



**November 17, 2021 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: November 17, 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; and Commissioner Douglas Palmer; 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: Bob Barth, D&R Canal Watch; Linda Barth, D&R Canal Watch; Michael Vitiello; Mike Gross; Lena Balorda-Barone; Joe Layton; Jennifer Tilch; John Church; Scott Fishbone; Brian Atkins; Denis Pollack; Robert von Zumbusch, Delaware and Raritan Canal Commission Master Plan Advisory Committee; Ludivine O'Toole; Kimberly Bennett; Christopher Borinski; Dave Pasicznyk; Adam Hird; Bill Brown; Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Vicki Chirco, Delaware and Raritan Canal State Park Historian.

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:

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

Minutes

Vice-Chairman Stout inquired if Commissioners had comments on the October 20, 2021, meeting minutes. The Vice-Chairman made two corrections: on Page 6, to insert the name “Madden” after “Deputy Director” in the first paragraph, and, on Page 9, to correct the third word of the fourth paragraph of the superintendent’s report to read “noted”. The Vice-Chairman called for a motion to approve the amended minutes. Deputy Director Madden made a motion to approve the minutes, 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	Absent
Commissioner Palmer	Yes

The minutes were approved.

Vice-Chairman Stout noted that the minutes of the executive session held on October 20, 2021, had been distributed, and he asked if any Commissioner proposed any corrections to that document. Hearing none, he requested a motion to approve the minutes of the executive session. Deputy Director Madden made a motion to approve the minutes of the executive session, which was seconded by Commissioner Reiser. Vice-Chairman Stout directed Executive Director Hutchison to call the roll:

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

The executive session minutes were approved.

Confirmation of December Meeting Date

Vice-Chairman Stout confirmed the December 15, 2021, Commission meeting date.

Review Zone Projects

Vice-Chairman Stout inquired if any Commissioner wished to consider any of the listed Zone A projects separately. Deputy Director Madden requested that the following project be considered separately from the other Zone A projects:

21-5702 650 New York Avenue -- Trenton Self-Storage (Trenton City)

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

21-3503C Woolverton Inn -- Barn Complex Renovations (Stockton Borough)
20-5099B 21 Kingwood-Stockton Road -- Tilch Residence (Delaware Township)

Commissioner Lubitz made a motion to approve the two projects, which was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comment from the Commissioners and then the public.

Mr. Dave Pasicznyk, a resident of Stockton Borough, stated that he was pleased the Woolverton Inn was being restored. The Vice-Chairman asked for further comment and 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	Absent
Commissioner Palmer	Yes

The motion carried.

Vice-Chairman Stout requested a motion on the following project:

21-5702 650 New York Avenue -- Trenton Self-Storage (Trenton City)

Commissioner Lubitz stated that the project engineer, Mr. Wayne Ingram, was the Board of Adjustment Engineer for Kingwood Township. After discussion, Commissioner Lubitz assured Deputy Attorney General Kane that his relationship with Mr. Ingram would not affect his judgment on the project 21-5702.

Deputy Director Madden made a motion to approve the project for the purpose of permitting a discussion, which was seconded by Commissioner Reiser.

Deputy Director Madden stated that the proposed project site included the last remaining pottery

manufacturing building located in the City of Trenton. She noted that numerous potteries were in the city beginning in the 1850s until their decline during the Great Depression. She noted that the proposed demolition of the remaining Enterprise Pottery building had raised concerns within the State Historic Preservation Office. While it was clear, based on the derelict condition of the building, that it could not be saved, Director Madden proposed that the applicant provide mitigation for the negative visual, historic and natural quality impact of the project.

Deputy Director Madden, therefore, recommended that the applicant, at its sole cost and at a cost not to exceed \$10,000, retain a qualified consultant to create a web-based interpretation of the building and its history. Commissioner Lubitz commented that the interpretive web page could be included on the www.dandrcanal.com park website, which presently hosts a similar page related to the Port Mercer Canal House.

Mr. von Zumbusch commended Deputy Director Madden on the proposed mitigation requirement and noted that the original Delaware and Raritan Canal State Park Historic and Recreational Development Plan called for the construction of a path adjacent to U.S. Highway Route 1 from Old Rose Street to Mulberry Street, with interpretive signage at Mulberry Street. He noted that such a trail could become part of the long-term project called the Trenton “Trails Gateway Project.”

