



**December 20, 2023 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: December 20, 2023
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

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

STAFF: Executive Director John Hutchison, Deputy Attorney General Jordan Viana, and Ms. Colleen Maloney were present in the Commission office. Commission Engineer Joseph Ruggeri, Communications Director Darlene Yuhas, and Executive Assistant Erica Vavrence participated via online platform.

GUESTS: Linda Barth, D&R Canal Watch; Bob Barth, D&R Canal Watch; Robert von Zumbusch, Kingston Historical Society; Michael Sellar, Facilities Manager, New Jersey Water Supply Authority; Lauren Rojewski, Superintendent, Delaware and Raritan Canal State Park; Tom O'Shea, Van Note-Harvey Associates Division of Pennoni; Christopher DeGrezia; Kyle Clonan; Jeff Haberman; Erinsson Colon; Allen Sassman, ARS Construction Services; Jeff Fleisher.

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.

Since Commission members were participating in person and via telephonic device pursuant to Article

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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	Present
Commissioner Shoffner	Absent
Commissioner Palmer	Present

Director Hutchison stated that a quorum was present.

Administrative Items

Proposed schedule of the Commission meeting dates for 2024

Vice-Chairman Stout noted that the Commissioners received a copy of the 2024 Commission meeting schedule. Meetings were scheduled for the third Wednesday of each month at 10:00 a.m.

Confirmation of January 17, 2024, Meeting Date

Vice-Chairman Stout stated that the next meeting of the Delaware and Raritan Canal Commission was scheduled for January 17, 2024.

Minutes

Approval of the Minutes of the November 29, 2023, Commission Meeting

Vice-Chairman Stout inquired if any of the Commissioners wished to propose comments or corrections to the November 29, 2023, Commission meeting minutes. Hearing none, he asked for a motion to approve the minutes as prepared by staff. Commissioner Lubitz made a motion to adopt the minutes as proposed, which was seconded by Commissioner Palmer.

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

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

The minutes were approved.

Review Zone Actions

Zone A Projects

- #23-2441EEE Princeton University -- Lake Campus North Modification (West Windsor Township)
- #23-2634A 47 Bridge Street -- Stucco Façade Replacement/Alterations (Lambertville City)
- #23-6076 NJDOT Structure No. 1105-152 -- Bridge Scour Countermeasures (Municipality of Princeton/Franklin Township/South Brunswick Township)

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Vice-Chairman Stout asked if any Commissioner preferred to review any of the Review Zone A projects separately. Hearing no such request, he asked for a motion on the Zone A projects. Commissioner Palmer moved to approve the projects, which motion was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comment from the Commissioners. Hearing none, he asked if the public had comment. Hearing none, Vice-Chairman Stout directed Director Hutchison to call the roll:

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

The motion carried.

Commissioner Shoffner joined the meeting via teleconference device at 10:05 a.m.

Zone B Projects

#23-2441DDD	Princeton University -- Center for Jewish Life (Municipality of Princeton)
#23-3728E	600-650 College Road East -- Solar Canopies (Plainsboro Township)
#23-5168A	Village Drive -- Residential Development (Montgomery Township)

Vice-Chairman Stout inquired if any Commissioner preferred to review any of the Review Zone B projects separately. Hearing no such request, he asked for a motion on the Zone B projects. Commissioner Lubitz moved to approve the projects, which motion was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comment from the Commissioners. Hearing none, he asked if the public had comment. Hearing none, Vice-Chairman Stout directed Director Hutchison to call the roll:

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

The motion carried.

Executive Director's Report

Director Hutchison reported on the Commission workload for the period encompassing November 29, 2023, to December 19, 2023. In addition to the six projects listed on the meeting notice, staff issued 11 deficient staff reports, 8 jurisdictional determinations, 4 certificates of approval, and 3 general permits. In addition to those matters, staff organized and conducted 9 pre-application meetings related to proposed and pending projects. As of December 19, 2023, he noted there were 28 projects undergoing staff review.

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Director Hutchison reported that fee collections totaled \$30,650 for the month, which he characterized as a modest surprise, given the fact that only 20 days had elapsed since the November Commission meeting. With six months of the fiscal year completed, the Commission had collected \$180,275. While the Director noted that the improvement in fees is beneficial, it was clear that the Commission would not meet the Fiscal Year 2024 \$650,000 anticipated appropriation amount.

Director Hutchison reported that two temporary employees, Megan Black and Kylee Connor, were “onboarded” and busily digging into the Commission file-scanning project using the new Ricoh large document scanner that was acquired in November. He stated that the temporary staff was making steady progress.

Director Hutchison stated that Commission staff had been informed that the DEP Office of Communications had decided to not assist the Commission with the preparation of the graphic design for the Commission Annual Report both this year and going into the future. While an unfortunate setback, Director Hutchison stated that Commission staff would explore alternatives, such as retaining an outside vendor, or working with the Department of the Treasury Office of Information Technology (OIT) to prepare an online only version of the report, which was arguably more sustainable than printing even a modest number of hard copies.

