



**February 16 Minutes of the Meeting  
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.  
DATE: February 16, 2022  
PLACE: Prallsville Mills, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

Vice-Chairman Bruce Stout; Assistant Director, State Park Service, Mark Texel, designee for Commissioner of Environmental Protection Shawn LaTourette; Commissioner Phil Lubitz; Commissioner Douglas Palmer; and Commissioner John Reiser; 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, Communications Director Darlene Yuhas, Executive Assistant Erica Vavrence, and Deputy Attorney General Jason Kane participated via online platform.

GUESTS: Bob Barth, D&R Canal Watch; Linda Barth, D&R Canal Watch; Robert von Zumbusch, Delaware and Raritan Canal Commission Master Plan Advisory Committee; Patricia Kallesser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Vicki Chirco, Historian, Delaware and Raritan Canal State Park; Karen A. Jezierny, Princeton University; Thomas O' Shea, Van Note-Harvey Engineering; David Earling; Robert Ridolfi; Marc Currie; Lynsey McQuade.

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
Assistant Director Texel	Present
Commissioner Reiser	Present
Commissioner Lubitz	Present
Commissioner Shoffner	Absent
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 March 16, 2022, Meeting Date**

Vice-Chairman Stout stated that the next Commission meeting would be held on March 16, 2022. Commissioner Lubitz noted he would be out of town but could attend the March 16 meeting via online platform.

**Minutes**

Vice-Chairman Stout inquired if Commissioners wished to offer comments or corrections on the January 27, 2022, meeting minutes. Hearing none, the Vice-Chairman called for a motion to approve the minutes. Commissioner Reiser made a motion to approve the minutes, which was seconded by Commissioner Lubitz. Vice-Chairman Stout directed Director Hutchison to call the roll:

Vice-Chairman Stout	Yes
Assistant Director Texel	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Abstain
Commissioner Shoffner	Absent
Commissioner Palmer	Yes

The minutes were approved.

**Review Zone Actions**

**Zone A Projects**

- 22-2174B Niece Lumber – Open-Front Lumber Shed (Lambertville City)
- 21-4530A 1460-1466 River Road – Titusville Village Marketplace (Hopewell Township)
- 21-5695A 409-421 Klagg Avenue – Building Addition (Trenton City)

Vice-Chairman Stout inquired if any Commissioner wished to consider any of the listed Zone A projects separately. Hearing no comment, he requested a motion on the Review Zone A projects. Assistant Director Texel made a motion to approve the projects, which was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comment on the Zone A projects from the Commissioners and then the public.

Mr. von Zumbusch stated his concern about the sign proposed for DRCC #21-4530A -- 1460-1466 River Road – Titusville Village Marketplace. He noted that the sign is proposed along N.J. State Highway Route No. 29, which he noted is part of the Delaware River Scenic Byway and within Review Zone A. He stated that the stone foundation of the proposed sign was not in keeping with the character of the Delaware and Raritan Canal State Park and the scenic byway. He recommended in the alternative that the sign be supported on wooden posts. Mr. Ridolfi, attorney for the applicant, asked Mr. von Zumbusch to clarify if it was the stone base of the sign that was the cause of his concern. Mr. von Zumbusch clarified that a sign on wooden posts, rather than a “monument” sign, would in his opinion be more appropriate. The applicant, Mr. Earling, stated that the sign was not conceived of as “monumental” in size but was designed to reflect the native river stone found along the Delaware River. Vice-Chairman Stout stated that the Mercer County Wildlife Center sign approved by the Commission was a similar in design and materials but placed on larger stone foundation. Mr. Earling concurred that the proposed sign was modest in size when compared with the wildlife center sign.

Vice-Chairman Stout then directed Director Hutchison to call the roll. Director Hutchison requested a clarification on the motion before the Commission, inquiring whether the Commission proposed to entertain any change to the proposed sign for DRCC #21-4530A based upon the objection voiced by Mr. von Zumbusch. Vice-Chairman Stout clarified that, with respect to DRCC #21-4530A, the Commission was voting upon the project as recommended by the Commission staff as described in the staff report.

