

DELAWARE RIVER
JOINT TOLL BRIDGE COMMISSION
MINUTES
MEETING OF NOVEMBER 24, 2008

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

MEMBERS OF THE COMMISSION

NEW JERSEY

HONORABLE DAVID R. DEGEROLAMO
Chairman

HONORABLE DONALD HART

HONORABLE HARRY ZIKAS, JR

HONORABLE WILLIAM J. HODAS

VACANT

PENNSYLVANIA

HONORABLE GAETAN J. ALFANO
Vice Chairman

HONORABLE MELISSA HELLER

HONORABLE JAMES L. BROUGHAL

HONORABLE BERNARD GRIGGS, JR.

HONORABLE JOHN PREVOZNIK
Secretary-Treasurer

Revised 11/08

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

STANDING COMMITTEES

FINANCE, INSURANCE, MANAGEMENT OPERATIONS

PENNSYLVANIA: Alfano, Vacant

NEW JERSEY: Hart*, Zikas

HUMAN RESOURCES, AFFIRMATIVE ACTION AND TRAINING AND SAFETY

PENNSYLVANIA: Griggs, Vacant

NEW JERSEY: Hodas*, Vacant

PROJECTS, PROPERTY AND EQUIPMENT

PENNSYLVANIA: Griggs*, Alfano

NEW JERSEY: Hart, Hodas

CONTRACTS SUB-COMMITTEE

PENNSYLVANIA: Griggs*, Alfano

NEW JERSEY: DeGerolamo, Hodas

CAI COMMITTEE

PENNSYLVANIA: Alfano, Vacant

NEW JERSEY: DeGerolamo*, Hart

AUDIT COMMITTEE

PENNSYLVANIA: Prevoznik*, Heller, Alfano

NEW JERSEY: DeGerolamo, Hart

PROFESSIONAL SERVICES COMMITTEE

PENNSYLVANIA: Alfano*, Heller

NEW JERSEY: Vacant, Zikas

*Chairman of Committee

**DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION
RECAPITULATION OF COMMITTEE MEMBERSHIP
2008**

DeGerolamo	(1) Ex-Officio of all Committees
Alfano	(1) Finance, Insurance, Management Operations Committee (2) Projects, Property and Equipment Committee (3) Contracts Sub-Committee (4) Professional Services Committee (5) CAI Committee (6) Audit Committee
Griggs	(1) Human Resources, Affirmative Action and Training and Safety Committee (2) Projects, Property and Equipment Committee (Chairman) (3) Contracts Sub-Committee (Chairman)
Hart	(1) Finance, Insurance Management and Operations Committee (Chairman) (2) Projects, Property and Equipment Committee (3) CAI Committee (4) Audit Committee
Heller	(1) Professional Services Committee (2) Audit Committee
Hodas	(1) Human Resources, Affirmative Action and Training and Safety Committee (Chairman) (2) Projects, Property and Equipment Committee (3) Contracts Sub-Committee
Prevoznik	(1) Audit Committee (Chairman)
Zikas	(1) Finance, Insurance, Management Operations Committee (2) Professional Services

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

PROFESSIONAL ASSOCIATES

CONSULTING ENGINEERS

TRANSYSTEMS CONSULTING ENGINEERS

Paramus, New Jersey

LEGAL COUNSEL

FOX ROTHSCHILD, LLP
Philadelphia, Pennsylvania

FLORIO, PERRUCCI, STEINHARDT & FADER
Phillipsburg, New Jersey

EMPLOYMENT COUNSEL

STRADLEY, RONON, STEVENS & YOUNG
Philadelphia, Pennsylvania

WOLFF AND SAMSON
West Orange, New Jersey

AUDITOR

MERCADIEN
Princeton, New Jersey

FINANCIAL ADVISOR

VACANT

COMMUNICATIONS CONSULTANT

BELLEVUE COMMUNICATIONS
Philadelphia, Pennsylvania

INVESTMENT MANAGEMENT

COMMERCE CAPITAL MARKETS
Philadelphia, Pennsylvania

Revised 2008

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

ORGANIZATION CHART
FRIDAY, SEPTEMBER 26, 2008

COMMISSIONERS

Executive Director
Frank G. McCartney

Chief Engineer
George G. Alexandridis

Assistant Chief Engineer
Roy Little

**Senior Program Area
Manager**
Kevin Skeels

**Deputy Executive Director
of Communications**
Joseph Donnelly

**Acting Director of Community
Affairs**
Richard McClellan

Director of Policy & Planning
Glenn Reibman

**Chief Administrative
Officer**
Arnold Conoline

Director of Human Resources
Patrick Heron

Acting Director of Purchasing
Fred Fields

Director of E-ZPass
Yvonne Kushner

**Deputy Executive Director
of Operations**
Frank J. Tolotta

District Superintendents
Jack Prior (Acting), D I
Lendell Jones, D II
Bryan Hill, D III

