



**February 15, 2023 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:03 a.m.
DATE: February 15, 2023
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout 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 Caryl “Chris” Shoffner participated via online platform and teleconference.

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

GUESTS: Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, Facilities Manager, New Jersey Water Supply Authority (NJWSA); Vicki Chirco, Delaware and Raritan Canal State Park Historian; Stephanie Fox, Delaware and Raritan Canal State Park Naturalist; Toni Bonitz, Link Logistics; Liz Gabor, Link Logistics; Robert von Zumbusch, President, Kingston Historical Society; Teddy Braha; Daphne Galvin; Neil McHugh; Robert Barth, D&R Canal Watch; Robert LaCosta; Kyle Kavinski; Rikki Massand; and David Grossmueller, PSE&G.

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

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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 15, 2023, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on March 15, 2023.

Minutes

Vice-Chairman Stout inquired if any of the Commissioners wished to propose comments or corrections to the January 27, 2022, meeting minutes. No comments or corrections were proposed. Commissioner Shoffner moved to adopt the minutes, which motion was seconded by Commissioner Reiser.

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 approved.

Review Zone Actions

Executive Director Hutchison stated that project #22-4156C, 159 Princeton Hightstown Road -- Partial Building Demolition, did not submit documentation of the project’s municipal approval and, therefore, would not be considered.

Zone A Projects

#22-5560B PSE&G Roseland-Lambertville Transmission Tower 74/1-1 -- Access Road (Lambertville City)

Vice-Chairman Stout asked if any Commissioner had comments on the project. Hearing none, the Vice-Chairman stated that he had questions for the applicant. The Vice-Chairman asked Mr. Grossmueller if the present temporary bridge over the canal, which had been installed for the project, would be removed. Mr. Grossmueller stated that the temporary bridge was installed to facilitate the movement of heavy

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equipment for the PSE&G Roseland-Lambertville Transmission Tower 74/1-1 project, and that the temporary bridge would be removed at the conclusion of the project, and the bridge site would be returned to its original condition. Vice-Chairman Stout asked for confirmation that no heavy equipment would be taken across on a regular basis. Mr. Grossmueller responded that only maintenance vehicles, such as a “bucket truck,” would need to access the site in the future.

The Vice-Chairman then commented on the condition of the road that connects N.J. State Highway Route No. 29 with the public access parking area for the Delaware and Raritan Canal State Park. He noted that during the construction of the electric transmission tower project, heavy vehicle traffic from the project had severely damaged this access road. He stated that access to the Delaware and Raritan Canal State Park is now problematic due to multiple potholes, and that motorists have resorted to driving on the grassy area of the adjacent Holcombe-Jimison Farm Museum to avoid the potholes, which in turn resulted in the farm museum erecting sawhorses to keep traffic off its property. He asked Mr. Grossmueller if PSE&G intended to repair the damage to the access road caused by the project.

Mr. Grossmueller stated that the original plan was to repair the pothole-damaged areas of the access road with stone gravel, but that upon inspection, PSE&G field staff instead recommended removing portions of the damaged road and making patch repairs that would result in a more permanent repair. Vice-Chairman Stout asked when this repair would take place. Mr. Grossmueller replied that the park multiuse trail area would be restored first, and then the access road would be repaired within the next few weeks.

Vice-Chairman Stout asked for further comment from the Commissioners and then the public. Hearing none, he called for a motion. Commissioner Designee Madden motioned to approve the project, which motion was seconded by Commissioner Reiser. The Vice-Chairman 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 5 to 1.

Zone B Projects

#21-3669A 297 Davidson Avenue -- Self-Storage Facility (Franklin Township)
#21-5678 Camelot at East Windsor/Amaranth at East Windsor -- Residential Development (East Windsor Township)
22-5832 200 Cottontail Lane -- Proposed Warehouses (Franklin Township)

Vice-Chairman Stout asked if any Commissioner wished to consider the Zone B projects separately. Commissioner Palmer made a motion to approve the three projects. The motion was seconded by

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Commissioner Reiser.