Vice-Chairman Stout asked for further comment on the Zone A applications, and hearing none, directed Director Hutchison to call the roll for the motion on the Zone A projects as recommended in the staff reports:

Vice-Chairman Stout	Yes
Assistant Director Texel	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Yes

The motion was approved.

Zone B Projects

- 21-2441II Princeton University – 91 Prospect Avenue Relocation (Municipality of Princeton)
- 21-3272B 24 Handler Court – Proposed Deck (Montgomery Township)
- 21-4327C Princeton Shopping Center Redevelopment (Municipality of Princeton)
- 19-5508 Harvest International Center – Proposed House of Worship (Hillsborough Township)
- 21-5784A Cranbury School – Gymnasium Addition (Cranbury Township)

Vice-Chairman Stout requested a motion on the Review Zone B projects. Commissioner Lubitz made a motion to approve the Zone B projects, which was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comment on the Zone B projects from the Commissioners.

Assistant Director Texel inquired as to the reason a conditional approval was recommended for DRCC #21-4327C – Princeton Shopping Center Redevelopment. Director Hutchison stated that the applicant received Mercer County Planning Board approval “recommending” wider sidewalks for the project, and that the applicant declined to consider that recommendation. The Director stated that the condition was placed on the approval to alert the applicant that construction activities beyond those proposed in the submitted plans would require a new individual project application to the Commission, along with the attendant project review and application fees. He further explained that widening of sidewalks could increase impervious surface and, therefore, change the stormwater management at the site. Ms. McQuade, engineer for the applicant, stated that the applicant understood that if the scope of the proposed project changed, the applicant would be required to submit to the Commission as a modified project. She also stated that the Municipality of Princeton was conducting their own analysis of the sidewalks along North Harrison Street at this time.

Vice-Chairman Stout asked for further comment from the Commissioners and the public. Hearing none, he directed Director Hutchison to call the roll for the motion on the Zone B projects:

Vice-Chairman Stout	Yes
Assistant Director Texel	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Yes

The motion was approved.

### **Executive Director’s Report**

The Director reported on the monthly workload by stating that in addition to the projects listed on the agenda, the staff issued nine deficient staff reports, three jurisdictional determinations, six certificates of approval, and one General Permit No. 1.

In addition to the preparation of the above-cited documents, the Director reported that the staff organized and conducted seven pre-application meetings for proposed projects. He also conducted four site inspections to examine visual and stream corridor impacts of proposed projects. In addition, the Director reported, as of January 26, there were 30 active projects undergoing staff review.

Mr. Hutchison reported that fee deposits for the preceding month, the collections of which were truncated due to the last Commission meeting being held on January 27, totaled \$12,184.92. Deposits for Fiscal Year 2022, which began on July 1, 2021, totaled \$370,536. Thus, with four months remaining in the fiscal year that ends on June 30, 2022, the Commission needed to collect about \$79,465 to meet its anticipated appropriation of \$450,000.

The Director stated he was informed by the DEP Office of Resource Development (ORD) that the successful bidder on project to repair the mortar foundation of the Commission office was Hawley Brothers Construction of Chesterfield. He noted that Commissioners might recall Hawley Brothers was the contractor that repaired the office building exterior. The project will begin when the winter weather

ends, and it becomes warm enough to mix mortar.

The Director stated that on February 1 he received a letter from the Somerset County Engineer, Mr. Matthew Loper, following up on a recent meeting on pedestrian safety in those areas of the Delaware and Raritan Canal State Park where the park multiuse trail crosses county roads and municipal streets. Mr. Loper's letter noted that the New Jersey Department of Transportation (NJDOT) was working on the replacement and/or rehabilitation of three canal bridges in Somerset County: Griggstown Causeway (Somerset County Route No. 632), Amwell Road (Somerset County Route No. 514) and South Main Street (Somerset County Route No. 527).

