



**December 18, 2024, Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: December 18, 2024
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout and Commissioner Phillip Lubitz attended the meeting in the Commission office.

Commissioner Designee Mark Texel, Commissioner John Reiser, Commissioner Douglas Palmer, and Commissioner Caryl “Chris” Shoffner participated via online platform and teleconference.

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

GUESTS: Michael Sellar, Facility Manager, New Jersey Water Supply Authority (NJWSA); Stephen Gates, Chief Engineer, NJWSA; Kathy Hale, Principal Watershed Specialist, NJWSA; Robert von Zumbusch, Kingston Historical Society; Robert Barth, D&R Canal Watch; Michael Ford; Joshua Sewald; Anthony Colasurdo; Daniel Tarabokija; Bill Lane; Anthony Genchi; Andrew L. French; and Dimitri Zatuzhi.

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 via telephonic device pursuant to Article III, Section 4

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of the Commission Bylaws, Vice-Chairman Stout directed Executive Director Hutchison to call the roll:

Vice-Chairman Stout	Present
Commissioner Designee Texel	Present
Commissioner Reiser	Present
Commissioner Lubitz	Present
Commissioner Shoffner	Absent
Commissioner Palmer	Present

Director Hutchison stated that a quorum was present.

Administrative Items

Confirmation of January 15, 2025, Meeting Date

Vice-Chairman Stout stated that the next meeting of the Delaware and Raritan Canal Commission was scheduled for January 15, 2025, at 10:00 a.m.

Minutes

Approval of the Minutes of the November 20, 2024, Commission Meeting

Vice-Chairman Stout inquired if any of the Commissioners wished to propose edits or corrections to the November 20, 2024, Commission meeting minutes. Hearing none, he asked for a motion to approve the minutes as prepared by staff. Commissioner Reiser made a motion to adopt the minutes as proposed, which motion was seconded by Commissioner Palmer.

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

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

Review Zone Actions

Zone A Projects

#24-2397D	Janssen Pharmaceuticals -- FDC Fire Service Upgrade (Franklin Township)
#24-3755I	287 South Main Street -- Sign Replacement (Lambertville City)
#22-5834	545 Weston Canal Road -- Proposed Warehouse (Franklin Township)

Vice-Chairman Stout asked if any Commissioner wished to review any of the Zone A projects separately. Commissioner Lubitz requested to pull aside DRCC #22-5834 545 Weston Canal Road -- Proposed Warehouse for discussion.

Commission Shoffner joined the meeting at 10:03 a.m.

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Vice-Chairman Stout called for a motion on the remaining two Zone A projects, namely #24-2397D Janssen Pharmaceuticals -- FDC Fire Service Upgrade and #24-3755I 287 South Main Street -- Sign Replacement. Commissioner Reiser made a motion to approve the two projects, which was seconded by Commissioner Palmer. Vice-Chairman Stout asked the Commissioners for comment on the two Zone A projects. Hearing none, he asked the public for comment. Hearing none, the Vice-Chairman asked Director Hutchison to call the roll:

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

The motion was approved.

Vice-Chairman Stout requested a motion, for the purposes of discussion, on #22-5834 545 Weston Canal Road -- Proposed Warehouse. He reminded the Commissioners that the project is recommended by Commission staff for approval with a condition that was outlined in the staff report, and that the motion to approve may include that condition. Commissioner Reiser moved to approve the project with the condition recommended in the staff report, which motion was seconded by Commissioner Palmer.

Commissioner Lubitz stated he was interested in clarifying the regulations as they applied to the 200-foot setback provision set forth in the Commission's visual, historic, and natural quality impact review standards. He noted the majority of the project, including the proposed 40-foot-high warehouse, was located beyond the 200-foot setback. He then asked for clarification as to whether the Commission was limited to reviewing only the building materials and colors for any structure located beyond the 200-foot buffer limit. Director Hutchison stated that the visual impact review standards at N.J.A.C. 7:45-10 regulate the height, building materials, and building colors, and also contain provisions related to the location and visibility of public utilities, ancillary structures, parking areas, as well as the location and dimensions of signage.

Commissioner Lubitz then noted that the Commission also regulated the proposed prohibited intrusions into the regulated stream corridor, and that the regulations require mitigation for those intrusions. Commissioner Lubitz expressed his dissatisfaction with the proposed mitigation measures detailed in the staff report. He observed that several historic buildings in the Delaware and Raritan Canal State Park were in a state of disrepair and that there were parking access issues in the park. He observed that additional mitigation measures could be required that could have a positive impact upon the public's ability to use the park.

