



MINUTES

NEW YORK STATE CANAL CORPORATION

BOARD MEETING NO. CC-137

January 19, 2006

Minutes of a meeting of the New York State Canal Corporation, held in the Board room at Administrative Headquarters, 200 Southern Boulevard, Albany, New York, 12209.

The meeting began at 10:30 a.m.

There were present:

**John L. Buono, Chairman
John R. Riedman, Board Member**

Constituting a majority of the members of the Canal Corporation Board.

In addition, there were present the following staff personnel:

**Michael R. Fleischer, Executive Director
John Brizzell, Deputy Executive Director, Chief Engineer
John Bryan, Chief Financial Officer
Sharon O'Connor, General Counsel
William Rinaldi, Acting Director, Operations
Joanne Riddett, Director, Information Technology**

George Tanner, Director, Maintenance Engineering and Assistant Chief Engineer
Michael Flynn, Director, Audit and Management Services
Jill Warner, Secretary and Board Administrator
Major George Beach, Troop T
Daniel Gilbert, Director, Public Affairs
Thomas Fitzgerald, Acting Director, Administrative Services
Donald Bell, Director, Albany Division
Carmella Mantello, Director of Canal Corporation
Lawrence Frame, Deputy Director of Canal Corporation
Richard Garrabrant, Director, Syracuse Division
William Leslie, Director, Buffalo Division
Ramesh Mehta, Director, New York Division
David Boshart, Director, Office of Canal Land Management
Jennifer Meicht, Deputy Director of Canal Corporation
Will Ristau, Deputy Director, Department of Planning Services
Dorraine Steele, Director, Office of Fiscal Audit and Budget
Katherine McCartney, Deputy Counsel
Howard Goebel, Hydrologist, Office of Canals Maintenance and Operations
Cathy Sheridan, Canal Capital Program
Also in Attendance:
Kathy Garceau, Auditor, Office of the State Comptroller
Roger Mazula, Auditor, Office of the State Comptroller

Chairman Buono noted that he and Mr. Riedman had received and reviewed the Agenda submitted for consideration at this meeting and were prepared to act on each of the items.

Ms. Warner recorded the minutes as contained herein.

Public notice of the meeting had been given, Ms. Warner said.

Item 1 by Ms. Warner (Appendix A)
Minutes of Meeting No. CC-136

On the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board approved the minutes of Meeting No. CC-136 held on November 14, 2005 which were made available to the Board Members as part of the Agenda.



Item 2 by Mr. Fleischer (Appendix B)
Report to the Canal Corporation Board for Personal Service Contracts Up to \$150,000
for the Period October 1, 2005 through December 31, 2005

Mr. Fleischer submitted as Exhibit I a listing containing Personal Service Contracts up to \$150,000 for the period of October 1, 2005 through December 31, 2005.

After full discussion, on the motion of Chairman Buono, seconded by Mr. Riedman, without any objections, the Board accepted Mr. Fleischer's report.

Item 3 by Mr. Fleischer (Appendix C)
Adoption and Implementation of Budget Bulletin Number D-1117

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 362

ADOPTION AND IMPLEMENTATION OF BUDGET
BULLETIN NUMBER D-1117

RESOLVED, that New York State Budget Bulletin D-1117 be adopted by the New York State Canal Corporation, and be it further

RESOLVED, that the Executive Director be authorized to implement the terms of New York State Budget Bulletin D-1117 applicable to Canal Corporation Managerial/Confidential employees, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 4 by Mr. Waite (Appendix D)
Authorizing an Amendment to the 2006 Canal Contracts Program to Include Fourteen
Additional Projects

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:



Item 4 by Mr. Waite (Appendix D)
Authorizing an Amendment to the 2006 Canal Contracts Program to Include Fourteen Additional Projects (Continued)

RESOLUTION NO. 363
**AUTHORIZING AN AMENDMENT TO THE 2006
CANAL CONTRACTS PROGRAM TO INCLUDE
FOURTEEN ADDITIONAL PROJECTS**

RESOLVED, that the 2006 Canal Contracts Program be, and it hereby is, amended so that the fourteen Rebuild and Renew New York Transportation Bond Act of 2005 projects listed in the attached Exhibit A can be progressed, and be it further

RESOLVED, that the 2006 Canal Contracts Program cash expenditures be changed from the previously approved total of \$27,107,135 to a revised total of \$28,909,840, and be it further

RESOLVED, that the additional funding for the fourteen new projects be provided from the Rebuild and Renew New York Transportation Bond Act of 2005, and be it further

