



**September 15, 2021 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: September 15, 2021
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout; Deputy Director of Parks and Forestry Robin Madden, designee for Commissioner of Environmental Protection Shawn LaTourette; Commissioner Phillip Lubitz; Commissioner John Reiser; Commissioner Douglas Palmer; and Commissioner Chris Shoffner 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, Darlene Yuhas and Deputy Attorney General Jason Kane participated via online platform.

GUESTS: Michael Sellar, Darin Shaffer, Marc Brooks, New Jersey Water Supply Authority (NJWSA); Vicki Chirco, D&R Canal State Park Historian; Linda Barth, D&R Canal Watch; Robert Barth, D&R Canal Watch; Robert von Zumbusch, D&R Master Plan Advisory Committee; Brian Perry, Van Note-Harvey Associates; Mitch Newman; John Chiara; Ted Chase, Rikki Massand; Scott Parker; Anthony Castelo; Wayne Petko; Charles Martin; Beth Kenderdine.

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.

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.

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

Minutes

Vice-Chairman Stout inquired if Commissioners had comments on the August 18, 2021, meeting minutes. Hearing none, the Vice-Chairman called for a motion to approve the minutes as amended. Commissioner Reiser made a motion to approve the minutes, which was seconded by Commissioner Shoffner. 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	Yes

The minutes were approved.

Confirmation of September Meeting Date

Vice-Chairman Stout confirmed the October 20, 2021, meeting date.

Review Zone Projects

Zone A Projects

Vice-Chairman Stout requested a motion on the three Zone A projects:

21-5628A	1 Mill Street Single-Family Residence -- Major Modification (Stockton Borough)
21-5706	NJDOT -- Route 295 Safe and Connected Corridor Project (Ewing Township/Hopewell Township/Lawrence Township/Hamilton Township)
21-5742A	69 Grouser Road -- Proposed Residence (Franklin Township)

Commissioner Palmer made a motion to approve the projects. Commissioner Lubitz seconded the motion. Vice-Chairman Stout asked for comment from the Commissioners and then the public. Hearing none, 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	Yes

The motion carried.

Zone B Projects

21-2789V The College of New Jersey -- Proposed Fitness Court (Ewing Township)

Vice-Chairman Stout stated he would recuse himself from the consideration of project 21-2789V The College of New Jersey -- Proposed Fitness Court. Vice-Chairman Stout left the meeting and Commissioner Lubitz assumed the chair. Commissioner Lubitz asked Commissioners and then the public if they had any comments on the project. Hearing none, he called for a motion. Commissioner Reiser made a motion to approve the project, which was seconded by Commissioner Palmer. Commissioner Lubitz directed Director Hutchison to call the roll:

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

The motion carried.

Vice-Chairman Stout returned to the meeting. He called for a motion on the remaining Zone B projects:

21-2945E Hightstown High School -- New Parking Lot and Bus Lane (Hightstown Borough/East Windsor Township)

21-5661 Hopewell Parc -- North and South -- Proposed Residential Complex (Hopewell Township)

21-5725 50 Jersey Avenue -- Proposed K-8 School (New Brunswick City)

Commissioner Lubitz moved to approve the projects, which motion was seconded by Commissioner Reiser. The Vice-Chairman asked for comment from the Commissioners.

Commissioner Lubitz requested the number of acres of stream corridor to be preserved for the Hopewell Parc project. Mr. Ruggeri stated that 28.2 acres would be placed in preservation. The Vice-Chairman called for further comment. Hearing none, 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	Yes

The motion carried.

Executive Director's Report

Vice-Chairman Stout stated that the Commission's Executive Director and staff had done a fine job preparing for possible flooding of the office during Tropical Storm Ida. He also commended park staff in the cleanup efforts after the storm.

Executive Director Hutchison stated that, in addition to the 7 projects listed on the agenda, the workload in the office from August 18 to September 14 resulted in the completion of 13 deficient staff reports, the completion of 2 staff reports for the October meeting agenda, 5 jurisdictional determinations, 1 certificate of approval, and 4 General Permits No 1. In addition to the preparation of these documents, staff organized and conducted 14 pre-application meetings for proposed projects. In addition, as of September 14, there were 38 active projects undergoing staff review.

The Director stated that fee deposits for the month totaled \$33,050 and deposits for Fiscal Year 2022, which began on July 1, 2021, totaled \$123,276.

Director Hutchison stated that despite its proximity to the Wickecheoke Creek and the Delaware River, the Commission Office did not sustain any flood damage as a result of Tropical Storm Ida as it passed through New Jersey on September 1 and 2. The Delaware River gauge at Stockton crested at approximately 19.7 feet at 11 p.m. on September 1. For context, he noted that the office flooded in both April 2005 and again in June 2006 with recorded gauge peak elevations of 26.0 feet and 25.39 feet, respectively. More recently, Tropical Storm Lee in September 2011 had a recorded gauge peak of 21.76 feet, but also did not flood the office.