Director of Plants & Facilities
Frank Beruta

**Director of Security Safety
and Training**
James P. Stettner

**Director of Electronic
Security Surveillance**
Mathew Harigan

**Director of Information
Technology**
Mary Jane Hansen

**Director of Compact
Authorized Investments**
Julio Gurdy

Chief Financial Officer
Sean P. McNeeley

Comptroller
Stephen Cathcart



DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

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DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

CALL TO ORDER

The Regular Monthly Meeting of the Delaware River Joint Toll Bridge Commission was Called to Order at the New Hope Headquarters and Administration Building, 2492 River Road, New Hope, Pa. 18938-9579 in the Boardroom, on Monday, November 24, 2008 at 11:05 a.m., pursuant to notice properly forwarded to each member in compliance with the By-Laws. David DeGerolamo, Chairman, presided at this Meeting. The Commission met in Executive Session to discuss legal and personnel matters prior to this meeting.

APPEARANCES

COMMISSION MEMBERS:

Hon. Gaetan Alfano (Pennsylvania)
Hon. David DeGerolamo (New Jersey)
Hon. Melissa Heller (Pennsylvania)
Hon. William Hodas (New Jersey)
Hon. Bernard Griggs (Pennsylvania)
Hon. Harry Zikas, Jr. (New Jersey)
Hon. Donald Hart (New Jersey)
Hon. James L. Broughal (Pennsylvania)

COMMISSION MEMBERS ABSENT:

Hon. John Prevoznik (Pennsylvania)

COMMISSION GENERAL COUNSEL:

Marcel Groen Fox Rothschild, Pennsylvania Legal Counsel
Levin Czubaroff, Fox Rothschild, Pennsylvania Legal Counsel
Mark Peck, Florio, Perrucci, Steinhardt and Fader, New Jersey Legal Counsel

COMMISSION LABOR COUNSEL:

Jonathan Bloom, Stradley Ronon, Pennsylvania Labor Counsel

GOVERNORS REPRESENTATIVES:

Alex Ficken, PA Governor's Office
Maura Tully, NJ Governor's Authority Unit

REPRESENTING THE COMMISSION'S COMMUNICATIONS CONSULTANTS: BELLEVUE COMMUNICATIONS

Pete Peterson, Bellevue Communications

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

COMMISSION STAFF MEMBERS:

Frank G. McCartney, Executive Director
Frank J. Tolotta, Deputy Executive Director of Operations
Joseph Donnelly, Deputy Executive Director of Communications
Arnold Conoline, Chief Administrative Officer
Sean McNeeley, Chief Financial Officer
Stephen Cathcart, Comptroller
Patrick Heron, Director of Human Resources
Richard McClellan, Acting Director of Community Affairs
Julio Guridy, Director of Compact Authorized Investments
Roy Little, Assistant Chief Engineer

OTHERS:

Jeffrey Gittler, Citron Cooperman
Dan Faust, DMJM Harris
Matt Cummings, DMJM Harris
Ron Mieszkowski, CMX
Tracy Carluccio, Delaware Riverkeeper Network
Dennis R. Lieb, Public
Phyllis Johnson, Public
William Marley, Public
A. Robert Johnson, Public
Michael Duck, Morning Call Newspaper
Rich Hieshetter, Delaware Riverkeeper
Kathy Diring, NJ DOT

ROLL CALL

Frank G. McCartney, Executive Director, in his capacity as Secretary for this Meeting, called the Roll, and at the conclusion thereof, reported that there was a quorum present--there being four members present from Pennsylvania and four members present from New Jersey.

WELCOMING REMARKS OF CHAIRMAN

Chairman DeGerolamo welcomed those persons whose identities are set forth hereinabove under "Appearances".

INTRODUCE ANY COMMENTS FROM THE PUBLIC

Chairman DeGerolamo addressed the meeting and invited any comments from the Public on items pertaining to today's Agenda.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

OATH OF OFFICE TO NEWLY APPOINTED COMMISSION MEMBER FROM THE COMMONWEALTH OF PENNSYLVANIA – JAMES BROUGHAL

Chairman DeGerolamo addressed the meeting and introduced James Broughal, newly appointed Commission Member from the Commonwealth of Pennsylvania. Chairman DeGerolamo then requested Marcel Groen, Pennsylvania Legal Counsel to issue the Oath of Office to Mr. Broughal

EXECUTIVE DIRECTORS REPORT

In a few days, our nation will celebrate Thanksgiving and millions of Americans will take to the highways to travel home for the holiday.

Recognizing this traditional heavy-traffic period, construction-related traffic restrictions will be prohibited at our most heavily used bridges and roadways from 6 a.m. Wednesday until noon next Monday.

