



MINUTES

NEW YORK STATE CANAL CORPORATION

BOARD MEETING NO. CC-158

January 21, 2009

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 and via video conference from the Authority's New York Division, 4 Executive Boulevard, Suffern, NY 10901.

The meeting began at 10:30 a.m.

There were present:

**John L. Buono, Chairman
E. Virgil Conway, Board Member, via video conference
Erin M. Crotty, Vice-Chair
Frederick M. Howard, Board Member
Donna J. Luh, Board Member
Kevin J. Plunkett, Board Member
Brandon R. Sall, Board Member**

Constituting all of the members of the Canal Corporation Board.

In addition, there were present the following staff personnel:

**Michael R. Fleischer, Executive Director
Sharon O'Connor, General Counsel**

John Bryan, Chief Financial Officer
Jill Warner, Secretary and Board Administrator
William Rinaldi, Division Director, Albany Division
Ramesh Mehta, Division Director, New York Division
Patrick Hoehn, Deputy Division Director, Syracuse Division
Thomas Pericak, Division Director, Buffalo Division
Kevin Allen, Acting Director, Audit and Management Services, via video conference
John Barr, Director, Administrative Services
Donald Bell, Director, Operations and Maintenance
Carmella Mantello, Director of Canal Corporation
Major Robert Meyers, Troop T
Wendy Allen, Deputy Chief of Staff
Joanne Riddett, Director, Information Technology
Deborah Haslun, Director, Bureau of Labor Relations
Thomas Fitzgerald, Director, Office of Human Resource Management
Harry Lennon, Senior Investigator, Audit and Management Services
Tracie Sandell, Assistant Counsel
Kimberly Chupa, Public Information Specialist
Jill Ross, Deputy Project Manager, TZB/I-287 Environmental Review
Michael Sikule, Director, Office of Investments and Asset Management
Polly Gurnett, Records Access Officer
Katherine McCartney, Deputy Counsel
Richard Harris, Deputy Director, Office of Community Development & Land Management
Richard Matters, Real Estate Specialist 2
Thomas Gemmiti, Director, Office of Design
Douglas Elson, Information Technology
Also in attendance:
Cathy Woodruff, Reporter, *Albany Times Union*
Virginia Wong, Partner, Nixon Peabody
John Armstong, Assistant Television Engineer, NYN

Chairman Buono noted that he, Mr. Conway, Ms. Crotty, Mr. Howard, Ms. Luh, Mr. Plunkett and Mr. Sall 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-157

On the motion of Mr. Plunkett, seconded by Ms. Luh, without any objections, the Board approved the minutes of Meeting No. CC-157 held on November 19, 2008 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, 2008 through December 31, 2008

Mr. Fleischer submitted as Exhibit I a listing containing Personal Service Contracts up to \$150,000 for the period of October 1, 2008 through December 31, 2008.

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

Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)
Approving the Revised Canal Real Property Management Policy (25-6-01C), the Canal Real Property Management Standard Operating Procedures (900-1) and the Canal Personal Property Disposal Policy (25-6-02C)

Ms. Mantello stated that the Governance Committee approved submission of the this Item to the full Board for approval at its November meeting. She also stated that Mr. Bryan had provided the Board with a memo detailing the technical changes to the policies and procedures. Mr. Plunkett confirmed that the Governance Committee approved this Item for submission to the Board on November 19, 2008. Mr. Howard inquired if the changes on this Item will parallel the changes to the Thruway Item also being submitted to the Board today. Mr. Plunkett responded affirmatively.

