewed, with consideration of a tentative construction start date in the summer.

Mr. Sellar reported that the Island Farm Weir-Raritan River Embankment project work (DRCC #19-4584C) was largely complete, and light-colored stone had been installed during the restoration by the contractor. He stated that the NJWSA would move to replace the stone in the late summer or early fall, after the NJWSA received new equipment that would assist in accessing and restoring this rather narrow area of the Delaware and Raritan Canal State Park. Commissioner Lubitz noted that the color was not the only issue with the type of stone put down, the consistency of the stone also was a problem for bicyclists riding on the park multiuse trail. He stated his concern that the matter would not be resolved until the fall and observed that summer is the time of year when the park is most heavily used. He stated that the contractor engaged by NJWSA to perform the embankment repair could be held accountable for this matter. Commissioner Lubitz requested that Mr. Sellar provide an update on this situation at the June Commission meeting.

Mr. Sellar reported that the new contract for Hydrilla management for the 2021-2023 season was being finalized and that Heather Desko, NJWSA Senior Watershed Protection Specialist, was looking forward to providing the Commission with an update on the program at the June Commission meeting.

Mr. Sellar reported that NJWSA staff met with Division of Parks and Forestry staff and Princeton residents regarding mowing operations that were cutting milkweed in known monarch butterfly habitat located within an approximately one-half-mile area of canal embankment upstream and downstream of Alexander Road and an adjacent railroad overpass. He stated that the NJWSA would discontinue mowing in the area during the season.

Mr. Sellar reported that the planned underwater inspection of four canal locks that he discussed during the May Commission meeting would be delayed until the fall due to conditions in the field.

Old Business

Proposed approval of Resolution #2021-01, authorizing the Vice-Chairman to enter on behalf of the Commission into a Memorandum of Agreement with the New Jersey Department of Transportation and the Department of Environmental Protection State Historic Preservation Office for the coordinated, standardized and expedited review of the visual, historic and natural quality impacts of projects to rehabilitate or replace certain bridges within the Commission Review Zone.

Vice-Chairman Stout gave an overview of the history, purpose and outcome of the joint NJDOT-Commission-DEP/SHPO interagency Bridge Task Force. He stated that, approximately five years ago, DOT submitted a project to replace the bridge that carries Somerset County Route 518 over the Delaware and Raritan Canal near the Borough of Rocky Hill. The project submission resulted in a considerable period of negotiation and eventually an approval by the Commission of a replacement bridge, which Commission members later considered to be incompatible with the canal's status as a historic district. The Vice-Chairman stated that then-Director Marlen Dooley recommended that NJDOT, the Commission and the SHPO devise an improved and more cooperative approach to review of future bridge replacement and repair projects in the form of a task force. He stated the Bridge Task

Force was formed to create agreed-upon design principles to guide the design of bridge replacements over the canal and that local municipality and county representatives, and other stakeholders with an interest in the Delaware and Raritan Canal participated in the Task Force.

Vice-Chairman Stout stated the Task Force was charged with identifying, categorizing and developing a shared understanding of the existing bridges with wooden decks within the Delaware and Raritan Canal State Park, and the review of the regulatory, policy, design, safety and engineering issues and concerns of both the NJDOT and the Commission relating to the periodic rehabilitation and potential replacement of those bridges. Vice-Chairman Stout stated that the Task Force completed its deliberations and made recommendations regarding the resolution of the issues noted above, which in turn are memorialized in the proposed Memorandum of Agreement (MOA).

Vice-Chairman Stout stated the proposed MOA outlines design principles for the bridges over the canal, which were categorized into “low use” and “high use” based on average daily traffic load. He stated those principles included that the low-use bridges would continue to have wooden decking and a walkway, and high-use bridges would be designed to include a walkway if possible. All the bridges would have the T-4 “New Hampshire” model metal railing design, which was a crash-tested bridge similar to the design of the current canal bridges. The MOA included a provision requiring all bridges to maintain a 36-inch clearance over water to allow navigation by kayaks and canoes and, where significant pedestrian use exists, pedestrian crossings would be constructed and NJDOT would maintain such crossings. In addition, timber façade lumber would be used for wingwalls and abutments, and no sheeting should be used in the canal without a compelling reason. The Vice-Chairman stated that “value engineering” employed by the NJDOT in the Alexander Road bridge replacement project would be prohibited in the future for bridges over the canal.

Vice-Chairman Stout thanked canal stakeholders Robert Barth and Robert von Zumbusch for their participation in the task force’s work during the past four years.

Mr. von Zumbusch, in return, thanked Vice-Chairman Stout for his leadership on the task force.

Vice-Chairman Stout asked for comment from the Commissioners and then the public. Hearing none, the Vice-Chairman requested a motion to authorize the Vice-Chairman to sign the MOA. Commissioner Lubitz made the motion, which was seconded by Deputy Director Madden. The Vice-Chairman asked the Director to call the roll:

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

The motion was approved.