In anticipation of the holiday weekend, a major juncture was achieved on the I-78 roadway rehabilitation project in New Jersey just this morning. Paving that was conducted over the weekend now means that we have three travel lanes open in both the eastbound and westbound direction. The roadway had been reduced to two lanes in each direction for much of the fall.

Meanwhile, at the Trenton-Morrisville Toll Bridge, holiday motorists will be able to drive on new, smooth pavements in both directions because the rehabilitation and widening project on that span has now officially entered its third -- and final -- stage.

This is another major milestone.

When next Thanksgiving rolls around, we expect to have completed all of the construction projects we currently are conducting: our Electronic Surveillance and Detection System, the I-78 roadway project, and the rehabilitations on the Trenton-Morrisville and Milford-Montague Toll Bridges.

However, nobody around here plans to be resting on laurels a year from now.

In fact, many of the agenda items before this Commission today will ensure that we keep moving our 15-year Capital Improvement Plan to new levels of activity and accomplishment.

DWG Open Road Tolling

You will be asked today to vote on contract for the study and concept design of open road tolling at the Delaware Water Gap Toll Bridge.

This will allow motorists equipped with E-ZPass to pay their tolls at highway speed, easing traffic congestion at this busy crossing. As you may remember, the Commission has significantly advanced the schedule for this project from its original 2015 target date. We plan to complete construction in the next two to three years.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

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Calhoun Street Toll-Supported Bridge

The agenda also includes a proposed engineering services contract award for the Calhoun Street Toll-Supported Bridge between Trenton and Morrisville.

The contract is for preliminary-, final- and post-design services.

This is the oldest structure in the Commission's 20-bridge inventory and it is the only one made of iron. It poses many unique challenges for the Commission and its consultants.

CAI

Finally, there are three CAI project actions for your consideration today.

First, there is a proposed grant for the City of Lambertville to cover the cost of design and construction of roadway improvements under the Blair Tract Road Reconstruction Project.

Also up for your consideration is a proposed grant award to West Amwell Township to mill, widen and resurface 1,450 feet of Rocktown-Lambertville Road. This is in addition to portions of the roadway already resurfaced under a separate grant from the Commission.

Finally, there is a grant increase for Hopewell Township. The Hopewell grant would help cover costs of constructing ADA-compliant ramps, a retaining wall, sidewalk, additional handicapped parking spaces, and a brick walkway connection between the Washington Crossing Park parking area and the Delaware-Raritan Canal towpath.

I want to wish everyone a safe and happy Thanksgiving. While the economic forecast may not be as bright as in prior years, we can at least reflect on the past year with gratefulness and look toward next year with the hope that comes from building a better future for all of our river region communities and residents.

APPROVAL OF MINUTES

FOR COMMISSION MEETING HELD OCTOBER 27, 2008

R: 1653-11-08 - ADM-01-11-08

Chairman DeGerolamo addressed the meeting and invited the introduction of a Resolution approving the Minutes of the Commission Meeting held October 27, 2008.

At the conclusion of the review, Commissioner Alfano and Commissioner Hart seconded the adoption of the following Resolution:

Commissioner Broughal addressed the meeting and requested to be recorded as recusing himself from this vote.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

"RESOLVED, by the Delaware River Joint Toll Bridge Commission at its Regular Meeting assembled this 24th day of November, that the Minutes of the Commission Meeting held on October 27, 2008, be and the same hereby are approved."

Chairman DeGerolamo invited questions on the Resolution. No further questions were presented and the Resolution was unanimously adopted.

OPERATIONS REPORT-MONTH OF OCTOBER 2008

R: 1654-11-08 - ADM-02-11-08

Chairman DeGerolamo addressed the meeting and asked if there were any questions on any of the reports contained in the "Operations Report".

At the conclusion of the review, Commissioner Zikas moved and Commissioner Hodas seconded the adoption of the following Resolution:

"RESOLVED, by the Delaware River Joint Toll Bridge Commission, at it's Regular Meeting assembled this 24th day of November that the Commission, via this Resolution, acknowledges receipt, understanding and authorizes filing of the report entitled, 'Operations Report, Month of October 2008, as set forth in the Supplement to the Minutes of this Meeting."

Chairman DeGerolamo invited questions on the Resolution. No questions were presented and the Resolution was unanimously adopted.

APPROVAL OF COMMITTEE MEETING SCHEDULE FOR 2009

R: 1655-11-08- ADM-03-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review, Commissioner Alfano moved and Commissioner Griggs seconded the adoption of the following Resolution:

"RESOLVED by the Delaware River Joint Toll Bridge Commission at it's Regular Meeting assembled this 24th day of November 2008, that the Committee Meeting Schedule for 2009, be and the same hereby are approved."

