



**October 19, 2022 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:04 a.m.
DATE: October 19, 2022
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout attended the meeting in the Commission offices. Robin Madden, designee for Commissioner of Environmental Protection Shawn LaTourette, Commissioner Douglas Palmer; Commissioner John Reiser, and Commissioner Caryl “Chris” Shoffner participated via online platform and teleconference.

STAFF: Executive Director John Hutchison, Review Zone Officer Colleen Maloney and Deputy Attorney General Jason Kane were present in the Commission office; Commission Engineer Joseph Ruggeri, Communications Director Darlene Yuhas, and Executive Assistant Erica Vavrence participated via online platform.

GUESTS: Bob Barth, D&R Canal Watch; Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Christopher DeGrazia, Esq.; Wayne Petko; Kayley Tezbir; Shealynn M. O’Toole; Ryan Butler; Thomas O’Shea; Jessica L. Peslak; Kelly Klein; Kristin Appelget; Michael Ford; Zhi Wei; Francis Van Cleve; Dan Sehnal; Jeff Haberman; Mark B. Vicente; Ben Li; Daniel O’Shaughnessy; Alec Farrell; Lori Wade; Yan Duan; Charles Martin; John P. Mikusa, NJDOT; Sarah Falk; Allison Wheelan; Michelle Hatfield; and Charlie Coriell.

Since Commission members were participating in person and 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
Commissioner Designee Madden	Present
Commissioner Reiser	Present
Commissioner Lubitz	Absent
Commissioner Shoffner	Present
Commissioner Palmer	Present

Director Hutchison stated that a quorum was present.

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

Confirmation of November 16, 2022, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on November 16, 2022, and urged any member who would not be able to attend to promptly notify the staff.

Minutes

Vice-Chairman Stout inquired if the Commissioners wished to propose comments or corrections to the August 17, 2022, meeting minutes; the August 17, 2022, executive session minutes; the September 19, 2022, public hearing minutes; and the September 19, 2022, meeting minutes. Hearing none, the Vice-Chairman asked for a motion to the aforementioned minutes *en bloc*. Commissioner Reiser moved to adopt all four sets of minutes, which motion was seconded by Commissioner Shoffner.

Vice-Chairman Stout asked Director Hutchison to call the roll:

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

The minutes were unanimously approved.

Review Zone Actions

Zone A Projects

- #22-2441VV Princeton University -- Haaga House Replacement (West Windsor Township)
- #22-3056B 16 Bridge Street -- Commercial Signs (Stockton Borough)
- #22-3197C 314 North Union Street -- Porch Addition (Lambertville City)
- #22-4725B 17 Mill Street -- Dog Run Fence Installation (Stockton Borough)
- #21-5764 97 Main Street -- Proposed Apartment Development (South Bound Brook Borough)
- #22-5909 24 Bridge Street -- Renovations (Lambertville City)

Vice-Chairman Stout stated that Commissioner Shoffner, who serves as the Mayor of South Bound

Brook Borough, was required, pursuant to advice from the Office of the Attorney General, to recuse herself on projects located within that municipality. As a result, there would not be a quorum present to vote on project DRCC #21-5764, which would, therefore, need to be carried over to the November Commission meeting.

Vice-Chairman Stout inquired if Commissioners wished to consider any of the remaining Zone A projects separately. Hearing none, the Vice-Chairman asked for a motion to approve the five Zone A projects. Commissioner Reiser moved to approve the projects, which motion was seconded by Commissioner Palmer.

Vice-Chairman Stout inquired if any member of the Commission had any questions or comments about any of the projects. Hearing none, he then asked if any member of the public had any questions or comments about any of the five Zone A applications under consideration. Hearing none, the Vice-Chairman asked Director Hutchison to call the roll:

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

The motion was approved unanimously.

Zone B Projects

- #22-2242B 30 Horseshoe Drive -- Pool and Conservation Easement Adjustment (Hillsborough Township)
- #22-2857B Ewing Town Center -- Project Completion/Path Expansion (Ewing Township)
- #22-4770A Pennington Circle -- Retail Liquor and Pharmacy Building (Hopewell Township)
- #17-5079 N.J. Route 130 Resurfacing -- Westfield Avenue to Main Street (East Windsor Township/Hightstown Borough/Cranbury Township)
- #22-5320B 521 Hillsborough Road -- Two Single-Family Residence Subdivision (Hillsborough Township)
- #21-5787 1202 Airport Road -- Proposed Warehouse Facility (North Brunswick Township)
- #22-5858 399 Princeton Hightstown Road -- Proposed Warehouse (West Windsor Township)

Vice-Chairman Stout asked if any member of the Commission had any questions or comments regarding the seven Zone B projects calendared for consideration. Kelly Klein asked to be recognized on project DRCC #22-5858. Vice-Chairman Stout responded that the Commission first needed to have a motion to approve the project, and then he would open the floor to comments.

