

**MINUTES OF THE MEETING
SEPTEMBER 20, 2017**

Delaware and Raritan Canal Commission

TIME: 10:00 a.m.
DATE: September 20, 2017
PLACE: Prallsville Mills Grist Mill
Stockton, New Jersey

Attending:

COMMISSIONERS: Vice Chairman John Loos, Commissioners Mary Leck, Bruce Stout, Phil Lubitz, Julia Allen, and Mr. Bob Bostock (designee for DEP Commissioner Bob Martin)

STAFF: Mr. John Hutchison, Ms. Colleen Christie Maloney, Mr. Joe Ruggeri, Deputy Attorney General Melissa Abatemarco, Ms. Haley Johnson

GUESTS: Mr. Mike Sellar, NJWSA; Mr. Rob Auermuller, NJ State Park Service; Mr. Robert von Zumbusch, DRCC Master Plan Advisory Committee; Mr. Robert Barth, D&R Canal Watch; Ms. Barbara Ten Brocke, Millstone Valley National Scenic Byway; Ms. Suzanne Ochse, MVP Coalition; Ms. Christina Kaunsinger, Rutgers University; Ms. Barbra Walker, Rutgers University; Mr. John Knapp, homeowner; Ms. Stephanie Fox, D&R Canal State Park; Mr. Chris Tarr, Bristol-Myers Squibb (BMS); Mr. Brian Perry, Van Note-Harvey.

Vice Chairman Loos announced that this was a regularly scheduled meeting of the D&R Canal Commission and that all provisions of the “Open Public Meetings Act,” N.J.S.A. 10:4-6 et seq., had been complied with in regard to the scheduling of the meeting.

In attendance at 10 a.m.: Vice Chairman Loos and Commissioners Cobb, Leck, Stout and Lubitz, and Mr. Bostock.

Administrative Items

Vice Chairman Loos confirmed that the next month’s meeting date will be October 18, 2017. Commissioner Lubitz informed the Vice Chairman that he will not be able to attend.

Minutes of the Meeting

Minutes of the Meeting of August 16, 2017

Commissioner Stout moved to approve the minutes. Mr. Bostock seconded the motion. The minutes of the meeting were unanimously approved.

Minutes of the Executive Session of the Meeting of August 16, 2017

Commissioner Stout moved to approve the minutes. Commissioner Leck seconded the motion. The minutes of the meeting were unanimously approved.

Review Zone Projects

Review Zone A Projects

Vice Chairman Loos asked the commission for questions or comments on the Zone A projects:

17-5085 1309 Cana Road Rehabilitation

17-5069A 152 North Union Street HVAC

17-1647H Colonial Park Spray Park

17-4414C Blackwells Mills Causeway Day Area Rehabilitation

17-5069A --152 North Union Street (HVAC) Lambertville: Commissioner Leck inquired as to whether there is a requirement to raise the new HVAC units in order to avoid flood impacts. Mr. Ruggeri responded that this was not subject to commission jurisdiction, but that both DEP regulations and City of Lambertville ordinances would require the applicant to raise the units above the base flood elevation.

17-4414C -- Blackwells Mills Causeway Day Area Rehabilitation: Ms. Ochse spoke on behalf of the project, noting it was the first of two rehabilitation projects, the other being the Griggstown Causeway. She thanked the project partners and detailed the public process that was used to solicit input and arrive at the project design. Ms. Walker offered to answer questions about the project. Commissioner Leck asked about the use of tall grass and whether it would dissuade people from using the site. Ms. Walker noted that the area between the two parking lots was of a lower elevation, and that it often flooded. Visitors now use the causeway road or take a circuitous route around the area. She noted that the project as designed would allow mowing of a portion of the meadow in order to guide people away from the causeway.

Commissioner Stout stated that he was impressed by the design and the partnership that was brought together to advance the project. Commissioner Lubitz noted that he travels on the causeway almost daily, and that it was a terrific plan.

