

**September 18, 2013 MINUTES OF THE MEETING  
TO BE REVIEWED October 16, 2013**

**Delaware and Raritan Canal Commission**

TIME: 10:00 a.m. – 11:15 a.m.  
DATE: September 18, 2013  
PLACE: Canal Commission Office  
Stockton, New Jersey

**ATTENDING:**

**COMMISSIONERS:** Chairman Robert Bostock and Commissioners Julie Cobb Allen, Mary Alessio Leck, Phillip Lubitz, Bruce Stout, Mark Texel, and Ed Trzaska

**STAFF:** Ms. Marlene Dooley, Ms. Colleen Christie Maloney, Mr. Vince Mazzei, Deputy Attorney General Lisa Daglis

**GUESTS:** Mr. Bill White, Office of Resource Development, NJDEP; Patricia Kalleser, D&R Canal State Park; Mr. Bill Bogosian, Mr. Joe Shepherd, and Mr. Aimer Garcia, NJ Water Supply Authority (NJWSA); Mr. Robert Manberger, Hatch Mott MacDonald; Ms. Liz Palius and Ms. Barbara TenBroeke, Millstone Valley Preservation Coalition; Mr. Robert Barth and Mrs. Linda Barth, D&R Canal Watch; Mr. Jeff McVey, D&R Canal Friends; Ms. Stacey Schuster, The College of New Jersey; Mr. Chris Tarr; Mr. Bruce Afran; and Mr. Joel Greenberg, Schwiebert Chapter of Trout Unlimited.

Chairman Bostock 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.

In attendance at 10 a.m.: Chairman Bostock and Commissioners Leck, Lubitz, and Texel.

**Administrative Items**

There were no administrative items for discussion.

**Minutes of the Meeting**

**Minutes of the Meeting of August 21, 2013**

The minutes of the meeting were approved by the members present.

At 10:05 a.m., Commissioners Trzaska and Stout joined the meeting.

## **Review Zone Projects**

### Review Zone A Projects

Chairman Bostock asked Ms. Dooley to provide an overview of each project.

#### 13-4474 Downs Acquisition (Hopewell Township)

Ms. Dooley outlined the project including that Hopewell Township is the applicant and seeks to demolish a building along the canal which will improve the line of site for traffic leaving Grant Street in Titusville. Hopewell Township will be transferring the property to the State and it will become part of D&R Canal State Park.

Chairman Bostock asked for comments from the Commissioners and then public. Hearing none, Chairman Bostock stated he would entertain a motion on the project. Commissioner Texel moved to approve the project and Commissioner Stout seconded; the motion was approved unanimously.

#### 13-4462A 11 Arnett Reconstruction (Lambertville)

Ms. Dooley outlined the project including that the project is the reconstruction of an existing home which was destroyed by fire; she noted that other homeowners on the street had come before the Commission regarding rebuilding their properties.

Chairman Bostock asked for comments from the Commissioners and then the public. Hearing none, Chairman Bostock stated he would entertain a motion on the project. Commissioner Stout moved to approve the project and Commissioner Lubitz seconded; the motion was approved unanimously.

#### 13-3764A Behar Residence (Franklin)

Ms. Dooley outlined the project including that it is a substantial addition to an existing home on Canal Road, its previous application to the Commission and the stream corridor.

Chairman Bostock asked for comment from the Commissioners. Commissioner Texel commented on the positive impact of the improvements, including screening. Ms. Dooley noted that the current project design was shorter in height than previously approved by the Commission. There was no comment from the public. Chairman Bostock stated he would entertain a motion on the project. Commissioner Trzaska moved to approve the project and Commissioner Leck seconded; the motion was approved unanimously.

At 10:10 a.m., Commissioner Allen joined the meeting.

#### 13-3348C Cadwalader Tennis Pavilion (Trenton)

Ms. Dooley outlined the project including that it is a 600-square-foot pavilion adjacent to the tennis courts in the lower area of Cadwalader Park, that it is architecturally in keeping with the park, and that the Commission previously issued an approval for a pavilion in the upper park.