After full discussion, on the motion of Mr. Plunkett, seconded by Ms. Crotty, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 464
APPROVING THE REVISED CANAL REAL PROPERTY
MANAGEMENT POLICY (25-6-01C), THE CANAL
REAL PROPERTY MANAGEMENT STANDARD
OPERATING PROCEDURES (900-1) AND THE CANAL
PERSONAL PROPERTY DISPOSAL POLICY (25-6-02C)



Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)
Approving the Revised Canal Real Property Management Policy (25-6-01C), the Canal Real Property Management Standard Operating Procedures (900-1) and the Canal Personal Property Disposal Policy (25-6-02C) (Continued)

RESOLVED, that the revised Canal Real Property Management Policy (25-6-01C), attached as Exhibit B be, and the same hereby is, approved, and be it further

RESOLVED, that the Canal Real Property Management Standard Operating Procedures (900-1), attached as Exhibit C be, and the same hereby are, approved, and be it further

RESOLVED, that the Canal Personal Property Disposal Policy (25-6-02C), attached as Exhibit D be, and the same hereby is, approved, and be it further

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

Item 4 by Ms. Allen (Appendix D)
Authorizing an Amendment to the New York State Canal Corporation Rules and Regulations to Include Freedom of Information Law Provisions

Ms. Allen stated that this Item was also approved for Board action by the Governance Committee at the November 19, 2008 meeting. Mr. Plunkett concurred and stated that this Item will establish separate FOIL regulations for the Canal Corporation.

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

RESOLUTION NO. 465
AUTHORIZING AN AMENDMENT TO THE NEW YORK STATE CANAL CORPORATON RULES AND REGULATIONS TO INCLUDE FREEDOM OF INFORMATION LAW PROVISIONS

RESOLVED, that the Board approves the proposed amendments to the Corporation's rules and regulations as



Item 4 by Ms. Allen (Appendix D)

Authorizing an Amendment to the New York State Canal Corporation Rules and Regulations to Include Freedom of Information Law Provisions (Continued)

presented in Exhibit 1 and authorizes the Executive Director, or his designee, to take all actions necessary for adoption of such amendments in accordance with the State Administrative Procedure Act, and any other applicable statutes, orders, policies and procedures, and be it further

RESOLVED, that the Executive Director is authorized to make modifications to such amendments as he deems appropriate in response to any comments that may be received during the adoption process conducted in accordance with the State Administrative Procedure Act, and other applicable statutes, orders, policies and procedures, and be it further

RESOLVED, that coordinating and responding to Freedom of Information Law (FOIL) requests be the responsibility of a Records Access Officer as designated by the Executive Director, and be it further

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

Item 5 by Mr. Barr (Appendix E)

Authorization for the Executive Director to Execute a Collective Bargaining Agreement Between the Canal Corporation and the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO

Mr. Barr stated that this agreement matches the terms of all previously negotiated agreements and that this is the final one. He added that Ms. Haslun and her team approved all four of the agreements on behalf of the Authority/Corporation.

After full discussion, on the motion of Ms. Crotty, seconded by Mr. Sall, without any objections, the Board adopted the following resolution:



Item 5 by Mr. Barr (Appendix E)

Authorization for the Executive Director to Execute a Collective Bargaining Agreement Between the Canal Corporation and the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO (Continued)

RESOLUTION NO. 466

AUTHORIZATION FOR THE EXECUTIVE DIRECTOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CANAL CORPORATION AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, LOCAL 1000, AFSCME, AFL-CIO

RESOLVED, that the Executive Director be, and hereby is, authorized to execute an agreement between the Canal Corporation and the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO (“CSEA”) (as representatives of employees in Negotiating Unit III (“Agreement”)), and be it further

RESOLVED, that such Agreement shall have a term of four years, beginning July 1, 2008 and ending June 30, 2012, and shall be on terms and conditions consistent with this item, and be it further

RESOLVED, that the Executive Director or his designee be, and hereby is, authorized to enter into Memoranda of Understanding or Settlement Agreements with representatives of CSEA to clarify or otherwise settle questions or disputes regarding the interpretation and application of the Agreement, and be it further

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

Item 6 by Mr. Barr (Appendix F)

Approving Revisions to the Affirmative Action/Equal Opportunity Policy (25-2-24C)

Mr. Barr stated that this Policy was last revised in 1993 and that the revised Policy before the Board had been reviewed by the Governance Committee and approved for submission to the Board.



