

**December 21, 2016 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:05 a.m.
DATE: December 21, 2016
PLACE: D&R Canal Commission Office, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice Chairman John Loos, Commissioner Julia Allen, Commissioner Mary Leck, Commissioner Phil Lubitz, Director Lynn Fleming

STAFF: Executive Director Marlene Dooley, Mr. Joseph Ruggeri,
Deputy Attorney General Jung Kim, Ms. Colleen Christie Maloney

GUESTS: D&R Canal State Park Superintendent Patricia Kalleser; Ms. Julie Shelley, NJWSA; Mr. Michael Sellar, NJWSA; Mr. Robert Barth, D&R Canal Watch; Ms. Linda Barth, D&R Canal Watch; Mr. Bob McCarthy, PSE&G; Ms. Marian Labos, PSE&G; Ms. Kathy Hering, DW Smith Assoc; Mr. Raymond Papa, Najarian Associates

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 Meeting Law of 1976 had been met in the scheduling of the meeting.

Administrative Items

Vice Chairman Loos called for a motion to approve the 2017 monthly meeting calendar. Commissioner Lubitz motioned to approve it and Commissioner Leck seconded the motion. The calendar was approved unanimously.

The commission confirmed the January 18, 2017 Commission meeting date.

Minutes

November 16, 2016 Meeting Minutes

Vice Chairman Loos called for a motion on the November 16, 2016 meeting minutes. Commissioner Lubitz made a motion to approve the minutes and Director Fleming seconded the motion. Vice Chairman Loos asked for discussion and corrections on the minutes. Hearing none, he called for a vote and the minutes were approved unanimously.

Review Zone Projects

Zone A Projects

Vice Chairman Loos stated that the Zone A projects would be voted upon *en bloc*, unless any commissioner or member of the public wished a project to be heard individually. He asked for comment, and hearing none, asked for a motion to approve the Zone A projects. Director Fleming motioned to approve the projects:

16-3503A Woolverton Inn Carriage House (Stockton)
16-3777A 36 River Drive Porch (Hopewell)

16-4945 25 S Main St Barn Garage (Stockton)
16-4219D Stockton Farmers Market Generator

Commissioner Lubitz seconded the motion. The Zone A projects were approved unanimously.

Zone B Projects

Vice Chairman Loos stated that the Zone B projects would be voted on *en bloc*, with the exception of two projects involving stream corridors: 15-4345 PSEG Lawrence Switching Station 69kV Expansion and 16-4730A Meadow Brook at Hillsborough.

Vice Chairman Loos called for a motion on the following projects:

16-3130A Hilton Garden Inn (Lawrence)
16-4891 Windy Top Subdivision (Princeton)
16-173A Sissco Parking (Hillsborough)
16-4883 Stonegate at Braeburn (Ewing)
16-2448D Jewish Home and Healthcare Center Improvements (Franklin)
16-3624C 330 Carter Road Parking Mod: Phases II and III (Hopewell)

Director Fleming motioned to approve the projects. Vice Chairman Loos asked for comment from the commission and then the public. Director Dooley and Mr. Barth discussed the proposed trail for 16-4891 Windy Top Subdivision. Commissioner Lubitz seconded the motion. The projects were approved unanimously.

15-4345 PSEG Lawrence Switching Station 69kV Expansion

Director Dooley described the project, which includes the expansion of an existing facility and the review of impervious surface installed in the recent past. She described the stream corridor, pre-1980, recent, and proposed stream corridor intrusions, and the mitigation proposed by the applicant. Vice Chairman Loos and Commissioner Lubitz discussed the potential for future encroachments. Mr. McCarthy, PSE&G, further described the existing site, including the easement with JCP&L on the property, and the different utilities located on the site. Vice Chairman called for a motion on the project. Director Fleming made a motion to approve the project and Commissioner Leck seconded the motion. The project was approved unanimously.

16-4730A Meadow Brook at Hillsborough

Director Dooley described the project, a townhouse and single-family home development, which includes a stream corridor. She described the intrusion, the requested waiver, and mitigation. There was discussion regarding the stream corridor, the 25 feet of usable yard provision, the purpose and maintenance of the retaining wall, play areas, and number of parking spaces. Vice Chairman Loos called for a motion on the project. Commissioner Lubitz made a motion to approve the project and Commissioner Leck seconded the motion. The project was approved unanimously.

Executive Director's Report

The Executive Director distributed the monthly work tally and discussed it. She stated that Executive Director Henry Patterson would retire from the NJWSA at the end of the year and Ms. Beth Gates was named as the new Director. Director Dooley provided an update on a settlement related to the Institute

for Advanced Study Faculty Housing and the Princeton Battlefield Society and discussed the status of hiring temporary staff in the Commission office and the computer upgrade process.

Ms. Dooley also discussed that the commission would no longer have use of a file storage area at the Mill complex and would need to remove the files by the end of January. There was discussion regarding using the conference room for files and holding monthly meetings elsewhere. The Prallsville Mill, City of Lambertville Hearing Room, and DEP were raised as alternative sites and the details of each outlined. Vice Chairman Loos asked for comment and there was comment from the commissioners including concerns raised that the parking lot in Lambertville is metered, and that the meeting room at the Delaware Township building, in Sergeantsville, should be explored as a potential site. Vice Chairman Loos suggested hosting the January meeting at the Prallsville Mill, and keeping a record of time spent preparing the space for the meeting. Mrs. Barth discussed other potential buildings on the Prallsville Mills complex and Mr. Barth suggested moving the meeting to different towns along the canal to promote awareness of the canal commission and the park. Vice Chairman Loos noted he would support Mr. Barth's idea to occasionally host a monthly meeting at another municipality along the canal. Commissioner Lubitz and Director Dooley discussed the office's ability and plans to receive and process project materials electronically.