Commissioner Palmer moved to approve the Zone B projects, which motion was seconded by Commissioner-designee Madden. Vice-Chairman Stout asked if any member of the Commission wished to comment on the project. Hearing none, he then recognized Ms. Klein.

Kelly Klein introduced herself and stated that she was an environmental and regulatory consultant

officer with Rippled Waters Engineering. She noted that her colleague, Mary Paist-Goldman, a New Jersey-licensed professional engineer, was retained by a group of concerned residents to provide expert stormwater review on DRCC #22-5858. Ms. Klein noted that Ms. Goldman was unable to attend the meeting due to a teaching engagement. She stated that while they acknowledged that the Commission had received revised design drawings and reports related to the project, Rippled Waters Engineering did not have sufficient time to review those materials. Based on their cursory review of the materials submitted to the Commission, it appeared to them that many of the technical deficiencies raised in their September 2, 2022, report to their client, Mr. Wei, and subsequently forwarded to the Commission, remained unaddressed. As such, she requested that the application be rejected.

Vice-Chairman Stout then recognized Mr. Zhi Wei.

Mr. Wei stated that he received the Commission staff report last Thursday, and that while it was a short time to review it, he remained very concerned. He said he appreciated that the applicant tried to address the previous concerns they raised. However, Mr. Wei said that the redesign raised more concerns because the modified design would discharge excess stormwater runoff from the 2- and 100-year storm events onto adjacent properties, instead of infiltrating through the basin into the ground, which would be an adverse impact to the local properties. He further stated that the applicant had not demonstrated that the project would not have an adverse impact on adjacent properties.

Mr. Wei also stated that a similar design approach was attempted by the applicant for a basin located at the northeast corner of the lot, at Basin #3.2, and that the DEP was concerned about adverse impacts and ordered them to revise the design and that this was still under review by the DEP for reasons similar to those he expressed to the Commission. He said he believed that the design was awful, and that he also believed that the DEP would not ultimately permit it as designed.

Mr. Wei then stated his second concern, which was that the proposed basin would act like a big dam upstream of his property and discharge water onto neighboring properties, which in turn would cause severe flooding. He said that the proposed stormwater basin was designed to cover more than 8 acres of drainage area, and it would release more than 100,000 cubic feet of volume in the 100-year storm event. He further noted that the proposed basin location was at an elevation of about 99 feet, while the abutting residential lots had elevation of only 95. Therefore, there would be a 4-foot difference, which would result in a huge amount of stormwater from the 100,000 cubic feet of volume that would flow into the neighboring ground area. Given the velocity and energy of this volume, Mr. Wei asked how the design could be allowed.

Mr. Wei then repeated his concern that the project would result in flooding and that other issues raised in his engineer's report remained unaddressed, such as the elevation difference between the project property and the neighboring properties during the 100-year storm event, which under the proposed project design would allow water to seep into his backyard. He requested that his stormwater expert testify on the project at the November meeting.

Vice-Chairman Stout asked if any other member of the public wished to comment on the project or any of the other Zone B projects. No member of the public responded.

Vice-Chairman Stout then asked Commission Engineer Ruggeri for his assessment of whether the design of project DRCC #22-5858 complied with the Commission’s stormwater regulations.

Mr. Ruggeri stated that there was a concern expressed when the project was considered at the September 21, 2022, meeting that the project as originally designed would not meet the Commission’s stormwater quantity or groundwater recharge standards because the mounding analysis could not demonstrate that the proposed basin could address the impact of the 100-year storm event. However, Mr. Ruggeri noted that the applicant had submitted a revised design, which included an outfall structure. In the revised design, the 100-year storm event would not be fully recharged into the ground, and the new design maintained those flows for the 2-, 10- and the 100-year flow at that outfall location. Therefore, the revised design as presented by the applicant met the Commission’s stormwater runoff requirements.