Vice Chairman Loos asked the project applicants to explain the role of PSE&G in the project, and how tree cutting by utilities brought the project about. Ms. Ochse noted that past efforts at trimming were not successful from a natural or viewshed standpoint. PSE&G agreed to remove about 30 dead, dying or improperly trimmed trees and in-kind contribution to planting new vegetation that is compatible with their lines. Ms. Walker then detailed the NJDOT "Good Neighbor" program, which provides monies for planting and site preparation. Ms. Walker and Ms. Ochse then laid out the schedule for the project going forward. Vice Chairman Loos congratulated the group for their work

A discussion ensued about MVP's desire to have crosswalks repainted in the causeways, which would promote safety. Vice Chairman Loos noted that both causeways were county roads and that the Commission always supported improvements for pedestrians along the canal. Vice Chairman Loos requested Director Hutchison to contact Somerset County to discuss the condition of the crosswalks at the causeways.

Vice Chairman Loos asked for further comment on the four Zone A projects and hearing none he

called for a motion. Mr. Bostock moved to approve the Zone A projects and Commissioner Stout seconded the motion. The projects were approved unanimously.

Review Zone B Projects

Vice Chairman Loos asked the commission for questions or comments on the Zone B projects:

- 17-3051C Princeton South Corp Center Modification
- 16-4830 One Mile Storage Warehouse
- 17-2391K BMS Building M/N and Improvements

Commissioner Lubitz requested a separate vote on 17-2391K BMS Building M/N and Improvements, and informed the commission that he would recuse himself from any consideration of that project.

Vice Chairman Loos asked for further comment on the two remaining Zone B projects and hearing none he called for a motion. Commissioner Stout moved to approve the Zone B projects and Commissioner Leck seconded the motion. The projects were approved unanimously.

17-2391K BMS Building M/N and Improvements: Vice Chairman Loos asked for further comment on project 17-2391K BMS Building M/N and Improvements. Vice Chairman Loos inquired whether the project applicant had received approval from the Lawrence Township Planning Board. Mr. Tarr, representing BMS, indicated that the project was approved on September 18, 2017 and that the project application was administratively complete.

Mr. Barth asked for a description of the project, stating that he did not see it on the commission's meeting notice. Director Hutchison noted that it was placed on a supplemental notice and posted on the commission's website in compliance with the "Open Public Meetings Act." Mr. Ruggeri provided a description of the project, providing details of disturbance and impervious surface related to the project.

Vice Chairman Loos called for a motion. Commissioner Stout moved to approve the project and Mr. Bostock seconded the motion. Commissioner Lubitz was recused. The project was approved by Commissioners Loos, Leck, Allen and Stout, and Mr. Bostock.

Executive Director's Report

Director Hutchison reported on the staff's workload and fees for the preceding month. Director Hutchison reported that the commission phone system was replaced on September 6th, and that he was pricing a "spider" phone that would permit commissioners to attend future meetings remotely. The ash tree that was resting against the commission office was successfully trimmed back by the State Park Service.

The Commissioner of Environmental Protection approved a series of repairs for the commission office following a review of the building by Ed Mulvan, Director of the DEP Office of Natural Resources Management. Based on Mr. Mulvan's survey, the following repairs will be undertaken: roof/gutter replacement; exterior siding and barn door repair/paint/stain exterior; repointing masonry; HVAC replacement; three window replacements. The HVAC replacement

would be done immediately; the roof replacement will be done before winter.

A letter was sent to the Chairman of the Somerset County Improvement Authority regarding the placement of solar panels in the stormwater basin at Montgomery Township High School. They have not responded. Mr. Hutchison noted that a follow-up letter would be sent with the assistance of the Office of the Attorney General.

At the Commission's request, the NJ State League of Municipalities was contacted regarding the prevalence of solar arrays in stormwater basins. Mike Cerra, Director of Government Relations for the League, indicated that while they have done no research on this issue, they believe that in the period of time prior to the drop in the price of SRECs, there was a more "wild west" approach taken by some solar companies operating in the State. They were aware of this issue in the context of preserved farmland, and what implications it had with regard to the "Right-to-Farm" Act, but that this situation was the exception rather than the rule.

Mr. Hutchison noted that he attended a meeting of DEP/PCER on Princeton University campus expansion on August 31st. He advised the university of the decision at August commission meeting that it would be preferable if they developed their plans beyond the conceptual stage before making a presentation to the commission.