Chairman Bostock asked for comment from the Commissioners and then the public. Hearing none, Chairman Bostock stated he would entertain a motion. Commissioner Lubitz moved to approve the project and Commissioner Trzaska seconded; the motion was approved unanimously.

13-2543B ELSA Upgrade Project Modification (Lawrence Township)

Ms. Dooley outlined the project including that it was a modification of an earlier approval, and it is to install grade-level algae screens, which will not be visible from the path.

Chairman Bostock asked for comment from the Commissioners. Commissioner Texel asked for clarification regarding the SHPO approval and any impact on the canal as a historic resource. Ms. Dooley noted that the project is in the Canal Historic District, but it is not visible and this section along the canal is predominantly industrial in nature. There was no comment from the public. Chairman Bostock stated he would entertain a motion. Commissioner Texel moved to approve the project conditioned upon approval by the State Historic Preservation Office and Commissioner Leck seconded; the motion was approved unanimously.

Review Zone B Projects

Chairman Bostock stated all Review Zone B projects would be considered and asked the Commissioners if they wanted to identify a Zone B project for individual discussion. No project was identified. Chairman Bostock asked Ms. Dooley to give an overview of all the projects.

13-2308D Trenton-Mercer Airport EMAS Runway 16/34 (Ewing Township)

Ms. Dooley outlined the project including that it was the second of two emergency systems installed at the end of runways; the first EMAS system was approved at the previous month's meeting. This permit application is retroactive.

13-4463 Route 27 over Six Mile Run (Franklin and North Brunswick Townships)

Ms. Dooley outlined the project including that the NJDOT project is replacing an existing bridge and conducting a mitigation project at Six-Mile Run Park. The mitigation project involves the planting of 111 trees and 48 shrubs. She also noted that NJDOT paid approximately \$20,000 to NJDEP for a diversion of state park property related to the project.

13-3365A 19 Roszel Road (West Windsor Township)

Ms. Dooley outlined the project including that it involves the demolition of a warehouse and the construction of two three-story office buildings in West Windsor on a 7-acre site. Commission Leck asked about the history of the 19 Roszel Road project; Ms. Dooley stated that the applicant submitted an application in 2006 and 2008 but never received final approval; the application was reviewed pursuant to the current 2009 regulations.

13-1974B 394 Rt. 31 (West Amwell Township)

Ms. Dooley outlined the project including that it involves the construction of a retail building and associated parking along Route 31 at the former Pine Creek golf facility. The golf facility was previously reviewed and approved by the Commission.

Chairman Bostock asked for comment from the Commissioners and then the public. Hearing none, Chairman Bostock stated he would entertain a motion on the projects. Commissioner Stout moved to approve the four Review Zone B projects and Commissioner Texel seconded; the motion was approved unanimously.

**Other**

13-2789G Campus Town Development/TCNJ Stream Corridor (Ewing)

Chairman Bostock asked if there were any recusals. Commissioner Stout stated that he was recusing himself from consideration on the matter, because he is employed by the College of New Jersey. Commissioner Lubitz noted for the record that his daughter attends the College of New Jersey, but that he was not required to recuse himself. Chairman Bostock asked Ms. Dooley to outline the project. Ms. Dooley outlined the project including that the Commission had approved the Campus Town Development the previous month, conditioned on recording of the conservation easement. She stated the college had properly identified the stream corridor in three easement parcels totaling 84 acres. She noted that there had been issues of land ownership and of grandfathering certain existing buildings which predate the Commission jurisdiction, paths, and athletic facilities. Ms. Dooley sought concurrence from the Commission that the easement area was sufficient and would then work with the Deputy Attorney General and the College to record the easement.

Chairman Bostock stated he would entertain a motion. Commissioner Trzaska moved that the proposed easement area was adequate and Commissioner Leck seconded; Chairman Bostock, Commissioners Trzaska, Leck, Allen, Lubitz, and Texel voted to approve the motion; Commissioner Stout was recused and did not participate in discussion or voting. The motion was approved.