Chairman DeGerolamo invited questions on the Resolution. No questions were presented and the Resolution was unanimously adopted.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

APPROVAL OF REGULAR MONTHLY COMMISSION MEETING SCHEDULE FOR 2009

R: 1656-11-08- ADM-04-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review, Commissioner Zikas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at it’s Regular Meeting assembled this 24th day of November 2008, that the Regular Monthly Commission Meeting Schedule for 2009, be and the same hereby are approved.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented and the Resolution was unanimously adopted.

RENEWAL OF A SELECT INSURANCE POLICY

R-1657-11-08 – INS-01-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review, Commissioner Hodas moved and Commissioner Hart seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at it’s Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, authorizes renewal of the following insurance policy with incumbent carrier for the term December 1, 2008 to December 1, 2009: Pollution Liability Coverage: Underground Tank, E-P; and be it

“FURTHER RESOLVED, that the Commission authorizes the Executive Director to effect the renewal, as applicable, of the aforementioned insurance policy.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented and the Resolution was unanimously adopted.

DELAWARE WATER GAP TOLL BRIDGE OPEN ROAD TOLLING (ORT) STUDY AND CONCEPT DESIGN

R:1658-11-08 – ENG-02-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

At the conclusion of the review Commissioner Zikas moved and Commissioner Hodas seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at it’s Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, award the Delaware Water Gap Toll Bridge Open Road Tolling (ORT) Study and Concept Design, Contract No. C-440A to Stantec Consulting Services Inc. of Philadelphia, Pennsylvania, whose proposal has been deemed qualified through the RFLOI procurement process and whose fee proposal has been successfully negotiated and determined to be fair, reasonable and in the best interest of the Commission. This award is in the amount of \$414,877.62; and be it

“FURTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for payment of any invoices; and be it

“FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all necessary contracts on behalf of the DRJTBC.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented, and the Resolution was adopted.

CALHOUN STREET TSB REHABILITATION PRELIMINARY DESIGN, FINAL DESIGN AND POST DESIGN SERVICES

R: 1659-11-08 –ENG-03-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Zikas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at it’s Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, award the Contract for the Calhoun Street Toll- Supported Bridge Rehabilitation – Preliminary Design, Final Design and Post Design Services, Contract C-447B, to TranSystems Corporation of Langhorne, Pennsylvania for a fee not-to-exceed \$666,016.64; and be it

“FUTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for payment of any invoices; and be it

“FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all necessary contracts on behalf of the DRJTBC.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented and the Resolution was unanimously adopted.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

APPROVAL OF RETIREE HEALTH INSURANCE BENEFITS KENNETH FOULKES

R: 1660-11-08 – HR-01-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review, Commissioner Hodas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, that subject to applicable practices and procedures, the Commission approves payment of retirement benefits to Kenneth Foulkes who plans to retire January 31, 2009 subject to timely and continuing receipt of applicable retiree co-payment.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented, and the Resolution was unanimously adopted.

TERMINATION OF CARLOS BUSH, BRIDGE OFFICER CALHOUN STREET

R:1661-11-08 – HR-02-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Hodas moved and Commissioner Hart seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, authorize the termination of the employment of Carlos Bush for the good of the Commission; and be it

“FURTHER RESOLVED, that the Commission authorizes the Executive Director to effect the termination of the employment of Carlos Bush.”

Chairman DeGerolamo invited questions on the Resolution. No questions were presented, and the Resolution was unanimously adopted.

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

APPOINTMENT OF DONNA FOWLER AS SECRETARY II, DISTRICT III

R: 1662-11-08 – HR-03-11-08

Chairman DeGerolamo addressed the Meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Zikas moved and Commissioner Broughal seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, authorizes the appointment of Donna Fowler to the position of Secretary II with compensation established at \$33,942 per annum, which is the first step in range for Secretary II (\$33,942 - \$43,317), pending satisfactory completion of the required personnel processing; and be it

“FURTHER RESOLVED, That the Commission authorizes the Executive Director to effect the employment of Donna Fowler to the Secretary II position in District III, pending satisfactory completion of the required personnel processing.”

Chairman DeGerolamo invited questions on the Resolution, No questions were presented, and the Resolution was unanimously adopted.

RENEWAL OF NEBCO RETIREE MEDICAL AND PRESCRIPTION INSURANCE

R: 1663-11-08 - INS-02-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Alfano moved and Commissioner Hodas seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, that the Commission authorizes the Executive Director to effect the renewal of the medical and prescription insurance plans provided through NEBCO with a new medical insurer (Hartford) and the current prescription insurer for supplemental coverage to Medicare for eligible retirees and dependents who are sixty-five years and older. That coverage is to be provided at the current benefit levels on a fully-insured premium basis at monthly rates of \$203.60 and \$350.29, respectively, for the one year period January 1, 2009 through December 31, 2009.”