RESOLVED, that the fourteen projects be administered in accordance with the 2006 Canal Contracts Program Resolution No. 353 adopted at Meeting No. CC-135, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 5 by Mr. Waite (Appendix E)
Authorizing an Amendment to the 2006 Canal Contracts Program to Include Emergency Repair Work to Movable Dam 5 at Lock E9 in the Albany Division and Allocating Funds Therefor

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:



Item 5 by Mr. Waite (Appendix E)

**Authorizing an Amendment to the 2006 Canal Contracts Program to Include
Emergency Repair Work to Movable Dam 5 at Lock E9 in the Albany Division and
Allocating Funds Therefor (Continued)**

RESOLUTION NO. 364

**AUTHORIZING AN AMENDMENT TO THE 2006 CANAL
CONTRACTS PROGRAM TO INCLUDE EMERGENCY
REPAIR WORK TO MOVABLE DAM 5 AT LOCK E-9 IN
THE ALBANY DIVISION AND ALLOCATING FUNDS
THEREFOR**

**RESOLVED, that the 2006 Canal Contracts
Program be, and it hereby is, amended so that Movable Dam
5 at Lock E-9 repair work can be added to D213172 and
completed during 2006, and be it further**

**RESOLVED, that the Corporation declares that this
canal system project is deemed to be necessary due to the
existence of an emergency involving danger to life, safety or
property based on the information provided in Exhibit A
and in accordance with the provisions of Section 383(1)(c) of
the Public Authorities Law and authorizes the use of
\$125,000 in bond proceeds issued in accordance with the
provisions of the Public Authorities Law towards the
emergency repair project, and be it further**

**RESOLVED, that the Movable Dam 5 work be
administered in accordance with the 2006 Canal Contracts
Program Resolution (No. 353), and be it further**

**RESOLVED, that the Executive Director or his
designee shall have the authority to exercise all powers
reserved to the Corporation under the provisions of the
contract, manage and administer the contract, amend the
provisions of the contract consistent with the terms of this
item and other Board authorizations and suspend or
terminate the contract in the best interests of the
Corporation, and be it further**



Item 5 by Mr. Waite (Appendix E)

Authorizing an Amendment to the 2006 Canal Contracts Program to Include Emergency Repair Work to Movable Dam 5 at Lock E9 in the Albany Division and Allocating Funds Therefor (Continued)

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 6 by Mr. Waite (Appendix F)

Authorizing Additional Funds for TAA 05-43C, Emergency Repairs to the Lower Miter Gates at Lock E-5 in the Albany Division

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 365

AUTHORIZING ADDITIONAL FUNDS FOR TAA 05-43C, EMERGENCY REPAIRS TO THE LOWER MITER GATES AT LOCK E-5 IN THE ALBANY DIVISION

RESOLVED, that an additional \$650,000 (revised contract value of \$1,626,823) be, and the same hereby is, allocated to TAA 05-43C, Emergency Repairs to the Lower Miter Gates at Lock E5 in the Albany Division, and be it further

RESOLVED, that the Corporation declares that this canal system project is deemed to be necessary due to the existence of an emergency involving danger to life, safety or property based on the information provided in Exhibit A and in accordance with the provisions of Section 383(1)(c) of the Public Authorities Law and authorizes the use of \$650,000 in bond proceeds issued in accordance with the provisions of the Public Authorities Law toward TAA 05-43C, and be it further

RESOLVED, that the revised contract TAA 05-43C be administered in accordance with the 2006 Canal Contracts Program Resolution (No. 353), and be it further



Item 6 by Mr. Waite (Appendix F)

Authorizing Additional Funds for TAA 05-43C, Emergency Repairs to the Lower Miter Gates at Lock E-5 in the Albany Division (Continued)

RESOLVED, that the Executive Director or his designee shall have the authority to exercise all powers reserved to the Corporation under the provisions of the contract, manage and administer the contract, amend the provisions of the contract consistent with the terms of this item and other Board authorizations and suspend or terminate the contract in the best interests of the Corporation, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 7 by Mr. Waite (Appendix G)

Approving Engineering Agreement D213494 with Spectra Engineering, Architecture and Surveying, P.C. for Above Water Inspection of Canal Structures System-Wide

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 366

APPROVING ENGINEERING AGREEMENT D213494 WITH SPECTRA ENGINEERING, ARCHITECTURE AND SURVEYING, P.C. FOR ABOVE WATER INSPECTION OF CANAL STRUCTURES SYSTEM-WIDE