Mr. Hutchison noted that the Bridge Task Force meeting that was scheduled for September 11th was cancelled as a consequence of the NJDOT's activities surrounding the repairs to the South Main Street Bridge in South Bound Brook.

He noted that he would be attending his first quarterly budget meeting with DEP Fiscal staff on September 21st in Trenton.

Mr. Hutchison informed the commission that he had identified monies in the NJ Turnpike widening mitigation account that can be used for a replacement commission vehicle. It will be used to monitor compliance with the six easements established as a condition of the widening approval, and can be used for examination of Zone A projects and other site visits for monitoring C&M agreements and easement conditions. Mr. Ruggeri suggested that purchasing a tablet to aid with site monitoring would be useful to our compliance activities.

Mr. Hutchison gave an update on efforts with DEP/OIRM to provide for the scanning of the commission's paper files and their ultimate transfer onto the department Geoweb application.

Vice Chairman Loos asked for a description of a document created by former-Director Marlen Dooley. The "Procedure Manual" that former-Director Dooley compiled contains a comprehensive guide to the legislative, regulatory, policy and operational issues relating to the commission.

Mr. Bostock noted that the Commissioner of Environmental Protection enthusiastically supported the proposal to repair the Commission office. Mr. Barth inquired on whether removing the paper files from the commission office was a priority. Mr. Hutchison replied that it was his first priority as Director to return the commission to its conference room for monthly

meetings, and remaining at Prallsville Mill reflected the will of the commissioners and was necessary to providing excellent customer service to the regulated community.

D & R Canal State Park Superintendent's Report

Superintendent Auermuller informed the Commission that Patricia Kalleser gave birth to a baby girl named Anna Sarafina. The Commission expressed its congratulations and best wishes to Patricia and family.

Superintendent Auermuller noted that he recently spent time on the canal towpath between Alexander Road and the Millstone Aqueduct with Van Note-Harvey, the engineering firm for Princeton University. He noted that one of the positive aspects of the university's proposed campus expansion plan was the resolution of property boundary between the D&R Canal State Park and the university's properties in West Windsor Township. He said he would be issuing the university a Special Use Permit (SUP) in the next week to conduct freshwater wetlands delineation on both State and university property along the canal as part of the campus expansion plan. Their work would also benefit the park service by giving them a greater understanding of the land near the canal.

Superintendent Auermuller also noted that he would be issuing a SUP in the next day or so for the DOT South Main Street Bridge repair project at South Bound Brook, as well as proposed culvert cleaning to take place at Mulberry and South streets in Trenton.

Superintendent Auermuller also mentioned that he is working with the commission staff and DEP/SHPO with regard to the I-95/Scudder Falls Bridge abutment design. The mock-ups prepared by the Delaware River Joint Toll Bridge Commission were of a battleship grey color, and it was his hope that ongoing discussions would yield a color that was better suited to the park environment.

The Holcombe House auction was being held that day. Commissioner Stout asked if the minimum \$225,000 bid price had been lowered. The Superintendent said no; but that DEP was attempting to better advertise the bidding process, and that he would keep the commission informed.

Commissioner Lubitz asked about the individual who drove his "Jazzy" motorized wheelchair into the canal in Franklin Township. The superintendent said that he was only aware of news media reports, and that the person had been rescued and was doing better. A brief discussion ensued regarding the type of vehicle the person was using and whether motorized vehicles are permitted on the towpath. The superintendent responded that motorized wheelchairs were allowed under federal "Americans with Disabilities Act," but that other forms of motorized vehicles were prohibited on the canal towpath.

NJ Water Supply Authority (NJWSA) Report

Mr. Sellar stated that work on the 10-Mile Waste Gate replacement was under way, and that the Griggstown Waste Gate project was undergoing design work. The Blackwells Mills leak repair has been finished and the site has been restored. The NJWSA was also in the process of procuring engineering for Landing Lane embankment rehabilitation project.

Mr. Sellar stated that the Hydrilla program was scheduled to stop next Wednesday (September 27). There would be a follow-up meeting to determine how well it has worked. Mr. Sellar also noted that the summer of 2017 has been wetter than 2016, and that this has helped.