Mr. Wei interjected that he raised concerns about the elevation difference and that the project was so high that a huge amount of water will come to neighboring properties. He then stated that the applicant did not provide him with any analysis that this would not occur.

Mr. Ruggeri responded that the outfall structure in the revised design would reduce and meter those flows so that the project met the Commission’s requirements in terms of reduction in the stormwater runoff quantity.

Vice-Chairman Stout asked Mr. Wei to wait to be recognized and to address his comments through the chair.

Mr. Wei stated that from a layman’s perspective, he could not imagine how the stormwater could be controlled and reiterated the elevation difference between the project property and the adjacent properties. He again stated that the 100,000 cubic feet of water was a “huge amount” and that at an elevation difference of 4 feet, the applicant could not control where this water ultimately flowed.

Vice-Chairman Stout then asked if any other members of the public wished to comment.

Mr. Chakrapani Dabbara was recognized and identified himself as a neighbor whose property was located behind the planned warehouse. Mr. Dabbara stated that he supported the comments made by Mr. Wei and noted that, in the existing conditions, stormwater flowed from the project property onto neighboring properties. He also stated his concern that the water table was high in the area, and that the project would exacerbate flood impacts.

Vice-Chairman Stout asked if anyone else had any further comments on DRCC #22-5858 or any of the other Zone B projects. Hearing none, he instructed Director Hutchison to call the roll:

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

The motion was approved unanimously.

Mr. Wei asked if the vote meant that the project was approved. Vice-Chairman Stout said that yes, the Commission approved the project.

Mr. Wei stated that the Commission did not listen to him at all and said that no one raised any questions like Commissioner Lubitz raised last month.

Vice-Chairman Stout said that if Mr. Wei had any further comments, he was welcome to make them in the public forum portion of the meeting, but that it was no longer the appropriate time for him to speak.

Executive Director's Report

Director Hutchison noted that, in addition to the 13 projects listed on the agenda, during the prior month the staff issued 13 deficient staff reports, 7 jurisdictional determinations, 3 certificates of approval, and 10 general permits. In addition to the preparation of those documents, staff organized and conducted 11 pre-application meetings related to proposed projects. As of October 17, 2022, 30 projects were undergoing staff review.

The Director reported that collections for the preceding month totaled \$51,925, which compared favorably to the \$52,150 collected in September 2021. The fee collections for the fiscal year now totaled \$179,802, which amount was approximately \$5,000 more than last year.

The Director stated that he was pleased to report that one of the general permits issued in October was to the NJWSA for the Phase 1 in-kind rehabilitation of the Delaware and Raritan Feeder Canal western embankment in the Borough of Stockton (DRCC #22-3255C). The Director recounted how the embankment had been overtopped by water from the Delaware River during storms in 2005 and 2006, when the embankment breached into the canal. He also noted that in 2011, Tropical Storms Irene and Lee caused severe flooding of the Delaware River, and while the canal was not breached, more than 1,000 linear feet of the embankment experienced slope failure on the canal side due to the saturation of the embankment from the river. The NJWSA installed plastic tarps as an emergency measure to help prevent a breach of the embankment following the 2011 storms, while plans were developed to effect permanent repairs to improve the appearance and integrity of the canal embankment.

The Director noted that the repair of the embankment and the resultant closure of the Delaware and Raritan Canal State Park multiuse trail between the canal and the Delaware River had been a matter of great concern to the Commission, and that the advancement of the project was a welcome development. Director Hutchison thanked NJWSA chief engineer Darin Shaffer for consulting with the Commission and its staff so that the issuance of the permit was accomplished in a timely manner.

The Director reported that on October 5-6, 2022, Limbach Co., the State contract vendor for HVAC services, successfully installed a replacement furnace for the Commission office.

The Director reported that unfortunately, the skylight in the office conference room was struck by a branch from the Ash tree next to the office when the remnants of Hurricane Ian passed through New

Jersey on October 1-3, 2022. He reported that Hawley Brothers Contracting, who were the contractors on the recently completed project to rehabilitate the office building exterior, were retained on an emergency basis to secure the area with a tarp, and to install a new skylight, repair roof damage and replace damaged sheetrock and water-logged insulation.

The Director noted that on October 12, 2022, he and Darlene Yuhas attended the Millstone Valley National Scenic Byway Stakeholder Meeting at the Montgomery Township Municipal Center. The focus of the meeting was the Delaware and Raritan Canal State Park and its needs. Mr. Hutchison stated that he was grateful for the invitation and pleased that he was able to answer some of the participants questions about the Commission and its regulatory and planning programs.