13-3472 Lambertville Path: Presentation and Request for Conceptual Approval

Chairman Bostock asked Mr. White for a presentation on the project. Mr. White noted that the project involved DEP, NJWSA as the consultant, and Hatch Mott MacDonald as the contractor. Mr. Garcia, NJWSA, provided an overview and introduced Mr. Manberger of Hatch Mott McDonald. Mr. Manberger outlined the purpose and scope of the project to repair the embankment failure of the canal between Coryell Street and Bridge Street in Lambertville. Mr. Manberger discussed analysis, methods, materials, permitting, vibration monitoring during the construction, soil borings, timing and manner of construction. Commissioner Stout asked whether the public would be diverted from the path during construction. Mr. Manberger explained that the public would be rerouted onto the local streets. Mr. Manberger stated that they were looking for conceptual approval prior to obtaining permits.

Chairman Bostock asked for comment from the Commissioners. Hearing none, he asked for comments from the public. Mr. Barth asked for an explanation of the length of the sheet piling, the cantilevering, the timing of the project, and any change in the look of the canal embankment from the path or water. Mr. Manberger estimated that the repair will be 85 feet in length and construction completed in approximately 2 weeks after the work commences; there was discussion regarding the sheet piling and its appearance.

Chairman Bostock stated that he would entertain a motion for conceptual approval. Commissioner Lubitz moved a motion for conceptual approval of the plan and Commissioner Trzaska seconded; the motion was passed unanimously.

13-3791 The Institute for Advanced Study Faculty Housing (Princeton)

Chairman Bostock acknowledged receipt of a letter from the Institute for Advanced Study relinquishing their 45-day letter. The Institute will submit a new application. It was noted that no action would be taken at this time. Copies of the letter were available.

13-1570E Easton Avenue Bridge Design (Franklin)

Chairman Bostock asked Mr. White, NJDEP, to update the Commission on the project. Mr. White reported that it would cost \$1,950 to add a conceptual bridge design for a swing bridge at the proposed site.

Chairman Bostock asked for comment from the Commission and then public. Chairman Bostock noted that the Commission had stated that if the design was within the budget, it would be included. Chairman Bostock stated that he would entertain a motion to approve the expenditure of funding for the additional design. Commissioner Lubitz moved to approve the expenditure and Commissioner Stout seconded; the motion was approved unanimously. Mr. White stated that he expected to report again to the Commission at the November 2013 meeting.

**Executive Director's Report**

Ms. Dooley reported on the staff's workload and fees for the preceding month and distributed a report (see attached report). Ms. Dooley noted an increase in larger projects and requests for pre-application meetings. Ms. Dooley discussed office staffing. Ms. Dooley discussed the emergency work being done by NJDOT on Route 29 in Stockton. She also noted several citizen concerns including handicap accessibility at the Port Mercer area of the park and safety regarding a steep section of the path in South Bound Brook. Ms. Dooley stated that Mr. Bill Wolfe, PEER, had been on Bulls Island and emailed questions to the Commission and others regarding the NJWSA dredging operation including whether the Commission had issued an approval for the project. He also raised concerns regarding the stockpiling of sediment, the slumping of silt fencing and general operations. Ms. Dooley noted that she had been in discussion regarding the concerns with Executive Director Patterson, NJWSA. She also noted that she and Staff Engineer Vince Mazzei had visited Bulls Island and determined there were fencing and hay bales in appropriate places. Mr. Mazzei noted that the work site was adequate and well stabilized. Ms. Dooley further noted that the NJWSA has not routinely received permits for maintenance activities. These activities have been historically handled

through the lease agreement and the NJWSA provides reports to the Commission at the monthly meeting; Ms. Dooley also read from the statute, "The NJWSA shall until further direction by the legislature repair and preserve the banks of the canal feeder and at all times keep a flow of water through the canal at a level heretofore maintained when the canal was in operation or as necessary to conduct dredging operations or effect repairs." Ms. Dooley noted that she had ongoing discussions with the executive director of NJWSA related to the issue and the lease agreement has been submitted to the Deputy Attorney General's office for review to ensure that activities are being handled appropriately. Lastly she noted that projects, such as the NJWSA dredging project in Franklin Township area, will be reviewed by the Commission.