Michael Vitiello, attorney for the applicant, thanked the Commission for its comments and noted that he was unaware of the proposed mitigation requirement. He stated his client would agree to the request and sought clarification that the mitigation project would not exceed \$10,000 and that the information related to the pottery site would be hosted on an existing State Government website. He also noted that the applicant required assistance in identifying a professional qualified to undertake the work in conjunction with the Division of Parks and Forestry.

Deputy Director Madden stated that the DEP could provide information on qualified consultants that the applicant could retain to develop this website content. The applicant would be responsible for preparing the information and for working with DEP staff, such as SHPO or the park historian. When asked to address Mr. von Zumbusch’s interest in the construction of new a path, Mr. Vitiello observed that his client did not own those lands in question. He also pointed out the New Jersey Department of Transportation (NJDOT) had conducted an extensive archeological study of the area when the southbound exist ramp from Route 1 was constructed. Mr. Vitiello asked if the project would be delayed while the mitigation activities were being completed. Deputy Director Madden stated the project could proceed while the mitigation work was pursued.

The Vice-Chairman requested an amended motion. Deputy Director Madden asked Director Hutchison to read the following motion on her behalf:

The applicant shall, at a cost not to exceed \$10,000 and using the services of a person meeting the Secretary of the Interior’s Professional Qualifications Standards (48 FR 44738-9) in History and/or Architectural History, produce or cause to be produced, a web-based public document accessible on the www.dandrcanal.com website for the Delaware and Raritan Canal State Park. The web-based public document shall reflect background research conducted on the Enterprise Pottery Works, as well as

contextual information on the overall historic pottery industry in the City of Trenton. The web-based public document shall also include a three-dimensional rendering of the building developed through the use of laser scanning or photogrammetry. No demolition may occur on the site until the laser scanning or photogrammetry is complete and a draft rendering is submitted to the State Historic Preservation Office (SHPO) for review and approval. The draft content and text of the dandrcanal.com website shall be submitted to the SHPO and Delaware and Raritan Canal State Park for review and approval within six months of the building's demolition. Final revisions shall be submitted to the SHPO and Delaware and Raritan Canal State Park within 60 days of any agency comments of the draft. The State Park Service shall notify and consult with the SHPO when preparing to remove the website in order to select a suitable archival option for the information contained therein.

Commissioner Reiser seconded the amended motion. The Vice-Chairman called for further comment from the Commissioners and then the public. Hearing none, Vice-Chairman Stout directed Mr. Hutchison to call the roll:

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

The motion carried.

Zone B Projects

Vice-Chairman Stout stated the Commission would consider 19-5512 201 Woods Road -- Proposed Assisted Living Facility separately and inquired if any Commissioner wished that any of the Zone B projects be considered individually. Hearing none, he requested a motion on the following six Zone B projects:

21-1764C	N.J. Turnpike -- Molly Pitcher Service Area Improvements (Cranbury Township)
20-5635	J.V.B. Wicoff Elementary School -- Additions & Renovations -- Phase 1 (Plainsboro Township)
21-5667	Realignment of N.J. State Highway Route No. 64/Mercer County Route No. 571 (West Windsor Township)
21-5667A	Princeton Junction Train Station -- Mixed-Use Development (West Windsor Township)
21-5673A	Princeton Orchards -- Proposed Residential Development (South Brunswick Township)
21-5698	Lawrence-Hopewell Trail -- Mt. Rose Distillery Trail (Hopewell Township)

The Vice-Chairman asked for comment or questions on the six Zone B projects, from the

Commissioners and then the public.

Mr. John Church, a West Windsor Resident, noted he submitted comments to the Commission on the Princeton Junction Train Station redevelopment projects (DRCC# 21-5667 and 5667A) and stated his request that the Commission table the two projects so he could study them further. Vice-Chairman Stout noted that the comments had been distributed to the members of the Commission, but that the Commission would not be able to accommodate a request to table the two projects due to the requirement in the Commission's regulations to approve or deny a project application within 45 days of the project being declared administratively complete (See N.J.A.C. 7:45-3.4(e)).

Commissioner Lubitz stated he found several of Mr. Church's comments to be cogent, but outside of the scope of the Commission's jurisdiction. Vice-Chairman Stout stated that the submitted comments should be addressed at the municipal level and offered that the Commission reviews traffic impacts to the park, not local roads, and similarly the Commission does not regulate issues related to threatened and endangered species. Director Hutchison agreed that matters related to the protection of endangered species and nongame species do not fall within the scope of the Commission's regulations. Vice-Chairman Stout thanked Mr. Church for his participation.

Vice-Chairman Stout asked for further comment on the six Zone B projects.