Commissioner Lubitz further noted that, with respect to the stream corridor impacts of the project, the applicant had proposed to mitigate the impact of the proposed intrusions by preserving land at a 1:1 ratio onsite, and at a 2:1 ratio offsite, as well as provide the didactic signage. Vice-Chairman Stout stated that the Commission had used those ratios of 1:1 for onsite mitigation and 2:1 for offsite mitigation to address the impact of stream corridor mitigation in the past.

Director Hutchison clarified that there were two discrete mitigation elements related to the proposed project. The first was the mitigation required for the impacts of the proposed intrusions within the Commission-regulated stream corridor, for which the applicant proposed to preserve two mitigation areas. The first of these was mitigation onsite at a ratio of 1:1 for a portion of the intrusion, while the second was an additional offsite compensation area which would provide mitigation for the balance of the intrusions at a 2:1 ratio. He noted that this mitigation was authorized under the criteria at N.J.A.C. 7:45-12.4(a)2. Commissioner Lubitz inquired as to the location of the area being preserved at a 2:1 ratio. Director Hutchison responded that the offsite mitigation area was located on Mosher Road in Franklin Township, Somerset County, directly adjacent to Simonson Brook, a tributary of the Millstone River. Director Hutchison stated that it was staff's opinion that the mitigation area proposed for preservation not only met the 2:1 ratio, but also represented an ecologically beneficial impact with respect to the Millstone River. Commissioner Lubitz then expressed his concern that in his review of Federal Emergency Management Agency (FEMA) flood maps, it appeared that the project area flooded on a regular basis.

Director Hutchison further noted the second component of mitigation was related to the visual impact of the project. Specifically, the proposed driveway and the proposed stormwater basin intrusions would be located within the 200-foot setback area. He noted that in the past the Commission had asked for the construction of heavily vegetated berm to screen the project area from the Delaware and Raritan Canal State Park. However, the Director noted that a berm could not be constructed in an area in which a driveway or stormwater basin would be located. Therefore, the Director stated that to compensate for the intrusion within the proscribed setback area, the applicant agreed to engage at their own cost a historic and cultural resource consultant compliant with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (36 C.F.R. Part 61) to produce and install multiple wayfinding/didactic sign packages that provided sufficient mitigation for the proposed visual, historic, and natural quality impacts at Weston, Zarephath ("Pillar of Fire"), and the 10-Mile Lock within the Delaware and Raritan Canal State Park. The Director noted the proposed mitigation measures may be undertaken subsequent to the issuance of a certificate of approval by the Commission. He also noted the content of the wayfinding and didactic signage would be approved by the Commission, the DEP State Park Service, and the NJWSA, and that the installation would be coordinated with the Superintendent of the Delaware and Raritan Canal State Park.

Director Hutchison reiterated that the two project mitigations are discrete: stream corridor compensation areas for the stream corridor impacts and signage for the visual impacts. Vice-Chairman Stout asked Commissioner Lubitz to clarify which mitigation he found to be insufficient. Commissioner Lubitz responded that he found the proposed mitigation for the visual impact of the project related to the intrusions within the 200-foot setback to be inadequate. Commissioner Lubitz stated he also found the stream corridor impact mitigation to be questionable. However, he observed that while the Commission had adopted a practice to calculate mitigation relying on the 1:1 onsite and 2:1 offsite ratios, those ratios are not enumerated within the Commission regulations. Commissioner Lubitz noted that he was also concerned about the stream corridor intrusion as it related to the flooding events that residents faced on a regular basis and which were likely to become more intense. He observed that the 2007 rainfall data used by FEMA to develop their flood maps was likely to be different from what has actually been experienced in recent rainfall events, and different from the calculations recently done by the DEP. He concluded that it was reasonable that the region would face increased flooding in the future.