Mr. Loper's letter expressed his wish that pursuant to the recently agreed upon DCRR/NJDOT/SHPO MOA, all three of the projects would include updated pedestrian crossing facilities including pedestrian-activated beacons, high-visibility crosswalks and improved signage. In addition, the letter expressed the hope that, even though the rehabilitation of the bridge at Weston Canal Road was completed before the execution of the MOA, the Commission would advocate for an updated pedestrian crossing at this location as well, possibly as a condition to one of the other pending bridge design projects.

Director Hutchison noted that, as Commissioners are aware, the requirement to design updated pedestrian crossings that include pedestrian-activated beacons was one of the most difficult issues negotiated under the MOA. While the NJDOT supported the inclusion of crossings and beacons in the bridge designs they submit to the Commission, they also had a policy to only pursue these improvements if they can obtain agreements with the county or municipality having jurisdiction of the roadway that crosses the canal. The agreements would place the long-term maintenance and repair costs for such infrastructure on the impacted county/municipality. If NJDOT cannot reach such an agreement, then the installation of this infrastructure may not occur.

The Director further noted that it was important to bear in mind that the willingness to assume this responsibility varied depending upon the county or municipality in question. For example, Somerset County strongly believes that the pedestrian crossings exist because the park is located there and, accordingly, the responsibility for maintaining and replacing the crossings and beacons should be borne by the Division of Parks and Forestry. The Division, correctly noting that they are not a transportation agency and citing ongoing fiscal constraints, believes this responsibility lies with the entity having jurisdiction over the roadway. Lastly, pedestrian-activated beacons have been the subject of a debate of almost Jesuitical proportions between the canal's stakeholders and the DEP State Historic Preservation Office (SHPO) over questions of design, dimensions and location that have never been entirely resolved.

Director Hutchison stated that he was contacted on February 10 by the NJDOT requesting to know the status of their unpaid application fees so that they could submit the required payment. Colleen Maloney is working to send them their bill.

Director Hutchison reported that on February 10 he took control of the Google Maps business information page for the Commission office. In addition, to updating the Commission's business hours, address and photographs of the site, he also added the correct Commission website address.

Finally, the Director stated that on February 7 he was informed by the DEP Human Resources Office

that the Civil Service Commission had approved the Commission and DEP's request to increase the special project rate that is paid to the Commission's engineers from to \$35.67 per hour to \$50 per hour effective February 7, 2022. He stated that this was that last – and most intractable – of the unresolved human resource issues facing the Commission when he became Director in 2017. He noted that, as Commissioners who were serving at the time may recall, the Commission had been confronted with a series of human resource decisions made during the prior administration that had negatively impacted the Commission's operations and arguably imperiled the Commission's statutory independence. These were:

1. The DEP Human Resource Office wielded effective veto over the compensation paid to the Executive Director, despite the unambiguous language in the Commission's enabling statute at N.J.S.A. 13:13A-11f., which grants such authority to the Commission,
2. The front desk position was compelled to remain vacant, forcing the Commission to rely upon a succession of temporary staff filling that role, which negatively impacted project application management and communications; and
3. The job title for the position currently occupied by Ms. Maloney did not correspond to the duties that this position performed and was unilaterally diminished with the Commission's consultation or approval, again contravening the clear language of the enabling statute.

Director Hutchison stated that all these issues have now been satisfactorily resolved. Procedures have been implemented and resolutions have been adopted that will allow these personnel actions to be replicated in the future and have created a formal record of what has been done and reasons why they were done.

The Director offered praise to the current DEP Human Resources Director, Juliet DelValle, and three members of her team, Veronica Kirkham, Phiroza Stoneback and David Rappaport. Under Ms. DelValle's leadership, he stated, DEP Human Resources has been professional, helpful, transparent and respectful of the Commission's unique history and organization. The Director stated that it may have taken longer to complete this task than originally envisioned, but as he mentioned to the Vice-Chairman on other occasions, "Success is not final, failure is not fatal: It is the courage to continue that counts."