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

CONCEPT STUDY, PRELIMINARY AND FINAL DESIGN AND POST DESIGN SERVICES FOR THE REHABILITATION OF THE MILFORD – MONTAGUE TOLL BRIDGE-CONTRACT C-430A

R: 1664-11-08 - ENG-01-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

Commissioner Heller addressed the meeting and requested to be recorded as recusing herself from this vote.

At the conclusion of the review Commissioner Hodas moved and Commissioner Zikas seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, authorize the Executive Director to execute Contract Modification No. 4 to Contract C-430A: Concept Study, Preliminary and Final Design, and Post Design Services of the Milford-Montague Toll Bridge by an amount of \$36,695.62, and to increase the not-to-exceed amount of said contract from \$1,744,592.98 to \$1,781,288.61, a 2.1% increase; and be it

“FURTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for payment of any invoices; and be it

“FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all necessary contracts on behalf of the DRJTBC.”

Chairman DeGerolamo requested a roll call on the resolution approving the Concept Study, Preliminary and Final Design, and Post Design Services for the Rehabilitation of the Milford-Montague Toll Bridge-Contract C-430A

New Jersey

David DeGerolamo	Yes
William Hodas	Yes
Harry Zikas	Yes
Donald Hart	Yes

Pennsylvania

Gaetan Alfano	Yes
Bernard Griggs	Yes
James Broughal	Yes

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

CAPITAL PROGRAM MANAGEMENT CONSULTANT & I-95/ SCUDDER FALLS DESIGN MANAGEMENT CONSULTANT SERVICES

R: 1665-11-08 - ENG-04-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

Commissioner Heller addressed the meeting and requested to be recorded as recusing herself from this vote.

Vice Chairman Alfano addressed the meeting and asked Mr. Peck, representative for Florio, Perrucci, Steinhardt and Fader, for the record he wanted to make it clear that this firm has not been involved in any way with the award of this contract.

Mr. Peck addressed the meeting and replied, "none whatsoever."

At the conclusion of the review Commissioner Zikas moved and Commissioner Alfano seconded the adoption of the following Resolution:

"RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, award the contract Capital Program Management Consultant & I-95/Scudder Falls Design Management Consultant Services, Contract C-502A to AECOM Transportation (formerly DMJM Harris, Inc.) of Philadelphia, PA for a fee not-to-exceed \$12,000,000.00; and be it

"FURTHER RESOLVED, The Commission will conduct annual reviews of the Consultant's performance at the end of each anniversary year of the contract to determine if their services will still be required for subsequent years of the contract; and be it

"FURTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for payment of any invoices; and be it

"FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all necessary contracts on behalf of the DRJTBC."

Chairman DeGerolamo requested a roll call on the resolution approving Capital Program Management Consultant & I 95/Scudder Falls Design Management Consultant Services

New Jersey Commissioners

David DeGerolamo	Yes
William Hodas	Yes
Harry Zikas	Yes
Donald Hart	Yes

Pennsylvania Commissioners

Gaetan Alfano	Yes
Bernard Griggs	Yes
James Broughal	Yes

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Meeting of November 24, 2008

COMPACT AUTHORIZED INVESTMENT (CAI) GRANT AWARD-CITY OF LAMBERTVILLE, NJ

R: 1666-11-08 - CAI-01-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Zikas moved and Commissioner Griggs seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, award a grant in the not-to-exceed amount of \$334,500 to the City of Lambertville, NJ, pending execution of a Compact Authorized Investment Program Grant Agreement, and, identify the General Reserve Fund as the source of funds required for payment(s) to the City of Lambertville, NJ for the completion of the improvement(s) based upon their application; and be it

“FURHTER RESOLVED, Identify the General Reserve Fund as the source of funds required for all funds disbursed; and be it

“FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all documents/agreements on behalf of the DRJTBC.”

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

COMPACT AUTHORIZED INVESTMENT (CAI) GRANT AWARD-WEST AMWELL TOWNSHIP, NJ

R: 1667-11-08 - CAI-02-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Zikas moved and Commissioner Hart seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, award a grant in the not-to-exceed amount of \$485,000 to West Amwell Township, NJ, pending execution of a Compact Authorized Investment Program Grant Agreement, and, identify the General Reserve Fund as the source of funds required for payment(s) to West Amwell Township, NJ for the completion of the improvement(s) based upon their application; and be it

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"FURTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for all funds disbursed; and be it

"FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all documents/agreements on behalf of the DRJTBC."