Commissioner Lubitz further stated that during his tenure on the Commission, the Weston Canal Road area of the Commission Review Zone has been visually degraded throughout the entire length of the canal, and he did not want to have a part in degrading it further. He offered an analogy, asking the Commission to consider if one attended a football game with the entire football field in front of them, and, suddenly at halftime, a 40-foot wall, similar to the construction of a 40 foot-tall warehouse, was constructed at the 50-yard line, what impact that would have upon the game attendee's experience and what a degradation it would have on one's appreciation of the game. He noted that control of materials and colors does not adequately address the fact that buildings are being constructed on the Weston Canal Road landscape and that he found the 200-foot buffer setback to be inadequate given the scope of the project. He suggested that the mitigation proposed for the project was not adequate to compensate for the visual impact of the project from the canal, and the Commission had the ability to do something about this situation. He noted that for this reason, he would vote against the project.

Vice-Chairman Stout noted that with respect to Commissioner Lubitz's concerns about flooding, the DEP would also be reviewing, permitting, and regulating the project as it related to potential flood impacts under the Flood Hazard Rules.

Mr. Sewald of Dynamic Engineering and engineer of record for the applicant asked to address the Commission. He stated that with respect to Commissioner Lubitz's flooding concerns, the required DEP Flood Hazard Area verification and the individual permit were already issued. He stated that the proposed stormwater management system for the project was robust and that it constituted an improvement for Weston Canal Road and surrounding properties, including the Delaware and Raritan Canal State Park, where stormwater is not controlled in the existing conditions or only controlled in a limited way.

Mr. Sewald also noted that the warehouse building was proposed to be constructed beyond the 200-foot setback limit, and that the applicant had submitted line-of-sight exhibits which illustrated that the building would not be visible from the Delaware and Raritan Canal State Park. He noted that the project proposed substantial landscaping, incorporating more than 800 plantings along the roadway between the proposed warehouse and Weston Canal Road. He also noted that a green roof would be planted atop the building and that a green wall would be built on the elevation facing Weston Canal Road. He stated that these measures would block any view of the proposed warehouse building from the park.

Mr. Sewald further stated that, with regard to the proposed stream corridor mitigation, the applicant had proposed mitigation both onsite and offsite, thereby increasing the square footage of stream corridor through preservation.

Mr. Sewald observed that when reviewing the totality of the project, he believed that the applicant had taken measures to create a net benefit for the site. He noted in the course of widening Weston Canal Road to construct the required turning lane, the applicant could also provide mill and overlay paving treatment to the parking area at 10-Mile Lock. Sewald reiterated that, overall, the project would provide a net benefit by providing stormwater management improvements, additional landscaping, and stream corridor and visual impact mitigation.

Director Hutchison stated that if the Commission wanted to consider anything with respect to the

disposition of the parking lot at 10-Mile Lock, located across Weston Canal Road from the project site proposed driveway, he would strongly urge that the NJWSA be consulted prior to any such decision. The Director noted that public access was mostly unavailable at 10-Mile Lock, and that the NJWSA prohibited parking at the site to maintain access for their maintenance vehicles. He recommended deferring to NJWSA Executive Director Brooks, NJWSA Chief Engineer Gates, and the NJWSA Canal Facility Manager Sellar, before any decision would be made with respect to mitigation options at the site.

Commissioner Lubitz observed that if parking enhancements at 10-Mile Lock was impractical, then there were several historic structures within the Delaware and Raritan Canal State Park that were in disrepair. Director Hutchison agreed that historic buildings in the park could provide opportunities for additional mitigation. He observed that the bridgetender's house at Chapel Drive on the former Pillar of Fire school property was one such example. He noted that in addition to the house, there was a bridgetender's shelter, which had been covered in vegetation. The Director stated that he visited the site recently and found the house and shelter to be in what could charitably be described as an advanced state of deterioration.

Director Hutchison noted that farther up canal from the project site was the site of the Weston bridgetender's house, which had been shuttered for several years. He noted that the house is located in a heavily constrained area where the Manville Causeway intersects with Weston Canal Road. He noted that due to the T-intersection, the house was mostly inaccessible and that it rested upon a tributary, which was one of the reasons why no serious effort had been made to provide for its renovation. Renovations were considered in the 1990s as mitigation for the "Canal Walk" age-restricted housing development. However, when former Director Jim Amon was confronted with the site constraints, the mitigation for Canal Walk was undertaken instead at the bridgetender's house at Amwell Road.

Mr. von Zumbusch stated that the Weston Canal Road section of the Commission Review Zone had not been treated as well as other areas with regard to projects conforming with the surrounding historic landscape. He also suggested that the use of berms to shield projects from the canal was not an appropriate use of the historic landscape along the Delaware and Raritan Canal. He cautioned that berms should be used sparingly, if at all. He also noted that while the Weston bridgetender's house was in poor condition, its possible renovation should not be abandoned.