Mr. Massand commented that project DRCC# 21-5698 Lawrence-Hopewell Trail -- Mt. Rose Distillery Trail is a welcomed improvement, providing accessibility, safety and enhanced tourism. Vice-Chairman Stout thanked Mr. Massand for his comments.

Vice-Chairman Stout asked for a motion on the six Zone B projects. Deputy Director Madden moved to approve the projects; the motion was seconded by Commissioner Reiser. The Vice-Chairman asked Director Hutchison to call the roll:

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

The motion carried.

Vice-Chairman Stout asked for a motion on the remaining Zone B project:

19-5512 201 Woods Road -- Proposed Assisted Living Facility (Hillsborough Township)

Deputy Director Madden moved to approve the project; the motion was seconded by Commissioner Reiser. The Vice-Chairman asked for comment from the Commissioners and then the public, and hearing none, he asked Director Hutchison to call the roll:

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

The motion carried.

Executive Director's Report

Director Hutchison reported that, in addition to the 10 projects listed on the agenda, the staff completed 17 deficient staff reports, 10 jurisdictional determinations, 13 certificates of approval, 5 General Permits, and prepared one project for consideration at the December Commission meeting during the preceding month. He also noted that as of November 16, there were 26 active projects undergoing review.

The Director reported that fee deposits for the month totaled \$65,975 and that deposits for Fiscal Year 2022, which began on July 1, 2021, now total \$241,401. This would put the Commission on track to meet or exceed its anticipated appropriation of \$450,000.

Director Hutchison stated that Erica Vavrence began working full-time for the Commission on November 6, filling the position that was vacated when Tammy Romsdahl who took a position with the Department of Health. Erica will be working at the Commission front desk, interacting with applicants, inputting application information into the Commission's database, facilitating the transfer of electronic files and assisting with meeting scheduling.

Director Hutchison reported that on October 22 he, Erica Vavrence and Darlene Yuhas spent several hours on the Feeder Canal, during which time Erica took digital photographs of the infrastructure of the water transmission complex, historic structures and natural surroundings of the park. Staff hopes to continue this project by going out along the main portion of the canal before winter. The purpose of this project is to collect a library of digital images that can be used for Commission reports and documents, as well as for the Commission website.

Director Hutchison reported that he attended the final "Canal Quarterly" meeting for 2021 on October 27. He received an update on a potential property that may be acquired by the DEP Green Acres program using \$43,000 in Commission mitigation monies collected as a condition of approval for DRCC #20-2699B West Windsor Duck Pond -- Residential Development. When the DEP is prepared to close on the property, he can provide more details in an executive session.

The Director reported that he and Darlene Yuhas attended a meeting, organized by Bradley Fay of the Millstone Valley Preservation Coalition, with officials from Somerset County who were interested in learning more about the Commission, its Master Plan and the role the Delaware and Raritan Canal can play in promoting tourism in that county. He was pleased that the county officials had taken an interest in the Commission's activities and were also interested in helping the Commission achieve its goals of adopting an updated Master Plan and filling the vacant and holdover appointments on the Commission.

Director Hutchison thanked the Superintendent of the Park for assisting the Commission staff with two issues over the last month. Patricia was kind enough to provide extra face masks from her supply when the ones ordered by the Commission went awry. Also, the park maintenance staff cleaned out the gutters at the Commission office.

Director Hutchison stated that, at the conclusion of the Commission meeting, Colleen Maloney would transmit the proposed annual meeting schedule for calendar year 2022. As in past years, the monthly meetings will occur on the third Wednesday of the month. The proposed schedule does not conflict with any federal, state or major religious holidays; however, the Director asked the Commissioners to review the document and inform the staff if they were aware of any scheduling conflicts. The meeting schedule must be adopted at the December Commission meeting to comply with the provision of the “Open Public Meetings Act” at N.J.S.A. 10:4-18, which direct that within seven days following the annual organization or reorganization meeting of a public body, the body shall maintain and mail to certain newspapers a schedule of the regular meetings of the public body to be held during the succeeding year.

Vice Chairman Stout noted that the engineer compensation matter is still under consideration at the Civil Service Commission and thanked Commission engineers for their patience.

Park Superintendent’s Report

Superintendent Kalleser reported that the Delaware River Joint Toll Bridge Commission Scudder Falls/Interstate Highway Route No. 95 Bridge bicycle lane was open, creating an enhanced loop trail connecting the Pennsylvania Delaware Canal State Park in Lower Makefield Township in Bucks County, with the Delaware and Raritan Canal State Park in Ewing Township in Mercer County. A ribbon-cutting ceremony was held.