Vice-Chairman Stout asked if any Commissioner had comments on the Zone B projects. Hearing none, Vice-Chairman Stout asked if any member of the public wished to comment on the three Zone B projects.

Mr. Massand asked to comment on #22-5832, 200 Cottontail Lane -- Proposed Warehouses. He inquired as to the proposed non-structural measures being employed for the project. Mr. Ruggeri responded that the 0.2-acre reduction in existing impervious surface coverage, which creates an opportunity to infiltrate stormwater runoff into the ground and improve water quality, is the non-structural measure proposed for the project.

The Vice-Chairman called for further comment. 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 5 to 1.

Executive Director's Report

Mr. Hutchison reported on the monthly workload, noting that in addition to the projects listed on the agenda, the staff issued 13 deficient staff reports, 7 jurisdictional determinations, 8 certificates of approval, and 5 general permits. In addition to these documents, staff organized and conducted 12 pre-application meetings related to proposed projects.

The Director also noted that he conducted a site visit with Superintendent Kalleser to the Manville Causeway in Franklin Township, Somerset County, and visited portions of the Delaware and Raritan Canal State Park in the City of Trenton and West Windsor Township related to Commission projects. He also noted that as of February 15, there were 34 active projects undergoing staff review.

Director Hutchison reported that fee collections for the month, which was truncated due to the fact that the January 18 meeting was rescheduled to January 27, still managed to total \$37,200, which compared quite favorably to the \$12,184.92 collected in February 2022. This number did pale in comparison to the \$133,350 collected in 2021, which was the highest monthly fee collection in the Commission's history. Fee collections for the fiscal year total \$349,102.72. Therefore, the Director observed that with about two-thirds of the fiscal year concluded, the Commission had collected slightly more than 54% of its anticipated annual appropriation amount.

With respect to significant events and meetings, the Director reported that on January 27 he attended a meeting with DEP colleagues, staff from the New Jersey Department of Transportation (NJDOT),

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Mercer County, the Municipality of Princeton, and officials from Princeton University regarding the planned replacement of the bridge that conveys Washington Road (Mercer County Route No. 571) over the canal in Princeton and West Windsor Township. He noted that the current bridge was constructed in 1954 and widened in 1996, at which time improvements to the sidewalks and parapets were undertaken. He reminded the Commissioners that most recently, he issued an emergency General Permit No. 1 to NJDOT to address abutment bowing and timber pile movement issues that required the bridge to be closed and traffic detoured from July 22, 2022, until July 27, 2022 (DRCC #22-4721C).

The Director reported that on January 30, he, along with Superintendent Kalleser, met with Somerset County Engineer Matthew Loper to discuss pedestrian access to the Delaware and Raritan Canal State Park and the multiuse trail crossing on the Manville Causeway (Wilhousky Street) in the vicinity of the Weston bridgetender's house in Franklin Township. Director Hutchison noted that the residents of the Canal Walk age-restricted residential development have called for the installation of marked crosswalks and pedestrian-activated beacons at the site. The Director expressed the hope that had a productive conversation in which he explained the Commission's jurisdiction over any potential future crosswalk improvement project.

The Director stated that Darlene Yuhas attended a remote NJ Historic Trust (NJHT) grant workshop, which should help the Commission complete its award packet for the Master Plan revision and update project, which must be submitted to the NJHT no later than March 31, 2023. One of the required documents for the packet submission is a resolution from the Commission authorizing the Executive Director to execute a grant agreement for the amount awarded for the proposed project, which the Director noted had been calendared as a "New Business" item on the Commission meeting notice.

Director Hutchison reported that the Commission's regulations codified at N.J.A.C. 7:45 were scheduled to sunset on April 28, 2023. The Director stated that absent an objection from the Commission, it was his intention to file a notice of readoption without change with the DEP Office of Legal Affairs, which would in turn be submitted to the New Jersey Office of Administrative Law no later than Wednesday, March 29, 2023, for publication in the *New Jersey Register* on May 1, 2023.