The Executive Director further stated that although the Commission office was undamaged, the entrance driveway to the Prallsville Mills campus sustained heavy scour and erosion from flooding, and that the historic raceways to the Grist Mill appear to have been seriously damaged from the force of waters flowing down from the higher ground to the immediate east of the mill campus. Out of an abundance of caution, Colleen Maloney and the Director deconstructed the conference room and moved the furniture and artwork to higher locations within the office and prepared to operate remotely for an extended period of time. Fortunately, it was not necessary to flee the office, and after two days during which the Commission offices did not have electrical power, the staff was able to resume normal operations.

Director Hutchison reported that he was contacted by the New Jersey Department of Transportation (NJDOT) on September 2 and informed that they needed to implement emergency in-kind repairs to shore up the southbound lane of N.J. State Highway Route No. 29 (Route 29) in Mercer and Hunterdon counties. He informed them to proceed as though the project was a General Permit No. 1, and that Commission staff would consider the impact of the repairs in an application to be submitted after the state of emergency was concluded.

The Director also reported that he issued a verbal approval to Sunoco to permit them to undertake in-kind emergency repairs to reinforce a washed-out section of a 14-inch carbon steel 1,200 psi liquid product pipeline located in Jacobs Creek, Hopewell Township, and in Commission Review Zone A.

The pipeline is conveyed under Route 29 by means of a culvert, then proceeds underneath the Delaware and Raritan Canal and the Delaware River into Pennsylvania. Sunoco proposed to place new sandbags underneath the exposed portions of the pipeline in the location, which was damaged during Tropical Storm Ida. The Director ultimately determined that the work in question was already covered by an existing General Permit issued in 2018.

Executive Director Hutchison reported that, on the evening before the meeting, Public Service Electric & Gas Company (PSE&G) alerted the Commission staff that the lattice transmission tower along the Delaware River in the vicinity of the Alexauken Creek aqueduct over the Delaware and Raritan Feeder Canal in the City of Lambertville, sustained major erosion around its foundation from Tropical Storm Ida. This tower is among the ones slated to be replaced in late 2022 pursuant to the Roseland-Pleasant Valley Electric Transmission project approved at the March 17, 2021 meeting (DRCC #21-5560). PSE&G proposed to stabilize the tower as soon as possible. The Director advised them to proceed as though the project were a General Permit No. 1, since time was of the essence.

Executive Director Hutchison reported that given the amount of damage sustained in Stockton, Titusville and Lambertville, it was likely that the Commission will see a significant increase in general permit and minor project applications in the weeks ahead. This will present a significant challenge to the Commission staff, since the front desk position remains unfilled following Mrs. Romsdahl's resignation, the lack of engineering staff hours that can be devoted to Commission projects due to the special project blanket situation, and the general constraints posed by the COVID-19 pandemic.

The Executive Director reported that on August 24 he and Darlene Yuhas met with Dorothy P. Guzzo, Executive Director of the New Jersey Historic Trust, to discuss the Commission Master Plan and the potential role the Trust could play in assisting with the readoption of the plan. Ms. Guzzo provided insights into the programs that she administers for the Trust, and how the Trust might serve as a resource for the Commission in the future.

Ms. Guzzo agreed that the Commission should create a document that explains the purpose and scope of the proposed update. The document should outline the need for a multi-disciplinary approach that would update the Master Plan based upon the May 2021 Bloustein School "SWOT" analysis and encompassing:

- Historic & Cultural Resources
- Demographics
- Equity
- Land Use
- Environment
- Recreation
- Economy

She also suggested that a future Master Plan incorporate heritage tourism into the economic portion of the document, as well as the need for a robust public participation process. Commission staff would also to calculate the cost of the proposed plan update with greater specificity than the estimates we have received thus far. That way the Commission would be better positioned to seek a legislative

appropriation pursuant to the authority granted the Commission at N.J.S.A. 13:13A-11(i), or seek other sources of funding.

On August 31 Director Hutchison conducted a site visit with Delaware and Raritan Canal State Park staff, NJWSA, NJDOT and PSE&G to review the final details for the proposed mitigation projects being undertaken along Route 29. He noted that both NJDOT and PSE&G had committed to the removal of dead and dying vegetation and invasive species along the Route 29 corridor, and to the replanting of trees along the highway between the roadway and the canal embankment. In addition, PSE&G will undertake a rehabilitation of the Moore's Station public access area, which was identified as a necessary improvement to the park in the 2003 Development Plan. The Director reported that the projects will go forward after October 1 to comply with DEP endangered and nongame species program timing restrictions related to the Indiana Bat. Director Hutchison stated that the mitigation projects will greatly enhance the viewshed of the area, fulfilling the goals of the Delaware River Scenic Byway Management Plan and the Commission Master Plan.