The Superintendent reported that the Park Service was pursuing permits from various agencies to repair damage to the canal embankment in the vicinity of Quaker Road in the Municipality of Princeton and Lawrence Township sustained during Tropical Storm Ida.

The Superintendent reported that Tropical Storm Ida-related mold issues at three of the canal houses within the Delaware and Raritan Canal State Park had been remediated, and that three more would be addressed this week including: the Port Mercer and Blackwell Mills Canal Houses and the Griggstown Visitor Center. She reported that Mr. von Zumbusch assisted with access to the Kingston Locktender’s House to conduct repairs to the building’s heating system.

The Superintendent reported that NJDOT and its subcontractors would assist with repairs of Tropical Storm Ida damage within the park.

The Superintendent reported that Hawley Brothers Contractors was retained to undertake the stabilization project for the East Millstone Bridgetender’s Station.

Vice-Chairman Stout asked for an update on the closure and repairs of former railroad bridge that forms part of the park multiuse trail at the Prallsville Mills. Superintendent Kalleser stated she would attend a follow-up meeting regarding ongoing consultations between NJDOT and DEP/Office of Resource Development (ORD).

Commissioner Lubitz asked Superintendent Kalleser for an update on the anticipated opening of the northern section of the Bulls Island Recreation Area. The Superintendent noted that reforestation plans had been sidetracked by Tropical Storm Ida cleanup activities, but that the planned reopening remained on track for the spring. Deputy Director Madden stated that there would be a ribbon cutting, likely in late spring. She noted that her staff was working to secure the needed funding to complete the reforestation project.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that site cleanup from the dredging project continues with mitigation tree planting.

He reported that the NJWSA project to rehabilitate the Landing Lane Spillway would be delayed until the spring to allow the NJDOT project to repair the adjacent bridge over the canal to be completed.

Mr. Sellar reported that the Hydrilla tuber survey for 2021 was conducted by the NJWSA's consultant, but that results were not yet available.

Mr. Sellar reported that designs for the project to restore the Six-Mile Run Culvert were submitted to the SHPO for conceptual approval, and the project would subsequently be submitted to the Commission and NJDEP Land Use for their respective approvals.

Mr. Sellar reported that the project to repair the inoperative sluice gate at the South Bound Brook Lock was on hold until delivery of the new gate from the manufacturer.

Mr. Sellar reported that the Cedar Grove Watershed feasibility study is under review.

Mr. Sellar reported that dredging of accumulated sediment displaced by Tropical Storm Ida was completed at the confluence of the Wickecheoke Creek and the feeder canal at Prallsville Mills. NJWSA staff planned to dredge the area at the Lockatong Creek, and then remove debris in the canal in Lambertville at the "Laceworks" property in approximately two to three months. He noted that dredging would continue in other areas after these priorities were addressed.

Mrs. Barth asked if the NJDOT work at the Landing Lane Bridge would include saving the swing bridge mechanism. Mr. Sellar said he did not have any information on this topic. Director Hutchison stated that the Commission General Permit No. 1 permit issued for the project was confined to "in-kind" repair work, and that removal of the mechanism could be a violation of those permit conditions.

Vice-Chairman Stout asked for an update on the Stockton embankment repairs. Mr. Sellar reminded the Commission that NJWSA Chief Engineer Darin Shaffer provided a report in recent months to the Commission, including that alternative embankment repairs were being researched by the NJWSA.

Old Business

No old business.

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New Business

No new business.

Public Comment

Noting that there was no new business to be considered, the Vice-Chairman opened the floor to public comment.

Mr. von Zumbusch stated his appreciation to Superintendent Kalleser and park staff for assisting with heating repairs in the Kingston Locktender's house. However, he noted that further repairs may be needed for the heating system. He also advised meeting participants that a socially distant outdoor tree lighting at the Kingston Historical Society will be held December 5 at 4:30 p.m. and that all are welcome.

Mrs. Barth expressed appreciation generally to Superintendent Kalleser for her assistance with Canal Watch. She also stated her belief that the \$10,000 mitigation required for DRCC #21-5702 should be used for the erection of interpretive signage. Deputy Director Madden stated that although signage was not part of the mitigation requirement, it would not preclude signage projects in the future.

Mr. Church expressed his appreciation of the Commission's work.

Written Public Comments

None.

Adjournment

There being no other business, Vice-Chairman Stout entertained a motion to adjourn. Commissioner Reiser moved to adjourn the meeting; the 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 11:05 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", written over a horizontal line.

John Hutchison, Secretary