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

COMPACT AUTHORIZED INVESTMENT (CAI) GRANT AWARD-HOPEWELL TOWNSHIP, NJ

R: 1668-11-08 - CAI-03-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Zikas moved and Commissioner Griggs seconded the adoption of the following Resolution:

"RESOLVED, by the Delaware River Joint Toll Bridge Commission, at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, rescinds resolution Number R:1398-10-07 with ADM 03-10-07 for an award grant of \$645,390 and to awards a grant in the not-to-exceed amount of \$794,397, which includes a supplemental award of \$149,007 for increase cost of material to Hopewell Township, NJ, pending execution of a Compact Authorized Investment Program Grant Agreement, and, identify the General Reserve Fund as the source of funds required for payment(s) to Hopewell Township, NJ for the completion of the improvement(s) based upon their application; and be it

"FURTHER RESOLVED, Identify the General Reserve Fund as the source of funds required for all funds disbursed; and be it

"FURTHER RESOLVED, The Executive Director is hereby authorized to approve and execute all documents/agreements on behalf of the DRJTBC."

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

APPROVAL FOR PAYMENT OF INVOICE FOX ROTHSCHILD, PENNSYLVANIA LEGAL COUNSEL

R: 1669-11-08 - ACCT-01-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

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At the conclusion of the review Commissioner Hodas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, authorization for payment of invoice #1067486, #1067474, #1067485, #1067482, #1067483, #1052874, #1067475, #1067488, #1067487, #1067476, #1067489, #1067478, #1067484, #1067494, #1067480, #1067481, #1067479, #1067477, #1067473, and #1060427 dated October 22, 2008, September 23, 2008 and August 21, 2008 in the total amount due of \$19,891.63 for Capital and Non Capital Improvements to Fox Rothschild PA Legal Counsel; and be it

“FURTHER RESOLVED, identifies the Funds as shown on the invoice distribution sheet as the source required for any and all disbursements.”

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

APPROVAL FOR PAYMENT OF INVOICES STRADLEY RONON

R: 1670-11-08 - ACCT-02-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Hodas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, Adopt a Resolution authorizing approval for payment of invoice dated October 15, 2008 in the total amount of \$5,060.00 for Professional Services Rendered for period September 2008 through September 30, 2008 to Stradley Ronon, Labor Counsel; and be it

“FURTHER RESOLVED, identifies the Operating Fund as the source of funds required for any and all disbursements.”

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

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APPROVAL FOR PAYMENT OF INVOICES FLORIO, PERRUCCI, STEINHARDT AND FADER

R: 1671-11-08 - ACCT-03-11-08

Chairman DeGerolamo addressed the meeting and asked the Commission Members if, after their review, there were any questions.

At the conclusion of the review Commissioner Hodas moved and Commissioner Alfano seconded the adoption of the following Resolution:

“RESOLVED, by the Delaware River Joint Toll Bridge Commission at its Regular Meeting assembled this 24th day of November 2008, that the Commission via this Resolution, Authorizes payment of invoices #20835 and #20838 dated November 5, 2008 in the total amount due of \$10,553.78 for Non Capital Improvements to Florio, Perrucci, Steinhardt and Fader, NJ Legal Counsel; and be it

“FURTHER RESOLVED, identifies the Funds as shown on the invoice distribution sheet as the source required for any and all disbursements.”

Chairman DeGerolamo invited questions on the Resolution, but no questions were presented. The Resolution was unanimously adopted.

INVITE ANY COMMENTS FROM PUBLIC

Chairman DeGerolamo addressed the meeting and invited any comments from the Public.

Tracy Carluccio, representing the Delaware Riverkeeper Network, Deputy Director. Ms. Carluccio stated that she was present at today's meeting to represent her organization's position regarding the Riverwalk project.

At this point Ms. Carluccio produced a letter which is reflected on page A-1 – A-4 as a supplement to the minutes of this meeting.

A brief discussion ensued regarding Delaware Riverkeeper Network's opposition to the Easton Riverwalk Project, an intermodal Transportation Facility plan due to the projects location within the flood plan and the projects non compliance with the National Environmental Policy Act.

SCHEDULING OF THE DECEMBER 2008 MEETING

Chairman DeGerolamo addressed the Meeting and stated that the Commission's next meeting will be held December 22, 2008.

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Executive Director McCartney assured the Commission Members that an "Official Notice of Meeting" would be forwarded to each and every Member of the Commission.

ADJOURNMENT

Chairman DeGerolamo invited a motion for Adjournment.

Commissioner Zikas then moved that the Meeting be adjourned and Commissioner Hart seconded the motion. The voice vote was unanimously affirmative and the Meeting was adjourned at 11:47p.m., Monday, November 24, 2008.

Prepared and submitted by:



WENDY VADOLA READING

Assistant Secretary Treasurer to the Commission

Approved by:



FRANK G. McCARTNEY
Executive Director



An American Littoral Society Affiliate

November 24, 2008

VIA FACSIMILE AND FIRST CLASS MAIL

Delaware River Joint Toll Bridge Commission
New Hope Headquarters and Administration Building
2492 River Road
New Hope, PA 18938-9519
(215) 862-5284

RE: "Riverwalk" Project - Easton Intermodal Transportation Center

Dear Commissioners:

We write to clarify the present state of litigation related to the Easton intermodal transportation center and residential development, a/k/a the Riverwalk Project ("Riverwalk").