New Business

Proposed approval of Resolution #2021-02, which repeals Resolution #2020-02 authorizing the alternative use for monies deposited in Commission Mitigation Account #4875-009, and authorizes monies deposited in that account to be transferred to the Division of Parks and Forestry for the renovation of the East Millstone Bridgetender's Station of pursuant to DRCC #21-4196A.

Director Hutchison offered an overview of the resolution. He stated that the Commission approved a project (DRCC #05-3250) to permit a Public Service Electric and Gas Company (PSE&G) project to erect an 85-foot-high steel monopole within the boundaries of the Delaware and Raritan Canal State Park in Franklin Township, Somerset County, in the vicinity of the 5-Mile Lock access area, with overhead 69Kv and 13Kv conductors that would cross the Delaware and Raritan Canal south of the lock and canal park access area, and north of Interstate Highway Route 287; and

He noted that, among the conditions of the certificate of approval issued on January 18, 2006, which in turn was subsequently modified by a stipulation of settlement between the Commission and PSE&G in 2008, was that PSE&G would deposit \$275,000 into a dedicated account from which the Division of Parks and Forestry would construct "a new pedestrian access to the park towpath in Franklin Township, Somerset County, or a project of similar scope in the Commission's sole discretion". The above referenced mitigation monies were deposited in a mitigation account designated (#4875-009), which were partly expended in 2013 for the preparation of a study to assess the available alternatives for the construction of a new pedestrian bridge over the canal at Easton Avenue and John F. Kennedy Boulevard in the vicinity of Block 259, Lots 75 and 76, respectively, in Franklin Township, Somerset County. The construction of proposed pedestrian bridge was ultimately deemed by the Commission to be infeasible due to right-of-way acquisition, engineering, jurisdictional, fiscal and operational reasons, which became apparent over the ensuing years.

Director Hutchison reported that the Commission subsequently adopted a motion at its February 19, 2020, meeting to solicit proposals from sponsor municipalities, counties, non-profit/advocacy environmental or historic preservation advocacy organizations, or partnerships involving such government units and organizations for an alternative project or projects to the proposed pedestrian bridge, for which the monies deposited in account #4875-009 might be expended in support of the Delaware and Raritan Canal State Park and in furtherance of the goals set forth in the Commission Master Plan. The Commission intended that the monies deposited in account #4875-009 would constitute the Commission's contribution to any individual project proposed by a sponsor municipality, county, non-profit/advocacy environmental or historic preservation advocacy organization, or partnerships involving such government units and organizations.

Director Hutchison stated that the Commission intended pursuant to the provision of Resolution No. 2020-2 to solicit proposals for projects, for which the Commission contribution would not exceed \$71,000, and would use the monies deposited in mitigation account #4875-009, consistent with the conditions set forth in the certificate of approval for DRCC #05-3250 and the Stipulation of Settlement

between the Commission and PSE&G dated November 29, 2007. However, the emergent need to effectuate the rehabilitation of the historic East Millstone Bridgetender’s Station, located within the Delaware and Raritan Canal State Park in the vicinity of Amwell Road (Somerset County Route 514), has resulted in a reconsideration of the policy adopted in Resolution No. 2020-02. A project proposed by the Department of Environmental Protection, Division of Parks and Forestry, to effectuate the in-kind rehabilitation of the East Millstone Bridgetender’s Station has been authorized by the Commission pursuant to a General Permit No. 1 issued on April 28, 2021, (DRCC #21-4196A).

Director Hutchison stated that the proposed resolution would authorize the Executive Director of the Commission, in consultation with the DEP Office of Management and Budget, to effectuate the transfer of the balance of the amount deposited in mitigation account, totaling \$98,178.82, from the Commission to the DEP Office of Resource Development in order to effectuate the restoration of the East Millstone Bridgetender’s Station as authorized in the General Permit No. 1 for Commission project DRCC #21-4196A.

Vice-Chairman Stout asked for comment from the Commissioners and then the public. Hearing none, he called for a motion to approve the resolution. Commissioner Lubitz motioned to approve the resolution, which was seconded by Commissioner Reiser. The Vice-Chairman called for further comment, and hearing none, asked the Director to call the role:

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

The motion was approved.

Public Comment

Ms. Barth stated she was grateful that the Commission had taken action to address the East Millstone Bridgetender’s Station situation.

Mr. Massand noted concern about Rocky Hill Borough and a Millstone River property. He stated that users of the Delaware and Raritan Canal State Park were accessing the river to barbecue, play music and swim. He asked Superintendent Kalleser or Director Hutchison if they had been contacted by municipal officials in Rocky Hill Borough on this matter. Superintendent Kalleser stated she had not. Mr. Massand offered contact information of Rocky Hill officials.

Written Public Comments

None.

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Executive Session

None.

Adjournment

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

The meeting adjourned at 10:49 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", written in a cursive style.

John Hutchison, Secretary