Director Hutchison reported that, at the urging of Mr. von Zumbusch, staff has uploaded copies of the 1977 Visual Impact Review Area Study Report and the Aquatic Vegetation Buffer Zone Report, along with the accompanying zone maps, to the Commission website. These reports provided the basis for the visual, historic, and natural quality review regulations at N.J.A.C. 7:45-10. Director Hutchison encouraged Commissioners to peruse the documents to obtain an appreciation for the decisions that went into the current regulatory program and to better guide them in reviewing project applications in the Commission Review Zone A.

Director Hutchison reported that among the general permits issued this month was a General Permit No. 1 to the NJWSA for the emergency repairs to address the conditions on the canal near Station 505+35 in Hopewell Township, Mercer County, and within Review Zone A. He reminded Commissioners that on October 4, 2023, a sizeable vortex was discovered in the canal, accompanied by a significant seepage outbreak on the riverside slope of the canal embankment. This condition had also caused the formation of a sinkhole beneath the canal park multiuse trail. The permit authorized the NJWSA to install approximately 200 linear feet of steel sheeting along the trail alignment to create an effective seepage cutoff. The steel sheeting would not be exposed on the surface after installation, so there would be no visual impact to the canal.

Director Hutchison reported that on December 14, he attended a meeting of the State Historic Sites Council, which was considering a project to replace the bridge that conveys Church Road over a tributary of the Delaware and Raritan Canal in the Titusville neighborhood of Hopewell Township. He stated that the deliberations touched upon several of the issues that the Commission encountered during the deliberations of the Bridge Task Force. He stated he was grateful to his colleagues at SHPO for extending the invitation to observe the meeting.

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Commissioner Lubitz inquired if Director Hutchison had a meeting scheduled with the NJDEP administration to discuss the current financial stance of the Commission given the fact that the Commission had reached the midpoint of the 2024 Fiscal Year.

Director Hutchison stated he did not. He noted that, as stated earlier in his report, the Commission would not meet its \$650,000 anticipated appropriation for Fiscal Year 2024. He stated that it was possible that when spring arrived, construction activity would pick up. However, he also noted that it was also possible that projects which have driven the permit fees the past two years, including proliferation of warehouse and affordable housing projects, had come to an end. He reminded the Commissioners that the Department of Treasury had chosen to impose fringe and indirect costs on the Commission budget for Fiscal Year 2024; and, if they chose to do so in Fiscal Year 2025, the spend down of the Commission's carry forward would significantly accelerate. He also noted he could reach out to DEP colleagues at the DEP Management and Budget office and ascertain whether they would be amenable to another meeting on this topic. Vice-Chairman Stout recommended that Director Hutchison do so.

Park Superintendent's Report

Superintendent Rojewski offered a summary of the impacts to the park and multiuser path related to the recent storm and flooding event:

The Superintendent reported that she was unable to access the Griggstown Visitor Center due to high water levels, but it appeared that floodwaters did not inundate the first floor of the center. She stated that a source reported that the newly constructed back porch of the building had held up well during recent rains and flooding.

Superintendent Rojewski remarked that in the Kingston area of the park, the Millstone River overtopped the park multiuse trail and flowed into the canal. Park Service staff expected some damage to the trail surface, which would be assessed.

The Superintendent noted that in the South Bound Brook Borough area of the park, damage was reported to the multiuse trail surface in the area of Queens Bridge that conveys Main Street over the Raritan River. She stated that Park Service staff would assess the Bound Brook area for damage and initiate repairs.

Superintendent Rojewski reported that in the City of Lambertville, there was a report of a culvert overflowing in the area of Delaware Avenue, and that the multiuse trail conditions need to be assessed in that area. She stated that storm assessments would be ongoing, and she anticipated additional storm damage to be identified.

Superintendent Rojewski then provided an update on the Prallsville Mills sinkhole, located behind the gristmill adjacent to the Wickecheoke Creek. She stated that inspection activities are ongoing. Earlier in the month, the New Jersey Department of Transportation (NJDOT) contracted diving team completed inspections of the Wickecheoke Creek wall and the nearby gristmill mill tail race. No significant structural impacts or breaches were identified; however, additional investigation activities were planned.

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Superintendent Rojewski reported on the status of the Borough of South Bound Brook's request to install a canoe/kayak launch within the park on Barber Boulevard in the vicinity of the historic Abraham Staats House property. She stated that internal discussions are ongoing within the Department, and that she anticipated initiating conversations on the topic with borough officials in South Bound Brook in 2024.

New Jersey Water Supply Authority Report

Facilities Manager Michael Sellar reported that the restoration of the Landing Lane Spillway was complete. In the spring of 2024, the contractor would conduct vegetative maintenance operations.

Mr. Sellar reported that the contractor for the Six Mile Run culvert rehabilitation was evaluating the site after the recent flooding rains. He reported that Canal Road would be closed for an extended period of time. He further noted the road was excavated, but, as of the day before, the excavation area was still flooded from the rain event. In addition, the cofferdam at the project site experienced a slight overtopping during the rain event, which dumped water behind the dam, and the Six Mile Run topped over the excavation. He stated the contractor continued to evaluate the situation and would continue the work and repairs to the downstream headwall. Temporary or short-term park path closures would be expected.