Item 6 by Mr. Barr (Appendix F)

Approving Revisions to the Affirmative Action/Equal Opportunity Policy (25-2-24C)
(Continued)

After full discussion, on the motion of Mr. Plunkett, seconded by Ms. Luh, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 467
APPROVING REVISIONS TO THE AFFIRMATIVE
ACTION/EQUAL OPPORTUNITY POLICY (25-2-24C)

RESOLVED, that the Affirmative Action/Equal Opportunity Policy (25-2-24C), attached as Appendix A be, and hereby is, approved, and be it further

RESOLVED, that such Policy shall take effect immediately, and be it further

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

Item 7 by Ms. Mantello (Appendix G)

Amending Attachment B of Resolution No. 457, as Approved at Meeting No. CC-155, to Amend Certain Funding Relative to the Erie Canal Greenway Grant Program

Ms. Mantello stated that this Item would reallocate grant funding to provide \$100,000 for a feasibility study and \$100,000 for capital improvements for the Black Rock Canal Park. Mr. Plunkett inquired if this was being done solely at the request of Assemblyman Hoyt. Ms. Mantello responded that the Canal Corporation received a request for the redistribution of these monies from Assemblyman Sam Hoyt as well as from the county. Mr. Howard inquired if this was solely a grant or if Thruway funds were being allocated. Ms. Mantello stated that this project will be paid for using State grant funds received by the Corporation. The Corporation has received approximately \$10 million in grant funding to enhance capital improvements and increase Canal access.

After full discussion, on the motion of Mr. Conway, seconded by Ms. Crotty, without any objections, the Board adopted the following resolution:



Item 7 by Ms. Mantello (Appendix G)

Amending Attachment B of Resolution No. 457, as Approved at Meeting No. CC-155, to Amend Certain Funding Relative to the Erie Canal Greenway Grant Program (Continued)

RESOLUTION NO. 468

AMENDING ATTACHMENT B OF RESOLUTION NO. 457, AS APPROVED AT MEETING NO. CC-155, TO AMEND CERTAIN FUNDING RELATIVE TO THE ERIE CANAL GREENWAY GRANT PROGRAM.

RESOLVED, that at Meeting No. CC-155, held on July 16, 2008, the Board adopted Resolution No. 457, amending Attachment B, authorizing the reallocation of \$200,000 for a feasibility study and capital improvements for a project known as “Black Rock Canal Park”, to be located at the existing Ontario Street Boat Launch and Cornelius Creek Park to the west of Fort Ontario Street and to the east of the Black Rock Channel and Niagara River in the City of Buffalo, Erie County, and be it further

RESOLVED, that Attachment B of Resolution No. 457 provided \$50,000 for a feasibility study and \$150,000 for capital improvements for Black Rock Canal Park (see Exhibit I), and be it further

RESOLVED, that a request has been received to change the allocation of this grant funding to provide \$100,000 for the feasibility study and \$100,000 for capital improvements for Black Rock Canal Park (see Exhibit II), and be it further

RESOLVED, that Erie County has committed \$50,000 for construction costs associated with the capital improvements to be made at Black Rock Canal Park (see Exhibit III), and be it further

RESOLVED, that Attachment B of Resolution No. 457, as approved at Meeting No. CC-155, is amended to provide \$100,000 for a feasibility study and \$100,000 for



Item 7 by Ms. Mantello (Appendix G)

Amending Attachment B of Resolution No. 457, as Approved at Meeting No. CC-155, to Amend Certain Funding Relative to the Erie Canal Greenway Grant Program (Continued)

capital improvements for the proposed project known as “Black Rock Canal Park” (see Exhibit IV), and be it further

RESOLVED, that Canal Corporation staff notify the Director of the New York State Division of Budget of the change in allocation of funding subject to this approval, and be it further

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

Item 8 by Ms. Mantello (Appendix H)

Authorizing the Abandonment of Approximately 6,098 Square Feet of Canal Land Located in the Town of Northumberland, County of Saratoga; and Authorizing Their Sale to Jeffrey and Deborah Schoman