The Director observed that the Rules for State Agency Rulemaking at N.J.A.C. 1:30-2.7 permits State agencies to make administrative corrections to their rules to correct errors that are obvious, easily recognizable, or apparent to the promulgating agency and the regulated public during the readoption process. He, therefore, proposed the following technical changes, which correct some long-standing inaccuracies and archaic references in the rules:

- Correct inaccurate references to the Commission website. The former website is referred to multiple times in the current rules, which also contains a broken hyperlink to the DEP Stormwater BMP Manual.
- The Commission office Fax number, which was disconnected in 2017, still lives on in the Commission's rules.
- The definition of "Review Zone" at N.J.A.C. 7:45-1.3 contains a reference to "Washington Township." The Director observed that the municipality had approved changing its name to "Robbinsville Township" in 2008. Similarly, he noted that the regulations still refer to "Princeton

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Borough” and “Princeton Township,” which consolidated in 2013. He proposed that these outdated references would be corrected.

- The definition of “Review Zone” at N.J.A.C. 7:45-1.3 also refers to the availability of DEP digital maps at a website link that no longer exists. The Director observed that this reference should be updated with a reference to the NJ-Geoweb interactive mapping tool at: <https://www.nj.gov/dep/gis/geowebsplash.htm>

The Director noted that while he was certain there were many substantive revisions that members of the regulated community and the Commission’s stakeholder groups would prefer to immediately advance, it was his firm belief that the Commission staff did not possess the labor force to simultaneously revise and update the Master Plan and revise and update the regulations. He also observed that such an approach would be “putting the cart before the horse” or, in this case, the canal boat before the mule, since the revised and updated Master Plan would provide the scientific and policy justifications for any future changes to the regulations.

Lastly, the Director noted that it was important to bear in mind that the seven-year readoption schedule set forth in the “Administrative Procedure Act” still permitted agencies to amend their regulations at any time during that period based on changing needs or policies. Therefore, there would be no issue proposing new rules after the Master Plan is revised and the Commission is more prepared to act.

The Director encouraged anyone who had any comments or concerns about the readoption without change process to contact him or make their concerns known in the public forum portion of the Commission meeting.

Park Superintendent’s Report

Superintendent Kalleser reported that applications for summer seasonal staff are available on the Parks website.

Superintendent Kalleser noted her attendance with Director Hutchison and Somerset County Engineer Matthew Loper to discuss pedestrian access to the Delaware and Raritan Canal State Park and the multiuse trail crossing at the Manville Causeway (Wilhousky Street) in the vicinity of the Weston bridgetender’s house in Franklin Township. She stated dialogue would continue among the parties.

The Superintendent reported that the capital improvement project to restore the exterior of mansion at the Rockingham Historic Site in Franklin Township, Somerset County, was underway and that she anticipated its completion in August 2023. The project was one of 10 announced to restore historic sites associated with the Semiquincentennial anniversary of the American Revolution, which will take place in 2026, and will mark the signing of the Declaration of Independence and our nation’s 250th year of independence.

Superintendent Kalleser reported that a two-wheeled harness racing sulky was observed trotting at a high rate of speed down the park multiuse trail in the Titusville area. She noted that the cart, horse and driver had also been seen on the loose in Pennsylvania. She noted that the New Jersey State Park Police were aware of the incident and were investigating it. She asked the public to notify the DEP’s WARNDEP hotline if they observe the rider. However, the Superintendent advised members of the

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public not to approach the individual.

The Superintendent reported that on March 18, 2023, a Delaware River cleanup would be held at Bulls Island Recreation Area, hosted jointly by the Park Service and Delaware Township. Information will be posted on the Park Service social media accounts and the park website.

The Superintendent reported that she planned to meet with the Park Police and concerned residents about illegal all-terrain vehicle (ATV) incursions into the Delaware and Raritan Canal State Park in the Glen Afton neighborhood of the City of Trenton. Commissioner Palmer asked how the Park Service would address the issue. The Superintendent stated that the installation of an offset gate or bollards are examples of the types of barriers that could be employed, but that further investigation of the incursion sites and ATV access points would be required.