Director Hutchison announced that he was pleased to report that on September 28, 2022, the New Jersey Historic Trust (the "Trust") Board of Trustees unanimously approved a recommendation for a \$550,000 Special Projects grant to the Commission to fund an update of the Commission Master Plan, which was last revised in 1989. He observed that the recommended funding would enable the Commission to work with key stakeholders to shape the future of the Delaware and Raritan Canal State Park, with a particular emphasis on surveying, protecting and preserving the many historic resources located within the canal's Review Zone. Director Hutchison stated that the update of the Master Plan was a goal that he promised to pursue at the time of his appointment, and that he was gratified that the Trust's action will advance this essential project in a meaningful way for the first time in three decades.

The Director specifically thanked Dorothy Guzzo, the Trust's Executive Director, for recognizing the importance of the Master Plan update and for her perception that the project would meet the necessary criteria for the Trust's newly created and never-before-awarded grant category of Special Projects. Director Hutchison also congratulated Communications Director Darlene Yuhas for her work on the grant proposal, and for her work coordinating the meetings between the Commission staff and the Trust.

Director Hutchison stated that the approved grant award recommendation would be presented to the Garden State Preservation Trust for approval in the coming weeks. After that, the Commission's special project, along with the grants approved for other projects statewide, would be drafted into appropriation legislation. He promised to keep the Commission apprised of the progress of the appropriation legislation.

Director Hutchison stated that news of the successful award recommendation had prompted questions from the Commission's stakeholders regarding the status of the "Master Plan Advisory Committee." The Director noted that the Master Plan Advisory Committee was apparently established, but not voted upon, by the Commission on April 17, 2013, pursuant to a process that was discussed at the January 16, 2013, Commission meeting.

Director Hutchison observed that the purported powers, functions and duties of the Master Plan Advisory Committee were never established by a resolution of the Commission and were, therefore, unclear. It also appeared from the minutes of the January 16, 2013, meeting that the Advisory Committee would be empowered to "review comments received at public hearings and in writing" and "provide comments to the Executive Director and the Commission for a report to the Commission." The

Advisory Committee's comments were then to be incorporated into the revised Master Plan, which the Executive Director was instructed to write. The entire process was proposed to be completed "in-house" without the assistance of any subject-matter experts on environmental protection, economic, demographic, climate change, recreation policy, water supply, social equity, to name but a few of the required disciplines. The Director remarked that no consultation with the Commission's professional colleagues in the larger DEP or the NJWSA was provided for or contemplated. At the end of a six-month process, four regional public hearings were to be held, after which time the revised Master Plan would be adopted.

Director Hutchison stated that his observations were not intended as a criticism of the Commission; however, the proposed substance and process discussed in 2013 for the "in-house" drafting of a new Master Plan was, in his opinion, profoundly unrealistic in its timelines, lacking in the transparency necessary to achieve the "widespread citizen involvement" required pursuant to N.J.S.A. 13:13A-13b, and the broadest possible consensus from the communities who live and work in the canal region, and deficient in multi-disciplinary subject-matter expertise needed for the document to have the intellectual rigor necessary to support the Commission's regulatory program in the 21st century.

The Director also observed that the Advisory Committee and the process discussed in 2013 whereby it would review and comment upon the work of the preparation of the revised Master Plan would likely violate the standard terms and conditions of the grant agreement that the Commission would need to execute with the Trust.

Therefore, Director Hutchison stated that as the circumstances of the Master Plan revision had been fundamentally changed as a result of the grant award, so must the Commission's approach to the Master Plan process. He stated that the process discussed in 2013 would not be observed and that the Master Plan revision would in the future be guided by the grant agreement between the Commission and the Trust.

Vice-Chairman Stout remarked that it was very exciting news about the Master Plan and that the Commission looked forward to a new process that was transparent and involved all stakeholders.

Park Superintendent's Report

Superintendent Kalleser reported the vandalism-damaged lower floor windows at the Griggstown Longhouse in Franklin Township, Somerset County, were secured by Hawley Brothers on October 18. She stated that the second floor of the building would be secured in 2023.

The Superintendent reported that Ash trees infected by Emerald Ash Borer were removed from the Rockingham State Historic Site and the Delaware and Raritan Canal State Park access lot in Rocky Hill Borough on Somerset County Route No. 518.