#### **D and R Canal State Park Superintendent's Report**

Superintendent Kalleser noted that the West Hanover Street Bridgetender's House in Trenton was vandalized and measures will be taken to fix it. She noted she met with a citizen regarding a spillway 0.04 miles south of the Lock 11 parking lot, which has a steep pitch, and she was speaking to SHPO and Historic Resources about correcting it. The Princeton Nurseries celebration on September 7 was successful and Commissioner Texel and former Commissioner David Knights attended the event. The park had a successful stargazing party in August in Kingwood Township. Green Acres and Hopewell Township were involved in the acquisition of the Downs property, which was on the day's Commission meeting agenda. Superintendent Kalleser met with Franklin Township officials to discuss line of site and crosswalk issues at the Weston Causeway area of the park.

#### **NJ Water Supply Authority (NJWSA) Report**

Mr. Shepherd noted that NJWSA had awarded the contract for design of the permanent repairs to the flood guard bank from Bulls Island to Prallsville; the Swan Creek aqueduct rehabilitation would commence next month; and necessary permitting is in place for the dredging work being done on Bulls Island.

#### **Old Business**

There was no old business.

#### **New Business**

Chairman Bostock welcomed the Commission's newly assigned Deputy Attorney General Lisa Daglis. Commissioner Lubitz noted that, at the Horseshoe Bend Preserve in Kingwood Township, a census of butterflies showed that 39 varieties of butterflies were identified, including the Gray Comma butterfly, seen only four times in New Jersey this past decade.

#### **Next Month Meeting Date**

The October 16, 2013 meeting date was confirmed by all attending Commissioners.

### **Public Forum**

Chairman Bostock opened the floor to public comment. Ms. Palius, Millstone River Valley Coalition, noted that the Griggstown Causeway was part of a national scenic byway from Princeton to East Millstone with a leg out to Kingston. She noted that the Commission is a partner in the byway, helped write the corridor management plan and supported restoration of the bridgetender's house. She noted the final stages of restoration of the Griggstown Bridgetender's house and asked what groups have the right to use the building and under what terms. Ms. Palius noted that the issue of how to maintain the building was left unaddressed until it was restored. She noted that her group was presented with a State lease that she found unreasonable in terms of managing and maintaining the property. Various historic groups involved with her organization will help run the visitor center at the bridgetender's house. She noted that the restoration was a huge success and fifteen years in the making and would like to discuss how to move forward. Superintendent Kalleser noted she was working on having someone meet with the group from the NJDEP Office of Leases. Ms. Palius asked if the State could hire someone to maintain the building or create a reasonable lease for volunteers to maintain the building. She noted that her group had no funding to maintain and repair the building as specified in the State lease. Chairman Bostock thanked Ms. Palius for her efforts and noted that the Commission's help would be limited and the building is a State parks building.

Mr. Spiegel noted that the Cadwalader Tennis Center was named an outstanding facility by the US Tennis Association.

Mr. Barry Fulmer noted his concern about the path in South Bound Brook. He noted he met with Superintendent Kalleser and Mr. Barth at the site and he asked that this safety issue be addressed, perhaps with a hard surface. Chairman Bostock thanked Mr. Fulmer for bringing the issue to the Commission's attention.

Mr. Barth noted a steamboat ride in the Delaware River sponsored by the D&R Canal Watch on October 13. He noted that the East Millstone Bridgetender's house would be open during the October 19 East Millstone CanalFest. He asked for an update on mile marker orientation and placement related to the Colonial Park Spillway repair; Mr. Bogosian, NJWSA, noted that SHPO had found the markers to be in compliance. Mr. Barth asked when the NJDEP would submit an application for the tree removal at Bulls Island; Ms. Dooley stated that the Commission might receive an application before the end of the year. Ms. Dooley noted that the application had not yet been received.

Commissioner Leck noted that the Friends for the Abbott Marshland will sponsor a walk on October 19 in Bordentown from 1 to 3:30.

### **Executive Session**

Chairman Bostock stated that an executive session was not needed.

**Adjournment**

Commissioner Lubitz moved to adjourn the meeting; Commissioner Stout seconded; the motion was approved unanimously and the meeting adjourned at 11:15 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Marlene Dooley". The signature is written in black ink and is positioned above the printed name and title.

Marlene Dooley  
Secretary