We also write to comment on Easton Parking Authority's (EPA) request to Delaware River Joint Toll Bridge Commission (DRJTBC) to extend funding to the Riverwalk project. The DRJTBC initially granted \$2.7 million to the Easton Parking Authority in furtherance of this project. Delaware Riverkeeper Network vigorously opposes any re-allocation or extension of any funds toward the Riverwalk project.

Project and Litigation History

As you may know, the Riverwalk project originally proposed to construct an intermodal transportation center and residential development in the floodplain of the Delaware River and in a National Register Historic District in Easton, Pennsylvania. On July 21, 2006, the Federal Transit Administration ("FTA") issued a categorical exclusion (CE) for Riverwalk.

Plaintiffs the Delaware Riverkeeper, Delaware Riverkeeper Network and American Littoral Society ("Plaintiffs") brought suit against the FTA, the Lehigh and Northampton Transportation Authority (LANTA) and the Easton Parking Authority (EPA) ("Defendants") on June 20, 2007 in the United States District Court for the Eastern District of Pennsylvania ("the Court").¹ The suit alleged that FTA failed to comply with the National Environmental Policy Act ("NEPA") and Executive Order 11988 in providing funding for the Riverwalk project.

¹ The Complaint was captioned, *The Delaware Riverkeeper et al. v. Simpson et al.*, 2:07-cv-02489 (PBT). The full case docket is available at: <https://ecf.paed.uscourts.gov/cgi-bin/ShowIndex.pl>

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On July 18, 2007, FTA revoked its previously-issued categorical exclusion (CE), and subjected the project to the National Environmental Policy Act (NEPA) by acknowledging the need to reevaluate the project by preparing an environmental assessment (EA). FTA also suspended all action in furtherance of the Riverwalk project until the EA was complete.

However, in the face of evidence that non-federal defendants were taking action in furtherance of the project, Plaintiffs filed a motion for preliminary injunction in August of 2007. FTA issued a draft EA in October 2007. In late 2007, Defendants each filed separate motions to dismiss.

Litigation Outcomes and Options

In March 2008, the Court entered a Memorandum and Order, denying Plaintiffs' request for a preliminary injunction and granting Defendants' motions to dismiss *without prejudice*. (Plaintiffs asked the Court to reconsider this decision, and in October 2008, reconsideration was denied.) The Court ruled that Plaintiffs could not meet the requirements of a preliminary injunction because the FTA "has not rendered a final agency decision." The Court also ruled that "[w]ithout finality [of the NEPA process] the Court lacks proper jurisdiction to review *until the FTA has completed its decision making process*." (emphasis supplied)

The legal doctrine of ripeness relates to the readiness of a case for adjudication. The Court noted this proposition by referring to the cases of *Philadelphia Federation of Teachers, et al. v. Ridge*, 150 F.3d 319, 322 (3d Cir. 1998), holding that the ripeness doctrine prevents federal courts from entangling themselves in abstract disagreements; and *Association of Community Organizations for Reform Now (ACORN) v. SEPTA*, 462 F.Supp. 879, 884 (E.D. Pa. 1978), holding that in administrative matters, the adjudication of premature claims can disrupt an agency's decision making process.

As noted, Plaintiffs' lawsuit was dismissed without prejudice. When a court dismisses a party's complaint without prejudice, it provides the party with the opportunity to re-file a complaint in the future. Given appropriate circumstances, there is the potential for Plaintiffs to reinstitute a lawsuit regarding the Riverwalk project.

Riverwalk Today

We have attended meetings of the Easton Parking Authority where Arcadia, the "turnkey" developer of the Riverwalk project, has discussed a redesign of the proposed facility. Reportedly, a concept plan for the redesign has also been presented to LANTA. According to a representative of Arcadia at the October 16, 2008 EPA meeting, the redesigned project will require a revised plan by Timothy Haas and Associates which will need City review and approvals. To our knowledge, a revised plan has not been produced nor have there been any City Board or Committee approvals granted at this time. Further, we understand that neither the Historic Museum Commission nor the Pennsylvania State Historic Preservation Office have reviewed the revised project.

Delaware Riverkeeper Network is opposed to the Riverwalk Project and we have expressed our stated concerns publicly on the record before EPA, LANTA, and the City Council of Easton. Those concerns include intrusion into and incompatibility with the historic districts of Easton and Phillipsburg, detrimental impacts on the Lower Delaware National Wild and Scenic River which includes the Easton-Phillipsburg region, and other critical environmental issues articulated in letters to the agencies, our comment to the FTA on the Environmental Assessment and in our legal filings. For discussion before the DRJTBC, we will focus on the floodplain issues that are a key consideration for your agency.