Superintendent Kalleser noted that repair work to the pedestrian bridge south of the Griggstown Causeway that provides a connection between the park multiuse trail and the causeway parking area is 98% complete and will open by the end of October.

The Superintendent reported that she attended a construction design meeting on the project to connect the Port Mercer Canal House to the Ewing-Lawrence Sewer Authority system. She was excited about the commencement of the project, which would allow the Park Service to reopen the building and allow the Lawrence Historical Society to resume using the house.

The Superintendent stated that the Park Service was coordinating with the DEP Division of Sustainable Waste Management to remove between 80 and 90 tires that were dumped in the Delaware and Raritan Canal State Park Greenway beneath the Prospect Street Bridge in the City of Trenton.

Superintendent Kalleser reported that Public Service Electric and Gas (PSE&G) completed the mitigation project at the Five-Mile Lock in Franklin Township, Somerset County. PSE&G notified the Park Service that work would begin on the removal of four trees beneath the aerial electrical line at Demott Lane in November. The tree removal will utilize a flag man, and no closure to the multiuse trail was anticipated at this time.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that the Landing Lane spillway rehabilitation project was tentatively scheduled to commence in the next two weeks according to the contractor. He noted that he did receive a “One Call” excavation notification, which meant that the contractor was within 10 days of putting a “shovel in the ground” for that project.

Mr. Sellar noted that NJWSA had received the Commission General Permit No. 1 for the Phase 1 project to repair the canal western embankment in Stockton Borough, and that the authority was waiting on approvals from the DEP State Historic Preservation Office before starting that project.

He also reported that the Delaware River side canal embankment repair project from Bulls Island Recreation Area south to Prallsville Mills had been submitted to other State agencies for approvals and that the NJWSA was working on the final design and final tree surveys for the project.

Mr. Sellar stated that NJWSA would be undertaking a project to replace the sluice gates at the canal locks at Griggstown, 10-Mile Lock near Weston Canal Road, Lock No. 11 at South Bound Brook and Five-Mile Lock, and that he anticipated that permit applications would be filed soon with the Commission and other impacted State agencies.

Old Business

None.

New Business

None.

Public Comment

Vice-Chairman Stout recognized Sarah Falk, who introduced herself as an AmeriCorps New Jersey Watershed Ambassador and said that she was attending the meeting with some of her colleagues. Ms. Falk said she welcomed the opportunity to tell the Commission about their work. She stated that they were a community-based program that was designed to promote watershed stewardship through

education and direct community involvement. They also have the responsibility of monitoring the health of New Jersey's streams through visual and biological assessments. Every year, 20 AmeriCorps members are assigned to each one of the State's 20 watershed management areas to serve as "watershed ambassadors" for their communities. Part of their program requirements are also to attend environmental commissions meetings, and that they also organized events like spring cleanups and rain barrel workshops.

Vice-Chairman Stout thanked the ambassadors for the work they were doing and expressed the Commission's appreciation to them.

Mr. Barth noted that the Somerset County "Journey Through the Past" event, held two weekends ago, was very successful. He reported that visitors were able to go inside the East Millstone Bridgetender's house and the recently renovated Bridgetender's station. He said he wanted to open the outhouse, but it had been taken over by a swarm of bees. Mr. Barth noted that more than 125 people visited the house and restored station, which are rarely open to the public.

Mr. Wei stated that at the last meeting he thought Commissioner Lubitz asked good questions and that this time there were no questions regarding the application for DRCC #22-5858. Mr. Wei wanted to know why the Commission would not offer any feedback on the objections that he raised about the warehouse project, which he thought were reasonable. He wanted a response from the Commission and said he was disappointed. He asked if the reason for this was that his English was not good, or if he did not make himself clear.

Vice-Chairman Stout responded that he thought the Commission understood everything Mr. Wei had to say, and that the Commission gave his comments serious consideration.

Written Public Comments

None.

Adjournment

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

Mr. Ben Li requested to address the Commission following the adjournment. Vice-Chairman Stout advised him that the meeting was adjourned and to transmit his comments in writing to the Commission.

Mr. Wei asked if he could send more comments to the Commission in writing. Vice-Chairman Stout said of course he could and noted that he gave everyone ample opportunity to speak during the Commission meeting.

The meeting adjourned at 11:01 a.m.

October 19, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Hutchison, Secretary