RESOLVED, that the proposed engineering agreement D213494 with Spectra Engineering, Architecture and Surveying, P.C., 19 British American Boulevard, Latham, New York 12110 for above water inspection of canal structures system-wide for a Maximum Amount Payable of \$1,500,000 (sufficient funds are available in Item CS145.1 of the 2006 Canal Contracts Program), be, and the same hereby is, approved, and be it further



Item 7 by Mr. Waite (Appendix G)

Approving Engineering Agreement D213494 with Spectra Engineering, Architecture and Surveying, P.C. for Above Water Inspection of Canal Structures System-Wide (Continued)

RESOLVED, that the Chief Engineer or the Director of Engineering Services or their designees shall have the authority to exercise all powers reserved to the Corporation under the provisions of the Agreement, manage and administer the Agreement, amend the provisions of the Agreement consistent with the terms of this item and in accordance with the 2006 Canal Contracts Program Resolution No. 353 and other Board authorizations, and suspend or terminate the Agreement in the best interests of the Corporation, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 8 by Mr. Waite (Appendix H)

Approving Engineering Agreement D213495 with Collins Engineers, P.C. for Below Water Inspection of Canal Structures System-Wide

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 367

**APPROVING ENGINEERING AGREEMENT D213495
WITH COLLINS ENGINEERS, P.C. FOR BELOW
WATER INSPECTION OF CANAL STRUCTURES
SYSTEM-WIDE**

RESOLVED, that the proposed engineering agreement D213495 with Collins Engineers, P.C., 573 Columbia Turnpike, Building C, East Greenbush, New York 12061 for below water inspection of canal structures system-wide for a Maximum Amount Payable of \$800,000 (sufficient funds are available in Item CS164.1 of the 2006 Canal Contracts Program), be, and the same hereby is, approved, and be it further



Item 8 by Mr. Waite (Appendix H)

Approving Engineering Agreement D213495 with Collins Engineers, P.C. for Below Water Inspection of Canal Structures System-Wide (Continued)

RESOLVED, that the Chief Engineer or the Director of Engineering Services or their designees shall have the authority to exercise all powers reserved to the Corporation under the provisions of the Agreement, manage and administer the Agreement, amend the provisions of the Agreement consistent with the terms of this item and in accordance with the 2006 Canal Contracts Program Resolution No. 353 and other Board authorizations, and suspend or terminate the Agreement in the best interests of the Corporation, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 9 by Mr. Waite (Appendix I)

Authorizing an Amendment to the 2006 Contracts Program to Include Two Projects for the Emergency Temporary Repair and Replacement of the Lower Miter Gates at Lock E-4 in the Albany Division and Allocating Funds Therefor

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 368

AUTHORIZING AN AMENDMENT TO THE 2006 CANAL CONTRACTS PROGRAM TO INCLUDE TWO PROJECTS FOR THE EMERGENCY TEMPORARY REPAIR AND REPLACEMENT OF THE LOWER MITER GATES AT LOCK E-4 IN THE ALBANY DIVISION AND ALLOCATING FUNDS THEREFOR

RESOLVED, that the 2006 Canal Contracts Program be, and thereby is, amended to include two projects for the emergency repair and replacement of the Lower Miter Gates at Lock E4 on the Erie Canal in the Albany Division, and be it further



Item 9 by Mr. Waite (Appendix I)

Authorizing an Amendment to the 2006 Contracts Program to Include Two Projects for the Emergency Temporary Repair and Replacement of the Lower Miter Gates at Lock E-4 in the Albany Division and Allocating Funds Therefor (Continued)

RESOLVED, that the Corporation declares that this canal system project is deemed to be necessary due to the existence of an emergency involving danger to life, safety or property based on the information provided in Exhibit A and in accordance with the provisions of Section 383(1)(c) of the Public Authorities Law and authorizes the use of \$275,000 in bond proceeds issued in accordance with the provisions of the Public Authorities Law towards the emergency repair project, and be it further

RESOLVED, that the Canal Capital Program be will be amended during the 2007 Contracts Program development in order to account for the additional \$1,640,000 for the replacement project (Item C26.1), and that a sum of \$500,000 in 2006 cash flow be, and the same hereby is, allocated toward the project from savings in the 2006 Contracts Program, and be it further

RESOLVED, that the two Lock E-4 lower miter gate projects be administered in accordance with the 2006 Canal Contracts Program Resolution, and be it further

RESOLVED, that the Executive Director or his designee shall have the authority to exercise all powers reserved to the Corporation under the provisions of the contracts, manage and administer the contracts, amend the provisions of the contracts consistent with the terms of this item and other Board authorizations and suspend or terminate the contracts in the best interests of the Corporation, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.