Vice-Chairman Stout expressed appreciation to the Executive Director and DEP Human Resources for resolving the longstanding personnel issues. He also thanked the Commission engineering staff for their patience and dedication to the Commission's program.

### **Park Superintendent's Report**

Superintendent Kalleser reported that interviewing and onboarding of seasonal summer park staff are underway, with a good pool of new candidates applying for the positions and some candidates returning.

The Superintendent reported that Parks staff would be interviewing for a full-time Maintenance Work 1 position at the end of the month, and that the candidate, once hired, would report to the Delaware and Raritan Canal State Park's Somerset maintenance shop.

Superintendent Kalleser reported that plans were underway for a sizable cleanup scheduled for March 5, partnering with the New Jersey Strike Team and the NJDEP Watershed Ambassador Program in the Hamilton Township area of the park along the so-called “abandoned canal” in the vicinity of Lambertson Road.

Superintendent Kalleser reported that ash tree removal caused by the Emerald Ash Borer infestation continued in the area south of Fireman’s Eddy in Hopewell Township, and nearly 300 diseased or dying ash trees had been removed.

Superintendent Kalleser reported that the NJWSA would proceed with planned repairs to the Landing Lane Spillway (See DRCC #19-3300B), and that the Division of Park and Forestry had updated the park social media and websites to reflect the closure of the multiuse trail at this location. She noted that the spillway is a section of the Delaware and Raritan Canal State Park multiuse trail located approximately 108 feet west of the bridge that conveys Landing Lane over the canal, in the City of New Brunswick, Middlesex County. The spillway lies between the canal and the Raritan River to the north and appears as a depressed stone area measuring approximately 110 feet in length on the present park multiuse trail.

The spillway was constructed during the period 1831-1834 and is composed of an area of dry-laid stones that were depressed approximately one foot below the level of the towpath (i.e., present multiuse trail). The purpose of the spillway was to act as an outlet for excess flow from the Delaware and Raritan Canal into the Raritan River, thus maintaining the canal’s water level and protecting the canal embankment and structures from damage during flood events. The spillway is the last flood control measure prior to the canal’s discharge point near N.J. State Highway Route No. 18.

The Superintendent reported that park visitors would be unable to use the multiuse trail to New Brunswick for six months. Specifically, on or about February 28, onsite preparations will begin for the spillway rehabilitation project. For the duration of the project, the multiuse trail will be closed to all through traffic from the spillway to the Landing Lane Bridge over the canal. The multiuse trail would also be closed east of the Landing Lane Bridge, since this area will be needed to store construction equipment and materials. The closure is necessary for the safety of workers and the public and to ensure that the spillway is restored to service in a timely fashion. Signs to inform park users of the closure will be posted on both sides of the project site, as well as at the pedestrian bridge over the canal at Demott Lane and at the Five Mile Lock public access site in Franklin Township, Somerset County.

Superintendent Kalleser reported that more material had sloughed off the trestle bridge abutment of the closed multiuse trail over the Wickecheoke Creek at the Prallsville Mills in Stockton Borough. The multiuse trail had already been closed due to damage sustained during Tropical Storm Ida, and that park staff had installed chain link fencing to supplement the “Jersey barriers” installed in the immediate aftermath of the storm to better block access to the crossing.

The Superintendent reported that Division of Parks and Forestry staff will meet with an approved contractor on February 28 to review removal of debris, sediment and vegetation entrapped on old stone bridge piers within the Alexauken Creek. This will prevent damming and potential flooding from the site, which could adversely impact the City of Lambertville.

The Superintendent reported that the park staff welcomed new Park Police Sergeant Matthew Pittore, who will be joining the Park Police team at the end of the month.

Vice-Chairman Stout asked the Superintendent if there was a timeline for the repairs to the Prallsville Mills multiuse trail. The Superintendent responded that conversations within DEP/ORD to address permitting and project funding issues were ongoing, and she did not have a timeline. Director Hutchison stated that he understood DEP/ORD was in discussions about the design of the repair with the engineering firm, Michael Baker International.