Executive Director Hutchison reported that on September 13, he attended the Fiscal Year 2020 First Quarter budget meeting the DEP Financial Operations unit. The Commission's financial standing is much improved from where it was in 2017, and there was a budget reserve of \$314,223, which can be applied to unresolved long-standing needs such as records scanning and the remaining physical plant and IT repairs and upgrades.

Executive Director Hutchison reported that the experience of this most recent flood event has given him pause to consider the continuity of operations plans made by his predecessors. He noted that as Commissioners who were serving at the time of his appointment may recall, he was skeptical of locating the office and all of its files so close to a flood-prone watercourse that had nearly destroyed the building three times over an 18-month period in 2004-2005. At the time, he was advised that a move of the Commission office would not be approved, although the former-bridgetender's house at West Hanover Street in Trenton and a former Division of Parks and Forestry building in Somerset County, which was lacking a roof, were offered to the Commission as possible relocation sites.

Executive Director Hutchison further noted that the existing contingency plans to remove all the first-floor wall panels and insulation, and roll the Commission's files, artwork and artifacts out of the building and into unspecified awaiting vehicles cannot be implemented by a staff of two employees. Further, even if staff support from DEP General Services to evacuate the building were made available, flash flooding of the kind which the State experienced during Tropical Storm Ida would have made such an operation futile and, quite frankly, dangerous to everyone involved. He stated that a plan which cannot be implemented successfully is, in fact, not a plan at all.

Director Hutchison further stated that the lessons of Tropical Storm Ida -- along with the lessons learned from the COVID-19 pandemic -- are that the Commission must ensure that its historic project files are scanned to the DEP shared drive, and that the Commission implement mandatory electronic submission of application documents. Both these precautions would ensure that the Commission staff will be able to work remotely for an extended time, and that the historic project files, which are essential to determining Commission jurisdiction over applications, will be available for use in the years to come

regardless of the conditions at the Commission's physical office. With respect to record scanning, DEP Comptroller Stephen Mathis has volunteered to assist in locating a responsive vendor to begin the process to scanning the Commission's files, which would be paid for using a portion of the accumulated budget reserve.

Park Superintendent's Report

Superintendent Kalleser provided a concise overview of storm damage sustained to the Delaware and Raritan Canal State Park during Tropical Storm Ida. After thanking NJDOT, NJWSA, park staff and volunteers for their efforts. She reported that 45-50 miles of the park multiuse trail was impacted by the storm, and that while the park staff worked to make the path passable, park users may find the trail muddy, rough and rutted in spots, with some areas closed for the foreseeable future. She also reported multiuse trail closures at the Alexauken Creek access area in Lambertville and its associated detour, and noted that the trail over the Wickecheoke Creek in Stockton was closed.

At the Prallsville Mills, the stone stream embankment behind the Grist Mill and the Commission office was undermined, and that a previously-filled sinkhole has reemerged, and two additional washout areas. The trail in the vicinity of Port Mercer Canal House in Lawrence Township was also closed, and that an area along Quaker Road will also require restoration. Severe scouring was also discovered along 22 miles of the main canal between Landing Lane and N.J. State Highway Route No. Route 27 in Kingston.

The Superintendent also reported that the boat launches along the Delaware River were open, but that boaters should use caution. She reported that the Bull's Island Recreation Area Day-Use Area had reopened to the public.

Lastly, the Superintendent reported that restoration companies had been contacted to inspect park buildings for flood damage along the main portion of the canal.

Vice-Chairman Stout thanked Superintendent Kalleser and her staff for their work and commented that NJWSA did an amazing cleanup of debris and silt at Brookville Creek in the Borough of Stockton.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that the Landing Lane Spillway Rehabilitation project contract was in place, and that work was anticipated to start in September. NJWSA would coordinate its activities related to the project with NJDOT, as there is a NJDOT road project in the vicinity.

Mr. Sellar stated that the Hydrilla treatment program would end in September and that no Hydrilla had been found this year. He noted that the program was suspended for eight days due to Tropical Storm Ida; however, the storm did not have an impact on the program.

Mr. Sellar reported that the new sluice gate for Lock No. 11 at South Bound Brook Borough was being manufactured and would be shipped from the manufacturer in mid-November.

Mr. Sellar provided an extensive report on the impacts of Tropical Storm Ida. He stated that from Queens Bridge to the South Bound Brook Spillway, the park path was severely damaged, and a

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contractor is mobilizing to start the repair, first by making the path passable. That contractor would also repair the riverside of the towpath at Six-Mile Run, which was affected by sloughing.