Following up on a query from Commissioner Stout at the August commission meeting, the NJWSA is urging the engineer to move more quickly to repair the Stockton embankment.

Old Business

South Main Street Bridge: Director Hutchison gave the commission a status update on the NJDOT South Main Street Bridge Repair project. He informed the commissioners that NJDOT has not responded to the deficiencies contained in the staff report on their application, and that he has conferred with the DEP Office of Permit Coordination and SHPO about the status of the project. The issuance of the staff report containing deficiencies relating to the fate of the bridge's historic swing mechanism coincided with the cancellation of the September 11, 2017 Bridge Task Force Meeting.

Commissioner Stout noted that the decision to cancel the task force meeting was not taken lightly; and that many people, especially Mr. Barth and Mr. von Zumbusch, had contributed their time and expertise to the task force's work. Commissioner Stout stated that it was not prudent for the task force to go forward if its work was not respected. Vice Chairman Loos stated that the commission should go into executive session to discuss its response to the situation, since it could involve litigation.

Bulls Island: Vice Chairman Loos requested that the commission defer discussion on this issue.

New Business

Budget Subcommittee: Vice Chairman Loos solicited the views of the commissioners on the subject of establishing a budget subcommittee. The subcommittee could provide three main benefits: it could allow the commissioners to better understand the fiscal issues facing the commission; it could provide a group that the director could confer with between monthly meetings on budgetary decisions; and it would allow commissioners to assist the director in establish future budget and purchasing priorities.

Vice Chairman Loos asked for a motion. Commissioner Lubitz moved to create the Budget Subcommittee composed of Vice Chairman Loos, Commissioner Lubitz and Commissioner Stout. Commissioner Stout seconded the motion. The commission adopted the motion unanimously.

RPA Trail Report: Director Hutchison gave a description of the report by the Regional Plan Association (RPA) which proposes the creation of a network of 1,650 miles of biking, hiking and walking trails in the tristate (NJ-NY-CT) region. Director Hutchison noted that the RPA has requested the he endorse the report on behalf of the Commission, but that he thought it more appropriate for the commission to discuss the report and then authorize him to act. Commissioner Leck inquired about whether the report contained references to water trails in the region. Mr. Bostock asked whether endorsement of the report placed any obligations upon the

State Government, and suggested that the commission should examine the report in detail first. Commissioner Stout proposed that the RPA make a presentation to the commission on the report at a future meeting. Commissioner Lubitz noted that the RPA could provide information about linking trails to the canal park, and that the information gleaned from such an exchange would be particularly useful as part of a future Master Plan revision. Vice Chairman Loos suggested deferring the issue to the October meeting and directed Director Hutchison to contact the RPA about making a presentation to the commission.

Public Forum

Mr. Barth reported that the NJDOT is working on the South Main Street Bridge repair project. Mr. Barth also mentioned that the D&R Canal is an integral part of a number of trail systems, including a proposed river trail linking it to the Morris Canal trail at Phillipsburg.

Mr. Barth also noted that the Canal Society of New Jersey, Canalwatch.org and the Pennsylvania Canal Society were conducting a bus tour on October 21st along the D&R Canal feeder, starting at Bulls Island and ending at Lock No. 1 at Bordentown.

Commissioner Leck noted that there was an event to celebrate “World Rivers Day” on Sunday, September 24th on the NJ Transit Light Rail along the Delaware River. Riders can discover the Delaware River, Delaware & Raritan Canal and Abbott Marshlands from the Light Rail with railroad historian John Kilbride.

Executive Session

Vice Chairman Loos noted the commission would need to enter executive session to discuss personnel matters and potential litigation. Commissioner Stout moved to enter executive session and Commissioner Lubitz seconded the motion, which was adopted unanimously at 10:59 a.m.

Public Session and Adjournment

At 11:31 a.m., the commissioner returned to public session. Vice Chairman Loos asked for a motion to adjourn. Commissioner Lubitz moved to adjourn the meeting and Commissioner Stout seconded the motion. The motion was approved unanimously and the meeting adjourned at 11:32 a.m.

Respectfully submitted,

John Hutchison
Secretary