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

Mr. Sellar reported that, as noted by Superintendent Kalleser, the contractor for the NJWSA Landing Lane Spillway project would tentatively begin work on the project on February 28 and that signage to divert users of the multiuse trail would be posted.

Mr. Sellar reported that final design for the Six-Mile Run Culvert rehabilitation project was underway. The culvert carries Six-Mile Run under Canal Road, the canal and the multiuse trail, respectively, and is located approximately 1,000 feet south of Blackwells Mills Road in Franklin Township, Somerset County. Mr. Sellar reported that the DEP SHPO approved the project and that permit applications would soon be submitted to both the Commission and the DEP Division of Land Resource Protection.

Mr. Sellar reported that NJWSA was working with a consultant to advance Phase 1 of the planned rehabilitation project for the Stockton embankment. He reminded the Commission that Phase 1 included removing the existing tarps that cover the embankment, resurfacing of the multiuse trail, and earthwork and stonework repair activities on the riverside of the canal embankment. Mr. Sellar stated that construction of Phase 1 could begin in the fall of 2022. Phase 2 of the project would effectuate permanent structural repairs to the damaged sections of the embankment.

Mr. Sellar reported that NJWSA awaited a revised feasibility study from their consultant for the Cedar Grove Brook Watershed Restoration and Protection Project. The project seeks to implement nonpoint source pollution control strategies for Cedar Grove Brook (also known as Al's Brook), a watershed which drains 1,788 acres in northeastern Franklin Township, Somerset County, and discharges directly into the Delaware and Raritan Canal approximately 3.0 miles upstream of the canal's terminal spillway located near Landing Lane. The Cedar Grove Brook watershed is the fourth largest direct drainage to the canal and the largest within the last 11 miles of the canal.

Mr. Sellar reported that the damaged lock gate in South Bound Brook Borough had been successfully replaced and that a new stem was successfully installed in the gate by the contractor on February 12.

Mr. Sellar reported that NJWSA staff completed dredging operations at the culvert upstream of the Bulls Island Lock and at the outlet side of the culvert, which runs under the multiuse trail and feeder canal in the vicinity of the Niece Lumber property in the City of Lambertville. He reported that NJWSA staff continue to implement repairs at Province Line Road in Lawrence Township and were preparing work at the Port Mercer finger dike, which will require a period of dry and warm weather to implement.



**Old Business**

None.

**New Business**

Vice-Chairman Stout announced that pursuant to the provisions of N.J.S.A. 13:13A-11i., the Commission would consider approval of the draft annual report for its activities for calendar year ending December 31, 2021. He commended Commission Communications Director Darlene Yuhas on what he described as the most professional annual report the Commission has ever produced. Commissioner Lubitz commended Ms. Yuhas for the story she wrote about the bench he and his wife donated to the park and installed near the headwaters of the canal at the Bulls Island Recreation Area. Mr. Texel stated that the proposed document was excellent. Commissioner Palmer noted that Ms. Yuhas had done an admirable job.

Vice-Chairman Stout requested a motion to approve the annual report as proposed. Assistant Director Texel motioned to approve the report, which motion was seconded by Commissioner Lubitz.

Ms. Yuhas thanked the Commissioners for their positive comments on the 2021 annual report and noted the admirable collaboration of the Commissioners and her colleagues, including Ms. Vavrence, Director Hutchison, Superintendent Kalleser, Park Naturalist Fox and Ms. Maloney.

Vice-Chairman Stout directed Director Hutchison to call the roll for the motion:

Vice-Chairman Stout	Yes
Assistant Director Texel	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Absent
Commissioner Palmer	Yes

The motion was approved.

**Public Comment**

None.

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

February 16, 2022

The meeting adjourned at 10:50 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", with a long horizontal flourish extending to the right.

---

John Hutchison, Secretary