Mr. Barth stated that the bridgetender's house at Chapel Drive had been flooded and was partially boarded up; however, a new roof coupled with mitigation of interior mold, including the installation of ventilation, could possibly save the building. He opined that the situation at the Weston bridgetender's was difficult given the derelict condition of the house and the surrounding site constraints.

Vice-Chairman Stout asked for further comment. Hearing none, he asked for the roll to be called. Commissioner Lubitz asked those who made the motion and seconded it if they would consider amending the motion to include not only the mitigation recommended in the staff report but the replacement of the roof and mold remediation at the Chapel Drive bridgetender's house. Both Commissioners Reiser and Palmer agreed to amend the motion to incorporate the appropriate language as an additional condition of approval.

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Director Hutchison stated that the motion before the Commission was to approve project DRCC #22-5834 with the recommended condition set forth in the staff report, namely, that the applicant shall engage at their own cost a historic and cultural resource consultant to produce and install multiple wayfinding and didactic sign packages for Weston, Zarephath/Pillar of Fire, and the 10-Mile Lock areas along the Delaware and Raritan Canal State Park and that it was acceptable that these measures be undertaken subsequent to the issuance of a certificate of approval. He noted that Commissioner Lubitz requested, and Commissioner Reiser and Commissioner Palmer agreed, that an additional condition be placed upon the approval, namely, that the applicant undertake at their own cost the replacement of the roof at the Chapel Drive bridgetender's house and the remediation of the mold inside the house. Vice-Chairman Stout asked for further questions and comment from the Commissioners.

Commissioner Shoffner asked if she understood correctly that the amended motion stated that if the new roof and mold remediation were to be completed as a condition of approval, in addition to the conditions outlined in the staff report, the Commission was essentially saying that it did not like the project but if you give us this, we will approve it. Vice-Chairman observed that it was one way to characterize the motion. Director Hutchison clarified that the conditions placed upon the approval could be addressed subsequent to the issuance of the certificate of approval for the project.

Vice-Chairman Stout called for further comment and hearing none, he asked Director Hutchison to call the roll. Director Hutchison called the roll:

Vice-Chairman Stout	Yes
Commissioner Designee Texel	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	No
Commissioner Palmer	Yes

The motion was approved.

Zone B Projects

#23-2717A	1 Meadow Road -- Office Building (West Windsor Township)
#24-3341O	PMPHCC Cancer Center and Imaging Center (Plainsboro Township)
#23-6055	1219-1225 Lower Ferry Road -- Proposed Residences (Ewing Township)
#24-6106A	301 Roycefield Road -- Addition/Parking (Hillsborough Township)

Vice-Chairman Stout asked if any member of the Commission wished to consider any of the projects separately. Hearing none, he asked for a motion on the projects. Commissioner Palmer made a motion to approve the projects, which was seconded by Commissioner Designee Texel. Vice-Chairman Stout asked for comment on the projects from the Commissioners. Hearing none, he asked if the public had any questions or comments. Hearing none, Vice-Chairman Stout asked Director Hutchison to call the roll:

Vice-Chairman Stout	Yes
Commissioner Designee Texel	Yes

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Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Yes
Commissioner Palmer	Yes

The motion was approved.

Executive Director's Report

Director Hutchison reported on the Commission workload for the period encompassing November 20, 2024, to December 17, 2024. He stated that in addition to the 7 projects listed on the December meeting notice, staff issued 21 deficient staff reports, 3 jurisdictional determinations, 4 certificates of approval, 6 general permits, and 1 [Executive Order No. 215 \(1989\)](#) response letter related to the proposed Maternal and Infant Health Innovation Center project to be undertaken by the New Jersey Economic Development Authority. In addition, he reported that staff organized and conducted 14 pre-application meetings related to proposed and pending projects, and that 26 projects were presently undergoing staff review.

Director Hutchison reported that fee collections totaled \$42,500 for the month. He noted that thus far in Fiscal Year 2025, the Commission collected \$249,125 of the \$500,000 anticipated appropriation amount. He observed that, with 50% of the fiscal year completed, the Commission has collected about 49.8% of its anticipated annual appropriation.