Mr. Sellar reported that the rehabilitation of the Delaware River western canal embankment in Stockton Borough was paused for a winter break, and that the contractor would resume work in mid-March of 2024.

Mr. Sellar reported that NJWSA staff were busy with basic maintenance and clean-up activities related to the recent storm and flood event, including clearing the park multiuse trail of downed trees and removing debris from within and around the canal locks and bridges.

Mr. Sellar reported that a pre-bid meeting was held related to the Workhouse Spillway project in Hopewell Township. Three contractors attended the onsite meeting. He reported that bids would be due January 3, 2024, a contractor would be selected, and work would commence shortly thereafter.

Mrs. Barth expressed her concern to Mr. Sellar that the detour route on the southbound side of the Six Mile Run Culvert rehabilitation diverts motorists to South Middlebush Road and toward what was in her opinion a dangerous intersection. Mr. Sellar responded that typically detours around NJWSA projects were put in place by the impacted local police department, which in the case of Six Mile Run Culvert was the Franklin Township Police Department. However, he stated he would relay her concerns to the police.

Old Business

None.

New Business

Commissioner Lubitz reported that following the recent rain flooding event he observed much stormwater rushing out of the Mt. Gilboa Quarry property, onto N.J. State Highway Route No. 29 (Route 29) and ultimately into the canal between Brookville Hollow Road in Stockton Borough and the

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Holcombe Riverview Cemetery in Delaware Township. He noted his concern that the highway and canal embankment could be compromised by this flash flooding and questioned what measures the NJDOT could take to address the problem.

Director Hutchison observed that in the weeks following Superstorm Sandy in October 2012, the Commission issued a number of General Permits to the NJDOT that permitted the placement of riprap along compromised sections of the southbound shoulder of Route 29. He observed that the riprap was likely not a permanent solution to flooding on the highway. The Director further noted that the subsequent flooding caused as a result of Tropical Storm Ida in August to September 2021, and with the most recent event, the Commission received additional emergency General Permit No. 1 applications from NJDOT for repairs along Route 29.

Mr. Hutchison suggested that it might be helpful for the Commission to contact NJDOT to initiate a discussion with that agency with regard to its long-term plans for Route 29. He observed that from his perspective, any such plan would require a balancing of several often-conflicting interests. First, the Director noted that NJDOT was tasked with the maintenance of highway adjacent to the Delaware and Raritan Canal and park, from Hunterdon County south through Hopewell and Ewing townships in Mercer County. Director Hutchison further observed that the Commission visual, historic and natural quality impact review standards at N.J.A.C. 7:45-10 evince a preference for a vegetated visual screen between the highway and the canal. Any such vegetated screen would need to be designed and maintained.

For its part, the NJWSA prefers that woody vegetation not be placed between the roadway and the canal, since trees could fall into the canal or otherwise provide catchpoints for debris. On the other hand, the Park Service has become increasingly opposed to maintained landscapes not only for environmental reasons, but also because of the staffing and costs associated with such plans. The Director then remarked that one of the goals of the 34-mile Delaware River Scenic Byway established in 2009 was to create a series of vistas of the Delaware River and the Delaware and Raritan Feeder Canal that could be viewed from motor vehicles on Route 29, and that this goal was memorialized in a multi-agency master plan to which the Commission was a signatory.

Director Hutchison noted that NJDOT was primarily concerned with issues of safety for the motoring public and might not be fully cognizant of these interests. He suggested that it might be appropriate to contact the NJDOT to discuss their long-term plans for Route 29, and to examine how those plans can be achieved in a manner that was compatible with the Commission's Master Plan and regulations, as well as the operational requirements of the NJWSA and the State Park Service. The Director volunteered to reach out to NJDOT to initiate such a conversation. Vice-Chairman Stout stated he had also witnessed water exiting the former quarry site after heavy rain events and expressed concerns similar to those raised by Commissioner Lubitz.

Commissioner Designee Madden suggested that the NJDOT be invited to a future "Canal Quarterly" meeting attended by the Commission, NJWSA and various program elements of the DEP for discussion of this issue.

Also, Commissioner Palmer noted that he would be unable to attend the January 17, 2024, Commission

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meeting.

Public Comment

Vice-Chairman Stout opened the floor to public comment.

Mrs. Barth stated that D&R Canal Watch would hold several events in celebration of the 50th anniversary of the creation of the Delaware and Raritan Canal State Park and the Delaware and Raritan Canal Commission. She stated that the 50th anniversary events would include the publication of a book of canal-related poetry. In addition to these verses, a four-part lecture series would be scheduled that would include presentations by former Commission Executive Director James Amon and “Captain” William McKelvey, a noted canal expert and author of a pictorial history of the canal. Mrs. Barth stated that D&R Canal Watch was selling commemorative coffee mugs for a price of \$10 each. She also stated that copies of their 2024 calendar were still available for purchase. She then presented anniversary mugs to the Commissioners.

Written Public Comments

None.

Adjournment

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

The meeting was adjourned at 10:30 a.m.

Respectfully submitted,



John Hutchison, Secretary