Park Superintendent's Report

Superintendent Kalleser discussed that the Route 518 Bridge is scheduled to be complete at the end of February. She discussed working with Green Acres and the Office of Resource Development to install a fence and gates related to the railroad property in Lambertville, and plans to expand the park northward to Milford. She stated that Emerald Ash Borer has been confirmed at Bald Pate Mountain, and she expects to submit an application for the ash tree management program in the park in January or February. She noted that the Hunterdon Land Trust Alliance will no longer manage the Frenchtown Preserve property due to limited resources. Also, the Scudder Falls Lower Lot is closed for the season.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar noted the Cherry Tree Lane spillway is complete, and that the 10-Mile Run Lock waste gate replacement would be put out to bid in the first quarter of the new year.

Old Business

Bulls Island

Vice Chairman Loos noted that Director Dooley and the park superintendent had gathered and shared background information on the history of Bulls Island with the commission and that the information should be shared with the Master Plan Advisory Committee. Sometime in the first quarter of 2017, he suggested the committee convene to discuss their ideas related to Bulls Island and the Master Plan. Director Dooley noted she would send a letter to the advisory committee regarding including them in the process.

New Business

Commissioner Lubitz requested that the format in which applicants submit materials to the commission for review be added to the January meeting agenda in order to discuss moving to a more electronic system from this point forward. The computer limitations were discussed but it was also noted that a policy could be developed and that the discussion, at a minimum, could include Word Documents and PDFs.

Vice Chairman Loos requested that the DAG or director research if there is enabling legislation related to Bulls Island. He noted obtaining information on issues such as purchase, bonding, and use.

Public Forum

Mrs. Barth noted that Montgomery Township had turned down a Verizon tower in the municipality. She will be requesting information from commission staff related to the project. Director Dooley briefly described the project, recent cell tower OPRA requests and historic handling of cell towers.

Mrs. Barth discussed the proposed replication swing bridge to be constructed in West Amwell Township from mitigation funds related to the I-95 Scudder Falls project. She discussed concerns with the time required to open the bridge under the present design. Mrs. Barth described bridges in Canada which open within one or two minutes, and showed a video which illustrated swing bridges opening both by hand and by motor.

Mr. Barth noted that Canal Watch has planned 26 events for the 2017 year. He distributed literature related to a 2002 progress report of the canal park development. He asked for an update on the sewerage plant odor and Vice Chairman asked that it be added to old business as an agenda item. He expressed his continued concern that Bulls Island has been closed to the public for going on six years now.

Vice Chairman called for further comment. He stated that the commission must enter executive session to discuss litigation. Director Fleming motioned to approve entering into executive session; Commission Lubitz seconded the motion. It was approved unanimously.

At 11:45 a.m., the commission entered executive session.

At 11:50 a.m., the commission opened the meeting.

Vice Chairman Loos reopened the meeting. He noted that there was a discussion regarding pending litigation [Princeton Battlefield's appeal of the commission's approval of the Institute for Advanced Study project] Vice Chairman Loos asked if there was a motion.

Commissioner Lubitz moved that the commission authorize our attorney to inform the court that we would support the stay in this case. Director Fleming seconded the motion. The motion was approved unanimously.

Commissioner Lubitz made a second motion that in any discussion of settling the lawsuit, the commission requires that its legal fees be paid by the litigant, in this case the Princeton Battlefield Society.

The motion was not seconded.

Vice Chairman Loos discussed whether the two motions should be incorporated into one motion.

Commissioner Lubitz asked if the commission can hear the institute's new application while still being sued over the old application. DAG Kim stated that the stay would apply to the pending appeal, which

is what was already approved. DAG Kim stated that the Institute for Advanced Study could come before the commission with a new application.

Commissioners Lubitz and Fleming discussed a new motion.

At 11:55 a.m., the commission entered executive session to discuss litigation.

At 12 noon, the commission entered open meeting.

Commissioner Lubitz made a motion that that the commission authorize its attorney to approve a stay in this case and also negotiate the repayment of the commission's legal fees to be brought back to the commission for approval upon her recommendation. Director Fleming seconded the motion. Vice Chairman Loos asked if there was any discussion amongst the commissioners.

Vice Chairman Loos called for a vote. The motion was approved unanimously.

Director Fleming noted that, with reference to the swing bridge discussed previously in the meeting, she received information that redesign would cost approximately \$75,000, and a redesign could take a year. There was discussion about who would be operating the swing bridge and its being opened during floods and by park staff for educational purposes. There was discussion about the bridge, its design, its redesign, permitting, and materials. It was noted that the commission had already approved the project.

Adjournment

Vice Chairman Loos called for a motion to adjourn. Director Fleming moved to adjourn and Commissioner Leck seconded the motion. It was approved unanimously. The meeting adjourned at 12:10 p.m.

Respectfully submitted,

Marlene Dooley, Secretary