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

RESOLUTION NO. 469

AUTHORIZING THE ABANDONMENT OF APPROXIMATELY 6,098 SQUARE FEET OF CANAL LAND LOCATED IN THE TOWN OF NORTHUMBERLAND, COUNTY OF SARATOGA; AND AUTHORIZING THEIR SALE TO JEFFREY AND DEBORAH SCHOMAN

RESOLVED, that approximately 6,098 square feet of Canal land located in the Town of Northumberland, County of Saratoga are no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal purposes, and be it further

RESOLVED, that: a notice of abandonment shall be published in 2009 in accordance with the requirements of Section 51 of the Canal Law; such notice shall be



Item 8 by Ms. Mantello (Appendix H)

Authorizing the Abandonment of Approximately 6,098 Square Feet of Canal Land Located in the Town of Northumberland, County of Saratoga; and Authorizing Their Sale to Jeffrey and Deborah Schoman (Continued)

transmitted to the Canal Recreationway Commission; and the Contracting Officer be, and he hereby is, authorized to determine whether a hearing is warranted, and be it further

RESOLVED, that if no hearing is determined to be warranted, 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 Executive Director, or his designee be, and he hereby is, authorized to execute all documents necessary 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 recommendation for issuance of a Negative Declaration based on an environmental assessment of the proposed action completed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA) be and hereby is approved, and be it further

RESOLVED, that the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the SEQRA Environmental Assessment and issue the Negative Declaration, and to distribute any required notices on behalf



Item 8 by Ms. Mantello (Appendix H)

Authorizing the Abandonment of Approximately 6,098 Square Feet of Canal Land Located in the Town of Northumberland, County of Saratoga; and Authorizing Their Sale to Jeffrey and Deborah Schoman (Continued)

of the Corporation Board with relation to this action, and be it further

RESOLVED, that the sale of said 6,098 square feet of land by quitclaim deed to Jeffrey and Deborah Schoman for \$7,300 be, and hereby is, approved, subject to such other legal, financial, engineering and 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 the intent of this agenda item, and be it further

RESOLVED, that such sale shall be conditioned upon the payment of certain costs incidental to the transfer of real property, including, but not limited to, the cost of a survey that the applicant shall furnish, and be it further

RESOLVED, that the Corporation's Contracting Officer determined that the Property may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (ii) of the Public Authorities Law, and Section IV.H. of the Canal Real Property Management Policy, and that the sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law, including Article 9, Title 5-A of the Public Authorities Law, and with the Canal Real Property Management Policy, and be it further

RESOLVED, that the Executive Director, or his designee, be 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 is, authorized to



Item 8 by Ms. Mantello (Appendix H)

Authorizing the Abandonment of Approximately 6,098 Square Feet of Canal Land Located in the Town of Northumberland, County of Saratoga; and Authorizing Their Sale to Jeffrey and Deborah Schoman (Continued)

take all actions necessary to effectuate closing of title, and be it further

RESOLVED, that if a hearing is determined to be warranted, no Order of Abandonment shall be prepared and no sale shall be authorized without reconsideration of this matter by the Board, and be it further

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

Item 9 by Ms. Mantello (Appendix I)

Authorizing: Withdrawal of Resolution No. 283 Declaring Surplus to Canal Corporation Needs Approximately 0.46+ Acre of Canal Land, Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Susan Polakiewicz; and Authorizing: Abandonment of Approximately 0.515± Acre of Canal Land Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Gerald and Connie Deary

Ms. Mantello stated that the Deary's home was previously owned by Susan Polakiewicz, who passed away two years ago. The parcel was previously approved to be sold to Ms. Polakiewicz by the Canal Recreationway Commission and the Canal Corporation Board.

In accordance with Canal Law the proposed abandonment was published for three consecutive weeks in a Wayne County newspaper, no comments were received as a result of the notification. Since the initial publication was in 2001, a new notice will be published and if it is determined that a hearing is warranted, this matter will be resubmitted to the Board.