Item 10 by Ms. Mantello (Appendix J)
Authorizing the Abandonment of 0.373 Acre of Canal Land Located in the Town of Minden, County of Montgomery for Transfer of Jurisdiction over Such Land by the New York State Office of General Services to the New York State Office of Parks, Recreation and Historic Preservation

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 369

AUTHORIZING THE ABANDONMENT OF APPROXIMATELY 0.373 ACRE OF CANAL LAND LOCATED IN THE TOWN OF MINDEN, COUNTY OF MONTGOMERY FOR TRANSFER OF JURISDICTION OVER SUCH LAND BY THE NEW YORK STATE OFFICE OF GENERAL SERVICES TO THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

RESOLVED, that approximately 0.373 acre of Canal land located in the Town of Minden, County of Montgomery, are no longer necessary or useful as part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes, and be it further

RESOLVED, that the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for canal purposes, together with a map and description of such lands for review and execution by the Executive Director, and be it further

RESOLVED, that the Executive Director, or his designee, be, and he hereby is, authorized to execute such order of abandonment, and be it further

RESOLVED, that the transfer of jurisdiction over such lands to OPRHP with all other terms of this agenda item, be, and hereby is, authorized, and be it further



Item 10 by Ms. Mantello (Appendix J)

Authorizing the Abandonment of 0.373 Acre of Canal Land Located in the Town of Minden, County of Montgomery for Transfer of Jurisdiction over Such Land by the New York State Office of General Services to the New York State Office of Parks, Recreation and Historic Preservation (Continued)

RESOLVED, that the Executive Director, or his designee, be, and hereby is, authorized to execute all documents to effectuate such transfer, and be it further

RESOLVED, that the Executive Director, the Director of Canals and the General Counsel be, and the same hereby are, authorized to take all actions to implement this Board item, and be it further

RESOLVED, that the conveyance of the subject Property must be completed within one (1) year of the date that this resolution is adopted by the Corporation Board, and that if the conveyance is not completed, all authorization to complete the conveyance shall be deemed to have expired; and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 11 by Ms. Mantello (Appendix K)

Authorizing Abandonment of Approximately 719 Acres of Canal Lands Located in the Town of Ohio, County of Herkimer, for a Transfer of Jurisdiction over Such Lands by the New York State Office of General Services to the New York State Department of Environmental Conservation

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 370

AUTHORIZING THE ABANDONMENT OF APPROXIMATELY 719 ACRES OF CANAL LAND LOCATED IN THE TOWN OF OHIO, COUNTY OF HERKIMER, FOR A TRANSFER OF JURISDICTION OVER SUCH LANDS BY THE NEW YORK STATE OFFICE OF GENERAL SERVICES TO THE NEW YORK



Item 11 by Ms. Mantello (Appendix K)
Authorizing Abandonment of Approximately 719 Acres of Canal Lands Located in the
Town of Ohio, County of Herkimer, for a Transfer of Jurisdiction over Such Lands by
the New York State Office of General Services to the New York State Department of
Environmental Conservation (Continued)

STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

RESOLVED, that the approximately 719 acres of Canal land located in the Town of Ohio, County of Herkimer, are no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes, and be it further

RESOLVED, that the written statements received in response to the notice of proposed abandonment published pursuant to Section 51 of the Canal Law do not warrant a hearing, and be it further

RESOLVED, that the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for canal purposes, reserving to the Canal Corporation, however, the rights to use, control, manage and operate the water resources of the Twin Lake and Chub Lake Reservoirs as necessary for Canal System purposes, together with a map and description of such lands for review and execution by the Executive Director, and be it further

RESOLVED, that the Executive Director, or his designee, be, and he hereby is, authorized to execute such order of abandonment, with the above reservation, and be it further

RESOLVED, that a transfer of jurisdiction over such lands to NYSDEC, reserving to the Canal Corporation the rights to use, control, manage and operate the water resources of the Twin Lake and Chub Lake Reservoirs as necessary for Canal System purposes and in accordance



Item 11 by Ms. Mantello (Appendix K)
Authorizing Abandonment of Approximately 719 Acres of Canal Lands Located in the Town of Ohio, County of Herkimer, for a Transfer of Jurisdiction over Such Lands by the New York State Office of General Services to the New York State Department of Environmental Conservation (Continued)

with all other terms of this agenda item, be, and the same hereby is, authorized, and be it further

RESOLVED, that the Executive Director, or his designee, be, and he hereby is, authorized to execute all documents necessary for effectuate such transfer, and be it further

RESOLVED, that the Executive Director, the Director of Canals and the General Counsel be, and the same hereby are, authorized to take all actions to implement this Board item, and be it further

RESOLVED, that the requirement for an appraisal set forth in Section III.A. of the Canal Real Property Management Policy be, and the same hereby is, waived; and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.