NJWSA staff was in the process of clearing trees from the canal and the multiuse trail, with a priority of making the trail passable for vehicular traffic in order to allow repair equipment access.

He further noted that the feeder canal at the confluence of Wickecheoke Creek in Stockton will require dredging of accumulated material from the upstream side of the bridge, with equipment and trucks entering from a side gate north of Stockton on Route 29. In addition, dredging will be required at Lockatong Creek and at the Laceworks Building in the City of Lambertville.

Vice-Chairman Stout inquired if the canal flow was affected by the accumulation of storm debris. Mr. Sellar stated that under current conditions, the flow was not impacted; however, he noted that additional debris from future storm events, combined with winter freezing of areas in need of dredging remain a concern for the NJWSA.

Old Business

NJWSA Chief Engineer Darin Shaffer provided the Commissioners with a presentation on the NJWSA Stockton embankment project (see attached copy).

At the conclusion of the presentation, Commissioner Stout stated he generally supported tree removal as needed along the embankment. Commissioner Lubitz voiced he agreement with this sentiment. Vice-Chairman Stout, Commissioner Lubitz and Mr. Shaffer discussed long-term solutions for the Stockton embankment, including benefits and drawbacks of the use of sheet pile, the long-term structural integrity and stabilization of the canal, vegetation use, and the visual impact of such work on the canal Review Zone. Vice-Chairman Stout requested that NJWSA replace the present green-colored tarps, which were severely-deteriorated, with brown tarps. Mr. Shaffer agreed to this request.

Mr. von Zumbusch stated his opinion that the proposed removal of trees would be historically-accurate for the canal embankment. He also stated his objection to the proposed use of visible sheet pile, and reiterated the importance of maintaining the historic character of the canal.

Commissioner Palmer left the meeting at 11:00 a.m.

Mr. Barth made number of comments about the manner in which canals in the United Kingdom are constructed and maintained, including on the use of sheet pile and vegetation.

Vice-Chairman Stout thanked Mr. Shaffer for the informative briefing.

New Business

No new business.

Public Comment

The Vice-Chairman opened the floor to public comment.

Commissioner Lubitz stated he was aware that that PennEast Pipeline Company had stopped eminent domain proceedings with landowners in Kingwood Township.

Mrs. Barth stated that the 2022 D&R Canal Watch calendar was available for purchase as a fundraiser for the benefit of that organization. Calendar orders can be placed at: barthlinda123@aol.com.

Mr. Barth offered his thanks to the DEP Division of Parks and Forestry and volunteers, including members of the D&R Canal Watch, for the cleanup work undertaken following Tropical Storm Ida.

Mr. von Zumbusch agreed that the volunteers, park staff, and NJWSA did an admirable job responding to the damage wrought from Tropical Storm Ida. He also noted that if additional time was needed to develop a good engineering design and solution for the tarp-covered embankment in Stockton, additional time should be taken in order to arrive at the correct repair plan.

Written Public Comments

None.

Executive Session

At 11:20 a.m., Executive Director Hutchison read Resolution 2021-04. Vice-Chairman Stout requested a motion to approve Resolution No. 2021-04 to enter into Executive Session for the purpose of discussing personnel matters. Commissioner Lubitz made the motion, which was seconded by Commissioner Reiser. The Vice-Chairman 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 motion carried.

The Commission entered Executive Session.

Return to Open Public Session

At 11:59 a.m., the Commission resumed the public session.

Vice-Chairman Stout stated that the Commission discussed a number of staff compensation issues. Executive Director Hutchison noted that the proposed Resolution No. 2021-03 would be amended to reflect language discussed in the Executive Session. Executive Director Hutchison summarized that the resolution under consideration would memorialize the special project blanket rate of \$50.00/hour for Commission engineers. He explained that commission engineers are currently paid pursuant to a special project overtime blanket determined by the New Jersey Civil Service Commission (CSC) and implemented by DEP Human Resources. The DEP Human Resources Office has agreed to submit to the Civil Service Commission a request for a Commission-specific special project blanket at a rate of

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\$50.00/hour, which is consistent with a motion approved by by the Commission in November 2017 for engineering compensation. DEP Human Resources has requested that this resolution be memorialized and adopted by the Commission and transmitted to the CSC as way of facilitating that process going forward. The resolution states the history of the long-standing compensation issue, that the Commission is in favor of the Commission-specific special project blanket, and authorizes the Executive Director to transmit copies of the resolution to the DEP Human Resources Office and the President of the CSC.

Vice-Chairman Stout asked for a motion to approve Resolution 2021-03. Commissioner Reiser made a motion to approve Resolution No. 2021-03, which was seconded by Commissioner Lubitz. The Vice-Chairman called for comment, and hearing none, he 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 motion carried.

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 12:04 p.m.

Respectfully submitted,



John Hutchison, Secretary