Floodplain Location

The Easton intermodal transportation facility's proposed location is within the 100 year floodplain. DRN strongly opposes this location. The Delaware River floodplain floods. In the last three major storm events, this specific location was severely impacted by flooding. It is reasonable to

expect that the site will flood again; indeed, that is why it is mapped within the Federal Emergency Management Agency regulated floodplain. The intention of floodplain regulation is to limit construction and obstructions in the regulated area in order to reduce flood damages and induced flooding downstream, and in order to promote good floodplain management and protect their functions. (http://www.floods.org/Certification/FEMA_480/NFIP_SG_Unit_6_Additional_Regulatory_Measures.pdf).

The proposal to build an intermodal transportation facility in the 100 year floodplain is poor public policy for several reasons, including:

- **Economic Impacts:** Flood damages are expensive and result in substantial costs. We point out that Northampton County has received three flood related Presidential Disaster Declarations since Tropical Depression Ivan in September 2004. For the City of Easton (as of February 28, 2007) there have been a total of 243 NFIP claims for a total payout of \$10,175,470.97. (http://bsa.nfipstat.com/reports/1040_200702.htm)

Easton is among the highest in claim dollars in Pennsylvania with \$7,233,692 total payouts for repetitive loss properties from January 1978 through February 28, 2007. (http://www.state.nj.us/drbc/Flood_Website/NFIPanalysis/RepetitiveDetail3-Dollar.pdf)

The 2004 Flood Insurance Reform Act Congressional Findings noted, “repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses”. (Bunning-Nereuter-Blumenauer Flood Insurance Reform Act of 2004 as reported in “Watermark”, National Flood Insurance Program (2005, Number 2) at 11). FEMA states that the Act aims to reduce flood damage to repetitive loss properties in order to reduce the cost of paid claims. (National Flood Insurance Program (2005, Number 2) at 11).

The Intermodal Facility’s location in the floodplain will result in it becoming a repetitive loss property. From an economic standpoint, keeping structures out of floodplains makes sense; conversely, deliberately placing new structures, particularly public facilities on which the public depends, in the floodplain is fiscally untenable.

- **Unnecessary risks:** The placement of a transportation facility in the 100 year floodplain exposes the public to unnecessary dangers and heightens the possibility of catastrophic loss. One of the important considerations for a public transportation facility is safety and accessibility. A public transit facility is defined by the federal government as a “critical facility”. A “critical facility” is one that protects human life and is crucial to the functioning of the community. (CRS Report for Congress, Critical Infrastructure and Key Assets: Definition and Identification, CRS-5 and CRS-10, <http://www.fas.org/sgp/crs/RL32631.pdf>).

A critical facility that provides transit access and is central to meeting the needs of public transportation should not be placed where it floods. In fact, sound planning and public safety requires that every effort be made to place such facilities out of the floodplain at a site that is accessible during storm events with the least risk exposure as possible. Further, a critical facility is considered by FEMA as a location that can help in maintaining or restoring public services to an area during and after a flood event.

(http://www.floods.org/Certification/FEMA_480/NFIP_SG_Unit_6_Additional_Regulatory_Measures.pdf)

The National Flood Insurance Program mandates that flood prone lands be avoided whenever possible for public facilities and that locations safe from flooding be chosen for such

projects. (44 CFR § 60.22 "Planning Considerations for Floodprone Areas"). U.S. Department of Transportation Executive Order 11988 mandates that alternative locations outside of the floodplain be considered fully for new transportation projects.

First responders, fire and emergency personnel will be exposed to unnecessary risk to accomplish required evacuation and rescue operations during flood events. This poses danger to both the public and the emergency personnel. Further, evacuation plans are not perfect and the risk of loss of life is heightened with the location of this public transportation facility in the path of flooding. A failed rescue attempt at a public facility can make the difference between catastrophic loss (loss of life) and flood damage (material losses). Choosing to deliberately place this transportation facility in a location that increases the opportunity for catastrophic loss of life is irresponsible and indefensible.

Considering these concerns, we ask that the DRJTBC reconsider its decision to extend funding for the Riverwalk project and not allow funds to be spent on it. The location of a public transportation facility, defined as a Critical Facility by the federal government, within the 100 year floodplain where three major floods have intruded since 2004, is wrong, does not meet the goal of smart planning, and is an improper use of public funds.

Conclusion

As outlined above, Delaware Riverkeeper Network continues to oppose the Riverwalk project and urges DRJBC to carefully evaluate its commitment to fund Riverwalk into the future. We appreciate your judicious consideration of our position.

Respectfully yours,


Tracy Carluccio
Deputy Director


Elizabeth Kohiers Brown, Esq.
Senior Attorney