After full discussion, on the motion of Ms. Crotty seconded by Mr. Sall, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 470

AUTHORIZING: WITHDRAWAL OF RESOLUTION NO. 283 DECLARING SURPLUS TO CANAL CORPORATION NEEDS APPROXIMATELY 0.46±



Item 9 by Ms. Mantello (Appendix I)

Authorizing: Withdrawal of Resolution No. 283 Declaring Surplus to Canal Corporation Needs Approximately 0.46+ Acre of Canal Land, Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Susan Polakiewicz; and Authorizing: Abandonment of Approximately 0.515± Acre of Canal Land Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Gerald and Connie Deary (Continued)

ACRE OF CANAL LAND, LOCATED IN THE VILLAGE OF NEWARK, COUNTY OF WAYNE; AND AUTHORIZING ITS SALE TO SUSAN POLAKIEWICZ; AND AUTHORIZING: ABANDONMENT OF APPROXIMATELY 0.515± ACRE OF CANAL LAND LOCATED IN THE VILLAGE OF NEWARK, COUNTY OF WAYNE; AND AUTHORIZING ITS SALE TO GERALD AND CONNIE DEARY

RESOLVED, that Resolution No. 283 adopted at Meeting No. CC-97 held on January 24, 2002, be, and the same hereby is, withdrawn, and be it further

RESOLVED, that approximately 0.515+ acre of Canal land located in the Village of Newark, County of Wayne is no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for barge canal purposes, and be it further

RESOLVED, that: a notice of abandonment shall be published in 2009 in accordance with the requirements of Section 51 of the Canal Law; such notice shall be transmitted to the Canal Recreationway Commission; and the Contracting Officer be, and he hereby is, authorized to determine whether a hearing is warranted, and be it further

RESOLVED, that if no hearing is determined to be warranted, 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



Item 9 by Ms. Mantello (Appendix I)

Authorizing: Withdrawal of Resolution No. 283 Declaring Surplus to Canal Corporation Needs Approximately 0.46+ Acre of Canal Land, Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Susan Polakiewicz; and Authorizing: Abandonment of Approximately 0.515± Acre of Canal Land Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Gerald and Connie Deary (Continued)

RESOLVED, that following preparation of the Official Order of Abandonment the Executive Director be, and he hereby is, authorized to execute such order of abandonment, and be it further

RESOLVED, that the recommendation for issuance of a Negative Declaration based on an environmental assessment of the proposed action completed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA) be, and hereby is, approved, and be it further

RESOLVED, that the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the SEQRA Environmental Assessment and issue the Negative Declaration, and to distribute any required notices on behalf of the Canal Corporation Board with relation to this action, and be it further

RESOLVED, that the sale of said 0.515+ acre of land by quitclaim deed to Gerald and Connie Deary for \$12,300 be, and hereby is, approved, subject to such other legal, financial, engineering and 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 the intent of this agenda item, and be it further

RESOLVED, that such sale shall be conditioned upon the payment of certain costs incidental to the transfer of real property, and be it further



Item 9 by Ms. Mantello (Appendix I)

Authorizing: Withdrawal of Resolution No. 283 Declaring Surplus to Canal Corporation Needs Approximately 0.46+ Acre of Canal Land, Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Susan Polakiewicz; and Authorizing: Abandonment of Approximately 0.515± Acre of Canal Land Located in the Village of Newark, County of Wayne; and Authorizing Its Sale to Gerald and Connie Deary (Continued)

RESOLVED, that the Corporation's Contracting Officer determined that property may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (ii) of the Public Authorities Law, and Section IV.H. of the Canal Real Property Management Policy, and that the sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law, including Article 9, Title 5-A of the Public Authorities Law, and with the Canal Real Property Management Policy, and be it further

RESOLVED, that the Executive Director, or his designee, be 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 General Counsel be, and the same hereby are, authorized to take all actions necessary to effectuate closing of title and implement this Board item, and be it further

RESOLVED, that if a hearing is determined to be warranted, no Order of Abandonment shall be prepared and no sale shall be authorized without reconsideration of this matter by the Board, 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 Mr. Howard, seconded by Mr. Plunkett, without any objections, the meeting was adjourned.

**Jill B. Warner
Secretary**