Director Hutchison reported that on December 5, the Department of the Treasury Scope Development Group met with the Commission staff, the New Jersey Historic Trust, the DEP Office of Resource Development and the State Park Service to finalize the RFP Scope of Work (SOW) document for the Commission Master Plan update and revision project. He stated that work continued to complete the roster of staff that will make up the project team, but generally there were very few substantive revisions to the SOW document prepared by Commission staff.

Director Hutchison reported that Commission staff met with a representative of New Jersey American Water Company to discuss the future of the company's pedestrian bridge over the Delaware and Raritan Canal along Weston Canal Road in Franklin Township. He stated the bridge was constructed by Elizabethtown Water Company in the late 1940s as part of the construction of the treatment plant at the confluence of the Raritan and Millstone rivers. He noted the bridge was currently used by the company to access an intake from the canal that cannot be accessed from 10-Mile Lock and that the company was considering a replacement bridge and a parking access area along Weston Canal Road so their employees could safely access the site for maintenance purposes. Director Hutchison noted the company inquired whether a public access area and a publicly accessible bridge would be a project worth pursuing, and he advised the company to contact the DEP Office of Transactions and Public Land Administration, the State Park Service, and the NJWSA to gauge their interest in such a project.

Director Hutchison reported that, on December 11, he attended a meeting with the New Jersey Department of Transportation (NJDOT) to answer questions about the proposed replacement of the bridge that conveys North Hermitage Avenue over the Delaware and Raritan Canal in the City of Trenton. He advised the NJDOT that thermoplastic striping and a pedestrian-activated crossing beacon for the point where the park multiuse trail crosses North Hermitage Street should be incorporated into

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the future bridge design. He noted that, generally speaking, the design follows the provisions of the NJDOT-DRCC-SHPO bridge task force memorandum, and that it was gratifying to see that the MOU was providing the appropriate guidance to NJDOT for future canal bridge designs.

Finally, Director Hutchison reported that the project file digitization project continued to make steady progress and that in the previous month, 12 file boxes were scanned, bringing the completed file box total to 180 of 526 boxes, or 34% of the total.

Park Superintendent's Report

Commissioner Designee Texel provided Acting Superintendent Mitchell-Strehl's report in her absence.

Mr. Texel reported that portable toilets had been placed in several areas of the Delaware and Raritan Canal State Park on a trial basis this winter to better serve the public, with the proviso that if the units were vandalized, then they would be removed. He noted that the State Park Service selected the locations based upon input from the park's friends groups: Six-Mile Run in the vicinity of Blackwells Mills, the Kingston locktender's house, and the Port Mercer Canal House parking lot.

Mr. Texel reported that State Park Service staff recently walked the multiuse trail in the City of Trenton with representatives from the New Jersey Conservation Foundation, Mercer County, DEP Green Acres program staff and, and NY/NJ Greenway, to discuss ways to improve and install signage, conduct trail surface improvements, undertake cleanup projects, involve community organizations with the park, and consider ways to improve the area for the public.

Mr. Texel reported that State Park Service staff also met with the Kingston Greenway Association to collaborate on projects to assist the staff with graffiti removal, invasive plant control, installation of kestrel boxes, and other projects.

Mr. Texel stated that the City of Trenton was planning improvements along the canal in the vicinity of the Trenton Battle Monument Park, including interpretive exhibits, benches, and gathering area features.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that flow adjustments were made to the middle segment of the Delaware and Raritan Canal. Specifically, excess water was released to the Millstone River from the 10-Mile Wastegate to farther up canal to the Kingston Wastegate in an effort to improve streamflow conditions and discourage the formation of harmful algal blooms in the Millstone River.

Mr. Sellar reported that typical maintenance activities were being conducted along the Delaware and Raritan Canal, including clearing of vegetative debris and the collection of leaves.

New Business

None.

Old Business

None.

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Public Comment

Mr. von Zumbusch stated that he appreciated the contributions of Acting Superintendent Mitchell-Strehl, Interpretive Specialist Vicki Chirco, and Maintenance Supervisor Michael Ley for their work on the relocation of the heating system from the basement of the Kingston locktender's house.

Written Public Comments

None.

Adjournment

There being no other business, Vice-Chairman Stout entertained a motion to adjourn. Commissioner Shoffner 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 10:47 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", written in a cursive style.

John Hutchison, Secretary