Vice-Chairman Stout stated that he observed a number of park multiuse trail gates had been taken or were otherwise absent in the Stockton area of the park, as well as one gate immediately south of U.S. Highway Route No. 202 in Lambertville. Superintendent Kalleser stated she would follow up with the Vice-Chairman on his concerns.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that work continued on the rehabilitation of the Landing Lane Spillway in the City of New Brunswick and that, thus far, no date had been scheduled for review of the stone spillway mockup, which is to be reviewed by Director Hutchison pursuant to the condition in the Commission certificate of approval for the project (DRCC #19-3300B).

Mr. Sellar stated that the advertisement for bids for the Six-Mile Run culvert rehabilitation project had been sent out and were due back from prospective bidders by March 23, 2023. He anticipated that the project could begin as early as the summer and reminded Commissioners that the project will involve closure of Canal Road at Blackwells Mills and excavation of the road with a backfill of low-strength concrete.

Mr. Sellar reported that the design and specifications for the Phase 1 of the project to repair the canal's western embankment in Stockton Borough were being finalized, and that the project will be put out to bid. Vice-Chairman Stout inquired when the bids would be awarded and the work started. Mr. Sellar replied that Phase 1 of the project would be bid in 2023, with work starting shortly after the bid was awarded. He reminded the Commissioners that Phase 2 of the project would be treated as a separate bid package by the authority.

Mr. Sellar reported that he expected the lock sluice gates replacement project would be approved at the March 2023 meeting of the NJWSA, and then the project contract would be awarded April. He noted that a five-month lead time is required for the gate manufacture.

Old Business

None.

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New Business

Vice-Chairman Stout asked Director Hutchison to explain the new business item on the agenda to the Commission and the public. Director Hutchison stated that as he alluded to in his monthly report, the Commission staff was engaged in the process of completing the grant application package to the NJHT for the grant to revise and update the 1989 Commission Master Plan. The Director noted that one of the required documents to be submitted was a resolution from the Commission that would authorize him to execute the ultimate grant agreement with the NJHT in an amount up to the award, which in this case was \$550,000. The Director noted that Commissioners had received a draft of the resolution, and that the document was posted on the Commission website in advance of the meeting.

The Director stated that the draft of Commission Resolution No. 2023-01 closely mirrored the template created by the NJHT and that it also contained some specific language about the Delaware and Raritan Canal and its history. The Director asked if anyone had any edits, amendments or corrections that they wished to offer to the document. Otherwise, the Director requested that the Commission approve the resolution so that the staff could take the next step in what will be an important task.

Vice-Chairman Stout stated that he believed that the Master Plan revision and readoption was the most exciting thing that happened since he joined the Commission, and he stated his support for the document. He then stated that he would entertain a motion to approve the resolution. Commissioner Designee Madden moved to adopt Resolution No. 2023-01, which motion was seconded by Commissioner Palmer.

Vice-Chairman Stout asked if any member of the public wished to comment on the resolution. Mr. Massand stated that he was a resident of one of the 10 registered historic districts along the canal route. He suggested that the resolution be amended to include language noting that the canal historic district was listed on the “State” as well as Federal Register of Historic Places.

Director Hutchison stated that this minor amendment could be easily added to the resolution by adding the word “State” to the second clause of the resolution’s preamble and by changing the word “Register” to “Registers.” Vice-Chairman Stout asked if the amendment was acceptable to the movers of the motion to adopt. Both Commissioner Designee Madden and Commissioner Palmer replied that they supported the revised language.

The Vice-Chairman ask 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 5 to 1.

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Public Comment

None.

Written Public Comments

None.

Executive Session

Vice-Chairman Stout stated that the Commission would enter an Executive Session to discuss potential litigation matters. Executive Director Hutchison read Resolution No. 2023-02, which would authorize the Commission to enter Executive Session. Commissioner Reiser motioned to approve the resolution, which motion was seconded by Commissioner Shoffner. The Vice-Chairman ask 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 5 to 1.

Post-Executive Session

After returning from Executive Session, Vice-Chairman Stout asked if there was any other business to discuss. No Commissioner or member of the public made any comment.

Adjournment

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

The meeting adjourned 11:10 a.m.

Respectfully submitted,



John Hutchison, Secretary