Item 12 by Mr. Fleischer and Ms. Mantello (Appendix L)
Authorizing Partial Withdrawal of Canal Corporation Board Resolution No. 300 Adopted at Meeting No. CC-103 Held on September 26, 2002; Transfer of Approximately 0.521 Acre in Waterford, New York to VLG Real Estate Developers LLC; and Acquisition of Approximately .03 Acre in Waterford, New York from VLG Real Estate Developers, LLC

After full discussion, on the motion of Mr. Riedman, seconded by Chairman Buono, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 371
AUTHORIZING PARTIAL WITHDRAWAL OF CANAL CORPORATION BOARD RESOLUTION NO. 300 ADOPTED AT MEETING NO. CC- 103 HELD ON



Item 12 by Mr. Fleischer and Ms. Mantello (Appendix L)
Authorizing Partial Withdrawal of Canal Corporation Board Resolution No. 300
Adopted at Meeting No. CC-103 Held on September 26, 2002; Transfer of
Approximately 0.521 Acre in Waterford, New York to VLG Real Estate Developers
LLC; and Acquisition of Approximately .03 Acre in Waterford, New York from VLG
Real Estate Developers, LLC (Continued)

SEPTEMBER 26, 2002; TRANSFER OF APPROXIMATELY 0.521 ACRE IN WATERFORD, NEW YORK TO VLG REAL ESTATE DEVELOPERS, LLC; AND ACQUISITION OF APPROXIMATELY .03 ACRE IN WATERFORD, NEW YORK FROM VLG REAL ESTATE DEVELOPERS, LLC

RESOLVED, that Canal Corporation Board Resolution No. 300, adopted at Meeting No. CC-103 held on September 26, 2002, be, and the same hereby is, withdrawn to the extent that it is inconsistent with the terms contained in this Agenda Item, and be it further

RESOLVED, that the Canal Corporation Board re-affirms that the approximately 0.521 acre of Canal land located in the Town of Waterford, County of Saratoga, is no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes, and be it further

RESOLVED, that the acquisition of approximately .03 acre of land located in the Town of Waterford, County of Saratoga, be, and the same hereby is, authorized, and be it further

RESOLVED, that the recommendation for issuance of a negative declaration of environmental significance of the actions described in this item be, and the same hereby is, approved, and be it further

RESOLVED, that the Canal Corporation Environmental Engineer be, and hereby is, authorized to sign the required documents and distribute any required notices on behalf of the Board in relation to the actions in



Item 12 by Mr. Fleischer and Ms. Mantello (Appendix L)
Authorizing Partial Withdrawal of Canal Corporation Board Resolution No. 300
Adopted at Meeting No. CC-103 Held on September 26, 2002; Transfer of
Approximately 0.521 Acre in Waterford, New York to VLG Real Estate Developers
LLC; and Acquisition of Approximately .03 Acre in Waterford, New York from VLG
Real Estate Developers, LLC (Continued)

accordance with the determination of environmental significance herein, and be it further

RESOLVED, that the sale of said 0.521 acre of land by quitclaim deed to VLG Real Estate Developers, LLC on the terms contained in this agenda item, and on such other terms as may be deemed by the Executive Director, the Director of Canals or the General Counsel, to be in the best interest of the Canal Corporation and consistent with this agenda item, be, and the same hereby is, authorized, and be it further

RESOLVED, that such sale be conditioned upon the payment by VLG Real Estate Developers, LLC of certain costs incidental to the transfer of real property, including, but not limited to, the cost of a survey, and be it further

RESOLVED, that the Executive Director, or his designee, be, and he hereby is, authorized to execute a contract of sale, and all other documents necessary for closing of title, and be it further

RESOLVED, that the Executive Director, the Director of Canals, the Chief Financial Officer and the General Counsel be, and the same hereby are, authorized to take all actions necessary to effectuate closing of title, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting.



Adjournment

There being no further business to come before the Board, on the motion of Chairman Buono, seconded by Mr. Riedman, without any objections, the meeting was adjourned.

Jill B. Warner
Secretary

